



**Merthyr Tydfil County Borough Council**

# **CONSTITUTION**

Version 1.0

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| Appendix 4 Scheme B Part II:<br>Cabinet Functions Allocated to the Chief Executive, the Deputy Chief Executive,<br>Directors, the Chief Finance Officer and Heads of Service which may be discharged<br>without prior consultation .....                                                                                    |  |
| Appendix 4 Scheme B Part III:<br>Cabinet Functions allocated to Council Officers which may be discharged without<br>prior consultation .....                                                                                                                                                                                |  |
| Appendix 4 Scheme C:<br>Allocation of non-Cabinet Functions to Council Officers .....                                                                                                                                                                                                                                       |  |
| Appendix 4 Scheme C Part I:<br>Non-Cabinet Functions allocated to the Chief Executive, the Deputy Chief Executive,<br>Directors, the Chief Finance Officer and Heads of Service which may not be<br>discharged unless there has been prior consultation with specified Council<br>Member(s) and/or Council Officer(s) ..... |  |
| Appendix 4 Scheme C Part II:<br>Non-Cabinet Functions allocated to the Chief Executive, the Deputy Chief Executive,<br>Directors, the Chief Finance Officer and Heads of Service which may be<br>discharged without prior consultation .....                                                                                |  |
| Appendix 4 Scheme C Part III:<br>Non-Cabinet Functions allocated to Council Officers which may be discharged without<br>prior consultation                                                                                                                                                                                  |  |

## **SECTION 1**

### **1. INTRODUCTION**

#### **1.1 Purpose and Content of the Constitution**

- (a) The Constitution describes the various bodies that make up the Council, their functions, membership and procedural rules.
- (b) In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- (c) You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Social Services Scrutiny Committee, Neighbourhood Services, Countryside & Planning Scrutiny Committee, Learning and LGES Scrutiny Committee, Corporate Support & Resources Scrutiny Committee Regeneration, Public Protection & Housing Scrutiny Committee, Joint Scrutiny Committee, Standards Committee, Planning, Regulatory & Licensing Committee, Statutory Licensing Committee, Appeals Committee, Objections & Appeals Sub Committee, Rights of Way Committee, Governance & Audit Committee and Democratic Services Committee.
- (d) Section 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 Section 14 says which Council bodies, and which Officers, have authority to make which decisions.
- (e) The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, e.g. Full Council (Section 4), the Cabinet (Section 5) and Scrutiny Committees (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view to the meeting.
- (f) Sections 19 to 22 have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- (g) The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

#### **1.2 How the Council Operates**

- (a) The Council is comprised of 30 Councillors from 11 wards elected every five years or such other period as prescribed from time to time in legislation ("the Term"). Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in the County Borough of Merthyr Tydfil. 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.

- (b) All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee and the Monitoring Officer are responsible for training and advising on the Code of Conduct.
- (c) All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public except where confidential matters are being discussed. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council for a term of 5 years, or such other period as prescribed from time to time in legislation for the Term or otherwise removed in accordance with Section 4.6.4 of the Constitution. Subject to the prescribed limits as to the size of the Cabinet as set out in regulations, 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 the Council's functions which are not the responsibility of any other part of the Council, whether by Law (see [The Local Authorities \(Executive Arrangements\) \(Functions & Responsibilities\)\(Wales\) Regs 2007](#)) or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

If you need any further help in understanding how the Council operates, please do not hesitate to contact us.

The Monitoring Officer, The Civic Centre, Castle Street, Merthyr Tydfil, CF47 8AN

Tel: 01685 725000

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.

You may find it helpful to read this Constitution in conjunction with the Constitution Guide, which is available upon request from the Council Offices or via this link [Constitution Guide](#).

## **SECTION 2**

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

#### **2.1 Purpose of the Constitution**

The purpose of the Constitution is to:

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

#### **2.2 Definitions in the Constitution**

- 2.2.1 The Constitution of the Council is this document (Sections 1 to 24).
- 2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

|                   |                                                                                                                                                                                                                                                                                                                                 |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Budget”          | the overall revenue and capital budget approved by Full Council (Section 4);                                                                                                                                                                                                                                                    |
| “Call in”         | A mechanism which allows Scrutiny Committees to examine, and challenge, any Cabinet decision before it is implemented.                                                                                                                                                                                                          |
| “Chief Executive” | an Officer who must be appointed by law to carry out certain functions. See Section 12 for more details.                                                                                                                                                                                                                        |
| “Chief Officer”   | the most senior Council officers i.e. The Chief Executive and those officers (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who report directly to the Chief Executive in respect of all or most of their duties namely the Deputy |

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          | Chief Executive, the Director of Education, the Director of Social Services, the Chief Finance Officer, the Director of Neighbourhood Services, the Director of Governance & Resources and the Monitoring Officer;                                                                                                                                                                                             |
| “Constitution Guide”                     | a document which explains, in ordinary language, the content of this constitution, published by the Council in accordance with section 37 of the Local Government Act 2000.                                                                                                                                                                                                                                    |
| “Corporate Joint Committee”              | corporate bodies, established via regulation, comprising specified principal councils in Wales, for the purpose of enabling strategic planning and delivery at a regional scale. See section 11 for details of the Corporate Joint Committee that the Council is a member of, and the functions that the Corporate Joint Committee will perform.                                                               |
| “Corporate Management Team”              | the senior management body for Officers (Section 12). It includes those Officers designated by the Chief Executive from time to time as Members of the Corporate Management Team;                                                                                                                                                                                                                              |
| “Councillor”                             | “a person elected to the Council to represent an area (called an electoral division or ward) within the Merthyr Tydfil County Borough;                                                                                                                                                                                                                                                                         |
| “Data Protection Legislation”            | the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR) and all other laws relating to the use, protection and privacy of personal data;                                                                                                                                                                                                                                             |
| “Executive”                              | the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;                                                                                                                                                                                                                                                                                                                         |
| “Executive Decision or Cabinet 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 or Cabinet 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> |

|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;                                                                                                                                                                                                                                                                                                                                                            |
| “Exempt Information”                    | Information falling into one of 7 categories set out in the Local Government (Access to Information) Act 1985;                                                                                                                                                                                                                                                                                                                                                                        |
| “Forward Work Programmes/Plan”          | <p>which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.</p> <p>Forward Work Programmes are documents which list all the decisions that the Council and the Cabinet intend to take and what business the Council’s Scrutiny Committees will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;</p>                                                                   |
| “Full Council”                          | the body where all Councillors act to exercise functions of the Council;                                                                                                                                                                                                                                                                                                                                                                                                              |
| “Local Choice Functions”                | there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;                                                                                                                                                                                                                                                                                                                   |
| “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 borough 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”                           | <p>any of the following:</p> <ul style="list-style-type: none"> <li>• Full Council;</li> <li>• Cabinet;</li> <li>• Social Services Scrutiny Committee;</li> <li>• Neighbourhood Services, Countryside &amp; Planning Scrutiny Committee;</li> <li>• Learning and LGES Scrutiny Committee;</li> <li>• Corporate Support &amp; Resources Scrutiny Committee;</li> <li>• Regeneration, Public Protection and Housing Scrutiny Committee;</li> <li>• Joint Scrutiny Committee;</li> </ul> |

- Standards Committee;
- Planning, Regulatory & Licensing Committee;
- Statutory Licensing Committee;
- Appeals Committee;
- Objections & Appeals Sub Committee;
- Rights of Way Committee;
- Governance & Audit Committee;
- Democratic Services Committee;

Note - references to Committee also includes Sub-Committee;

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Monitoring Officer”      | an Officer who must be appointed by law to carry out certain functions. See Section 12 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 12 for which Officer is the Monitoring Officer;                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| “Non-Executive Functions” | any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member Body other than the Cabinet;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| “Petition Scheme”         | <p>a scheme prepared and published pursuant to section 42 of the Local Government and Elections (Wales) Act 2021 (and reviewed from time to time) for the purpose of setting out: -</p> <ul style="list-style-type: none"> <li>• how a petition may be submitted to the Council;</li> <li>• how and when the Council will acknowledge receipt of a petition;</li> <li>• the steps the Council will take in response to a petition received by it;</li> <li>• the circumstances (in any) in which the Council may take no further action in response to a petition; and</li> <li>• how and when the Council will make available its response to a petition to the person who submitted the petition and to the public.</li> </ul> |
| “Planning Application”    | <p>any of the following:</p> <ul style="list-style-type: none"> <li>• application for planning permission (including renewal);</li> <li>• application for approval of reserved matters;</li> <li>• application for listed building consent;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

|                                         |                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | <ul style="list-style-type: none"> <li>• application relating to trees;</li> <li>• proposal to serve an urgent works notice or acquire a listed building in need of repair;</li> <li>• application for conservation area consent;</li> <li>• application for advertisement consent;</li> <li>• application to vary or remove conditions on a planning condition;</li> </ul> |
| “Policy Framework”                      | the framework set out at Section 4.2;                                                                                                                                                                                                                                                                                                                                       |
| “Public Services Board”                 | the public services board established for the Council’s local authority area under Part 4 of the Well-being of Future Generations (Wales) Act 2015;                                                                                                                                                                                                                         |
| “Quorum”                                | The minimum number of people who have to be present before a meeting can take place;                                                                                                                                                                                                                                                                                        |
| “Section 151 Officer”                   | an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 12 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 12 for which Officer is the Section 151 Officer;                                                                     |
| “Scrutiny Committee”                    | Provide support and advice to the Council and Cabinet by contributing to the review and development of policy; holding the Cabinet to account by questioning, challenging and monitoring their performance.                                                                                                                                                                 |
| “Service”                               | one of the services provided by the Council;                                                                                                                                                                                                                                                                                                                                |
| “Virement”                              | Moving funds from one area of expenditure to another;                                                                                                                                                                                                                                                                                                                       |
| Well-Being Plan (Public Services Board) | This replaces the Single Integrated Plan which replaced existing plans and strategies which formed part of the Policy Framework, namely the Community Plan, the Community Safety Plan, Children and Young People’s Plan and the Health Social Core and Wellbeing Partnership Plan.                                                                                          |

## 2.3 **Interpretation of the Constitution**

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



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

## **2.4 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Section 151 Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Section 17 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. They shall report any amendments made to Section 17 to the next available Council meeting for noting.

## **2.5 Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

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

## **2.6 Changes to the Constitution**

### **a) Approval**

Subject to paragraphs 2.6.(b) and 2.6.(c) 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 Changes**

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

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

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

### **c. Legislative Change**

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides, or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

## **2.7 Suspension of the Constitution**

### **a) Limit to Suspension**

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

### **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 this Section.

## **2.8 Publication**

- a) The Monitoring Officer will ensure that copies of this Constitution are available for inspection on the Council's website.
- b) The Monitoring Officer will ensure that copies of the Constitution Guide are available for inspection at Council offices and on the Council's website.
- c) The Monitoring Officer will give an electronic link to a copy of this Constitution to each Member of the Council upon delivery to them 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.
- d) The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

## **SECTION 3**

### **GETTING INFORMATION AND GETTING INVOLVED**

#### **3.1 Getting Information**

##### **3.1.1 Information Available to Members of the Public**

###### *(a) When Meetings of the Member Bodies Will Take Place*

A programme of meetings is available by contacting the Council direct or via the website – see link to [Schedule of meetings](#).

###### *(b) Forward Work Programmes*

From Forward Work Programmes, see what decisions will be taken by the Cabinet or Council and what issues the Scrutiny Committees will be considering and when these matters will be discussed.

###### *(c) Information Available Prior to a Meeting*

(i) Three clear days before a meeting, the agenda, shall be available for inspection at the offices of the Council and on the website. Clear days do not include (a) the day the document is published and (b) the day of the meeting; and (c) weekends and bank holidays.

(ii) Confidential reports and all background papers to such report will NOT be available for public inspection or placed on the website.

(iii) Information which is confidential or exempt (as defined in Section 15) will not be disclosed to members of the public.

###### *(d) Information Available at a Meeting*

The Council will make available to members of the public who are physically 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) upon the member of the public giving prior notification of this request to the Democratic Services Department.

###### *(e) Information Available After a Meeting*

For a period of six years the agenda, reports, appendices and the minutes of the meeting shall be available for inspection.

###### *(f) Council's Accounts*

The Public may inspect the Council's accounts and make their views known to the external auditor (sections 29 and 30 Public Audit (Wales) Act 2004). Under the Accounts and Audit (Wales) Regulations 2014, 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 paragraph 15.10) will not be disclosed to members of the public at any time.

### 3.1.2 Information Available to Members of the Council

- (a) Members can see any information, which is available to a member of the public.
- (b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as “need to know”). A Member will not make public information which is confidential or exempt (as defined in Section 15) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.

### 3.1.3 Members of a Scrutiny Committee

An elected Member of a Scrutiny Committee or a co-opted member with voting rights may also on request see any document within the remit of the committee containing material relating to:

- (a) any business transacted at a meeting of the Cabinet;
- (b) any decision taken by an individual Member of the Cabinet.

A Scrutiny 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.
- (c) Any part of a document if to do so would be in breach of any legislative provision of any data protection legislation, any person’s rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Council or Government policy, rule or procedure.

NB. No Member is entitled to see any information relating to a matter in which they have a prejudicial interest.

### 3.1.4 Information Available to Officers

The Monitoring Officer, the Section 151 Officer and the Chief Executive 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 data protection legislation.

## **3.2 Getting Involved**

- 3.2.1 The Council must encourage local people to participate in the making of decisions by the Council. See the Council's public participation strategy for more information.

### **3.2.2 Members of the Public**

Members of the public can get involved in the following ways:

*(a) Voting for Councillors*

If they are 16 years or over 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) Submitting Petitions*

A member of the public can seek to raise a matter with the Council by submitting a petition in accordance with the [Council's petitions policy](#).

*(d) Taking Part in Meetings*

- (i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.
- (ii) You can also ask formal questions at meetings of Full Council (Section 4)

*(e) Views of the Public*

Under the arrangements put in place by the Council under section 62 of the Local Government (Wales) Measure 2011, members of the public may bring to the attention of the relevant Scrutiny Committee their views on any matter under consideration by the relevant Committee. The relevant Scrutiny Committee must take into account any views brought to their attention under these arrangements.

*(f) When are Meetings Open to the Public?*

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section 15.10 for definition of exempt information and section 15.11 for definition of public interest.)

*(g) 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: 0300 790 0203 or via the website [www.ombudsman.wales](http://www.ombudsman.wales).

(ii) Comments or complaints can be made about an Officer or Member by:

(A) Officer

Contacting the Officer, the Officer's manager or by contacting the Council's complaints/compliments department via this link [Complaints/compliments/comments](#) or via the Council's website

(B) Members

If the complaint is against a Member, then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(h) When engaging with the Council, members of the public must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm property owned by the Council, its Councillors or its officers. Additionally, members of the public should never misuse approved procedures to make frivolous or vexatious complaints against Councillors or officers.

### **3.3 Getting Involved – Members**

Members can get involved by:

#### **3.3.3 Suggesting Items of Business for the Agenda**

As a Member of the Council, you have the same rights as members of the public. In addition to these rights you also have the following rights:

- (a) Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

| Column A                      | Column B            |
|-------------------------------|---------------------|
| Democratic Services Committee | Council (Section 4) |

| Column A            | Column B            |
|---------------------|---------------------|
| Scrutiny Committees | Cabinet (Section 7) |

- (b) Any Member can submit a notice of motion to Council (Section 4) and also ask questions (Section 4).

#### 3.3.4 Participating in Meetings

Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the Cabinet.

- (a) Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.
- (b) Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

#### 3.3.5 Comments and Complaints

- (a) Members may comment, subject to restrictions in the Code of Conduct for Members (Section 19) on any aspect of Council business by:
  - (i) talking to Officers;
  - (ii) talking to the Leader or Members of the Cabinet;
  - (iii) talking to the Chair of a Scrutiny Committee.
- (b) If a Member wishes to complain about an:
  - (i) Officer - The procedure set out in the Protocol on Member/Officer Relations may be used (Section 22).
  - (ii) Member - The procedures set out in Appendix 3 and 4 to Section 19 may be followed.

## **SECTION 4**

### **4. FULL COUNCIL**

#### **4.1 Introduction**

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and council tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

#### **4.2 The Policy Framework**

The Policy Framework means the following plans and strategies:

- Corporate Well-being Plan 2023-2028 - Acting Today for a Better Tomorrow
- Statement of Well-being 2023-2028
- Merthyr Tydfil County Borough Council Publication Scheme
- Merthyr Tydfil County Borough Council Replacement Local Development Plan (2016 - 2031)
- South-East Wales Valleys Local Transport Plan
- Welsh Language Strategy 2022-2027
- Welsh in Education Strategic Plan 2022-2032
- Youth Justice Plan
- Merthyr Tydfil County Borough Council Winter Service Operation Plan
- Cwm Taf Well-being Plan
- Corporate Asset Management Plan
- Treasury Strategy Statement
- Merthyr Tydfil CBC Medium Term Financial Plan 22/23 to 25/26
- Highways Maintenance Plan
- Corporate Plans and strategies
- Procurement Policy & Strategy
- Regeneration Strategies
- Strategic Equality Plan (2020-2024)



- Merthyr Tydfil County Borough Council Decarbonisation plan 2023-2030
- Merthyr Tydfil County Borough Council Nature Recovery Action Plan (19–24)
- Improving educational outcomes in Merthyr Tydfil County Borough 2021-2026
- Cwm Taf Morgannwg Safeguarding Board Strategic Plan 2023-2026
- MTCBC Flood Risk Management Plan June 2015
- Merthyr Tydfil CBC Housing Support Programme Strategy 22-26
- Raising Aspirations Raising Standards 2021- 2026

#### **4.3 The Well-being Plan (Public Services Board)**

This replaces the Single Integrated Plan which replaced existing plans and strategies which formed part of the Policy Framework, namely the Community Plan, the Community Safety Plan, Children and Young People's Plan and the Health Social Core and Wellbeing Partnership Plan.

#### **4.4 The Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 16 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

#### **4.5 Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Welsh Ministers for approval of a programme of disposal of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

#### **4.6 Functions of the Full Council**

Only the Full Council will exercise the following functions:

- 4.6.1 adopting and changing the Constitution, other than changes made through delegated powers;
- 4.6.2 approving or adopting the Well-Being Plan, Policy Framework, the Budget and any application to the Welsh Ministers in respect of any Housing Land Transfer;
- 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 15 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;

- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 performing the corporate joint committee functions set out in Section 11 of this Constitution, including the making of a corporate joint committee application and the giving of consent to corporate joint committee regulations being made;
- 4.6.7 changing the name of the area or conferring the title of freedom of the County Borough;
- 4.6.8 making or confirming the appointment of the Chief Executive and other Directors/Chief Officers;
- 4.6.9 making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- 4.6.10 all Local Choice Functions set out in Section 14 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- 4.6.11 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee, approving the appointment or dismissal of the Chief Executive, determining the level (and any change in the level) of remuneration to be paid to a Director Officer and approving the pay policy statement;
- 4.6.12 appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- 4.6.13 approving, reviewing and amending the Council's petitions policy
- 4.6.14 consulting local people, other persons carrying on a business in the Council's area, the officers of the Council and every trade union which is recognised by the Council about the extent to which the Council is meeting its performance requirements;
- 4.6.15 preparing an annual report on the extent to which the Council has met its performance requirements;
- 4.6.16 reviewing, approving and amending the Council's wellbeing objectives in accordance with section 9 of the Well-being of Future Generations (Wales) Act 2015 and the accompanying statutory guidance issued by the Welsh Government;
- 4.6.17 considering Chief Executive reports prepared pursuant to section 54(2)(b) of the Local Government and Elections (Wales) Act 2021, within 3 months of them being made;
- 4.6.18 considering annual reports received from the Standards Committee, within 3 months of them being made;

4.6.19 keeping under review the extent to which:

- a. it is exercising its functions effectively;
- b. using its resources economically, efficiently and effectively; and
- c. its governance arrangements are effective for securing the matters set out in a) and b) above.

#### **4.7 Membership**

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

4.7.2 Substitution is not possible at meetings of the Council.

##### **4.7.3 Chairing the Council**

- a. The County Borough Council will at every Annual Meeting elect from amongst its Councillors, the Chair of the Council and the Vice-Chair of the Council;
- b. The Councillor elected annually by the Council as its chair will be called the "Mayor".
- c. The Mayor will cease to be Mayor 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 Mayor after an election until their successor has been appointed.

##### **4.7.4 Role and Function of the Mayor**

The Mayor of the Council and in their absence, the Deputy Mayor will have the following roles and functions:

###### **a. *Ceremonial Role***

The Mayor of the Council:

- (i) is the civic leader of the Merthyr Tydfil County Borough Council;
- (ii) promotes the interests and reputation of the Council and the Merthyr Tydfil County Borough as a whole and acts as an ambassador for both; and
- (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

###### **b. *Responsibilities of the Mayor***

- (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the community;

- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and Committee Chairpersons to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and they determine appropriate;

#### **4.8 Council Meetings**

There are three types of Council meeting:

- 4.8.1 the annual meeting;
- 4.8.2 ordinary meetings; and
- 4.8.3 extraordinary meetings.

#### **4.9 Rules of Procedure and Debate**

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

#### **4.10 Council Procedure Rules – Annual Meeting of the Council**

##### **4.10.1 Timing and Business**

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

- a. elect a person to preside if the Mayor and Deputy Mayor of the Council is not present;
- b. elect the Mayor of the Council;
- c. elect the Deputy Mayor of the Council;
- d. receive any announcements from the Mayor and /or the Chief Executive;
- e. elect the Leader of the Council, except where the Leader was appointed for a period of five years at the initial annual meeting of the Council;
- f. be informed by the Leader of the number of Members to be appointed to the Cabinet
- g. appoint Scrutiny Committees, a Standards Committee, a Planning Regulatory & Licensing Committee, a Governance & Audit

Committee, a Democratic Services 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.;

- h. appoint a Chairperson, a Vice Chairperson and Members to the Scrutiny Committees. Council will determine which political groups represented at Council are entitled to make which appointments of scrutiny chairpersons. Where any scrutiny chairperson appointments have not been made, Council will determine how the unappointed chairpersons are to be appointed. Any Councillor who is, or is not, a member of any political group, or is, or is not, a member of a particular political group is not prevented from being appointed as a Scrutiny committee chair;
- i. appoint a Chairperson, a Vice Chairperson and Members of the Planning Regulatory and Licensing Committee;
- j. appoint a Chairperson, Vice Chairperson and Members of Statutory Licensing Committee; The functions of the Statutory Licensing Committee are to be performed by the Planning Regulatory and Licensing Committee.
- k. appoint Members of the Governance & Audit Committee. The Governance & Audit Committee shall appoint the chair and vice chair of the Governance & Audit Committee;
- l. appoint a Chairperson, a Vice Chairperson and Members of the Democratic Services Committee. The functions of the Democratic Services Committee shall be performed by the Corporate Support and Resources Scrutiny Committee together with the Cabinet Member for Democratic Services functions;
- m. appoint the Members of the Appeals Committee and the Councillor Members of the Standards Committee;
- n. agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Section 14 of this Constitution);
- o. approve a programme of ordinary meetings of the Council for the year; and
- p. consider any business set out in the notice convening the meeting.

#### 4.10.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- a. decide which committees and sub-committees to establish for the municipal year;
- b. decide the size and terms of reference for those committees;
- c. decide the allocation of committee membership;

- d. receive and approve nominations of Councillors to serve on each Committee and outside body, in accordance with the political balance rules
- e. make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

#### **4.11 Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Mayor and Deputy Mayor are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 approve the minutes of Cabinet, Council Committees and Sub Committees;
- 4.11.4 receive any declarations of interest from Members;
- 4.11.5 deal with any business from the last Council Meeting
- 4.11.6 receive any announcements from the Mayor, Leader or Chief Executive
- 4.11.7 receive a report from the Leader and receive questions and answers on the report;
- 4.11.8 receive a report from the Cabinet and receive questions and answers on the report;
- 4.11.9 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.10 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.11 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, Well-Being Plan (Public Services Board) and reports of Scrutiny Committees;
- 4.11.12 consider motions;
- 4.11.13 deal with questions from Members in accordance with Rule 4.19;
- 4.11.14 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Mayor are relevant to the Council's functions.

#### **4.12 Extraordinary Meetings**

##### **4.12.1 Calling Extraordinary Meetings**

The Chief Executive may call Council meetings in addition to ordinary meetings. Those listed below may request the Chief Executive to call additional Council meetings:

- a. the Council by resolution;
- b. the Mayor of the Council;
- c. the Monitoring Officer
- d. any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

##### **4.12.2 Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the Mayor may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

#### **4.13 Time, Place and Duration of Meetings**

##### **4.13.1 Time and Place of Meetings**

- (a) The time and place of meetings will be determined by the Chief Executive and notified in the summons.
- (b) Where the meeting is to be conducted in accordance with the Council's arrangements for multi-location meetings, the summons will also include details of how to access the meeting by remote means.

##### **4.13.2 Duration of Meetings**

At an ordinary meeting of the Council when three hours have elapsed after the commencement of the meeting, unless the majority of members present vote for the meeting to continue then the Mayor shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **4.14 Notice of and Summons to Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 15. At least three clear days before a meeting, the Chief Executive will send a summons signed by them to every Member of the Council. The summons will

give the date, time and place of each meeting and, where meetings are conducted in accordance with the Council's arrangements for multi-locations meetings, details of how to access the meeting by remote means. The summons will also specify the business to be transacted and will be accompanied by such reports as are available.

#### **4.15 Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to committee and sub-committee meetings, references to the Mayor should instead be read as references to the chair of that committee or sub-committee.

#### **4.16 Quorum**

4.16.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Mayor 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 Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **4.17 Remote Attendance**

4.17.1 Members will be regarded as present at a meeting where they attend that meeting by remote means in accordance with the Council's arrangements for multi-location meetings providing that they can speak to, hear and be heard by, other attendees at the meeting. Any member attending remotely must keep their camera on for the duration of the meeting unless they are having difficulties with their internet connection, in which case they must alert IT/Democratic Services who will seek a decision from the Mayor as to whether the member should continue to engage with the meeting.

4.17.2 For the purposes of section 4.17.1, attendance "by remote means" means attendance in a different physical location to that of other participants and participating through an online meeting platform.

#### **4.18 Questions by the Public**

##### **4.18.1 General**

- a. Members of the public may ask questions of Members of the Cabinet at ordinary meetings of the Council (these rules will also be applicable to Cabinet).
- b. The total time allocated for questions by the public should be limited to 30 minutes.

##### **4.18.2 Order of Questions**

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



#### 4.18.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midday five working days before the day of the meeting. Each question must give the name and address of the questioner.

#### 4.18.4 Number of Questions

At any one meeting no person may submit more than three questions and no more than three such question may be asked on behalf of one organisation. Each element of multi-part questions will be treated as a separate question. A maximum of five minutes will normally be allowed for each questioner or organisation to submit their questions(s), unless agreed otherwise by the Mayor (or Chairperson). Where the Mayor (or Chairperson) accedes to a longer question period then the questioner must be advised prior to commencement. Other questioners must also have equity of time allocation.

#### 4.18.5 Scope of Questions

The Head of Democratic Services in consultation with the Monitoring Officer may reject a question if it:

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

#### 4.18.6 Record of Questions

- a. The Head of Democratic Services will keep a record of each question in a form that enables them to be made available for public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- b. Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

#### 4.18.7 Asking the Question at the Meeting

The Mayor 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 Mayor to put the question on their behalf. The Mayor 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 and no debate will take place.

#### 4.18.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds set out in Rule 4.18.5 above and if rejected no debate will take place.

#### 4.18.9 Written Answers

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

#### 4.18.10 Reference of Question to the Cabinet or a Committee

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

### **4.19 Questions by Members**

#### 4.19.1 On Reports of the Cabinet or Committees

A Member of the Council may ask the Leader, a Member of Cabinet or the Chair of a Committee any question without notice directly arising from an item of the report of the Cabinet or a Committee, when that item is being received or is under consideration by the Council

#### 4.19.2 Questions on Notice at Full Council

Subject to Rule 4.19.4, a Member of the Council may ask:

- a. the Mayor;
- b. a Member of the Cabinet;
- c. the chair of any committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the Merthyr Tydfil County Borough.

#### 4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 4.19.4, a Member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Merthyr Tydfil County Borough, and which falls within the terms of reference of that committee or sub-committee.

#### 4.19.4 Notice of Questions

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- a. they have given at least five clear working days' notice in writing of the question to the Head of Democratic Services; or
- b. the question relates to urgent matters, they have the consent of the Mayor and the content of the question is given to the Head of Democratic Services by 10.00am on the day of the meeting in the case of an afternoon meeting or by 1.00 p.m. on the working day preceding the day of the meeting in the case of a morning meeting.

#### 4.19.5 Maximum Number of Questions

A Member may ask only one question under Rule 4.19.2 or 4.19.3 except with the consent of the Mayor of the Council, committee or sub-committee.

#### 4.19.6 Order of Questions

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in the order determined by the Mayor of the Council, committee or sub-committee.

#### 4.19.7 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the Mayor:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact.

#### 4.19.8 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; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within 5 working days to the questioner.

#### 4.19.9 Supplementary Question

A Member asking a question under Rule 4.19.2 or 4.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### 4.19.10 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 and a Member answering such a question may speak for no longer than five minutes unless the Mayor consents to a longer period.

### **4.20 Motions on Notice**

#### 4.20.1 Notice

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion signed by at least two Members, must be delivered to the Head of Democratic Services not later than 12.00 noon eight working days before the Council meeting at which it is to be considered. Motions received will be kept in a form that enables them to be made available for public inspection.

#### 4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Mayor.

#### 4.20.3 Scope

Motions must be about matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council.

#### 4.20.4 Motion to Remove the Leader

- a. A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least two political groups or a member/s not affiliated to a political group. See Section 6.3(b).
- 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 at the time the question was put.
- c. A motion to remove the Leader cannot be moved more than once in any rolling 12-month period.

#### 4.20.5 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.

#### 4.20.6 Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 20 minutes. At the conclusion of the speech being delivered at the expiry of 20 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion,

the Mayor shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- (a) if the speech to be concluded is a speech proposing a motion, the Mayor shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Mayor shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- (c) otherwise, the Mayor shall allow the mover of the motion to exercise their right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

#### **4.21 Motions without Notice**

The following motions may be moved without notice:

- 4.21.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.21.2 in relation to the accuracy of the minutes;
- 4.21.3 to change the order of business in the agenda;
- 4.21.4 to refer something to an appropriate body or individual;
- 4.21.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 4.21.6 to receive reports or adoption of recommendations of committees or Officers and any resolutions following from them;
- 4.21.7 to withdraw a motion;
- 4.21.8 to amend a motion;
- 4.21.9 to proceed to the next business;
- 4.21.10 that the question be now put;
- 4.21.11 to adjourn a debate;
- 4.21.12 to adjourn a meeting;
- 4.21.13 to suspend a particular Council Procedure Rule;
- 4.21.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;

- 4.21.15 to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4;
- 4.21.16 to give the consent of the Council where its consent is required by this Constitution and;
- 4.21.17 to extend the meeting beyond three hours in duration.

#### **4.22 Rules of Debate**

##### **4.22.1 No Speeches until Motion Seconded**

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

##### **4.22.2 Right to Require Motion in Writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

##### **4.22.3 Secunder's Speech**

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

##### **4.22.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order and no speech may exceed 5 minutes without the consent of the Mayor, save in the case of a mover of a motion to receive and adopt a report or a motion under Rule 4.20, or a Member of the Cabinet or the Chairperson of a Committee replying to an amendment, who shall be entitled to speak for not longer than 10 minutes

##### **4.22.5 When a Member may Speak Again**

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

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

#### 4.22.6 Amendments to Motions

- a. An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add wordsas long as the effect of 4.22.6(a)(ii) to 4.22.6(a)(iv) is not to negate the motion.
- b. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- c. If an amendment is not carried, other amendments to the original motion may be moved.
- d. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e. After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 4.22.7 Alteration of Motion

- a. A Member may alter a motion of which they have 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 they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c. Only alterations which could be made as an amendment may be made.

#### 4.22.8 Withdrawal of Motion

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

#### 4.22.9 Right of Reply

- a. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.
- c. The mover of the amendment has no right of reply to the debate on his amendment.

#### 4.22.10 Motions which may be Moved During Debate

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

- a. to withdraw a motion;
- b. to amend a motion;
- c. to proceed to the next business;
- d. that the question be now put;
- e. to adjourn a debate;
- f. to adjourn a meeting;
- g. to exclude the public and press in accordance with the Access to Information Procedure Rules;
- h. to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4 and
- i. to extend the meeting beyond the defined limit of three hours.

#### 4.22.11 Closure Motions

- a. A Member may move, without comment, the following motions at the end of a speech of another Member;
  - (i) to proceed to the next business;
  - (ii) to act that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- b. If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, they 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 Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting their motion to the vote.
- d. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 4.22.12 Point of Order

A point of order is a request from a Member to the Mayor to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Mayor 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 Mayor on the matter will be final.

#### 4.22.13 Personal Explanation

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

### **4.23 State of the County Borough Debate**

#### 4.23.1 Calling of Debate

The Leader may call a state of the County Borough debate annually on a date and in a form to be agreed with the Mayor.

#### 4.23.2 Form of Debate

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

#### 4.23.3 Chairing of Debate

The debate will be Chaired by the Mayor or in their absence the Deputy Mayor.

#### 4.23.4 Results of Debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council and considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

#### **4.24 Previous Decisions and Motions**

A resolution of the Council shall not be rescinded or altered except on the adoption of a recommendation of the Cabinet or of a Committee of the Council, specifying the proposed rescission or alteration.

##### **4.24.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 5 Members, except in the case of new information becoming available.

##### **4.24.2 Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 5 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

#### **4.25 Voting**

##### **4.25.1 Majority**

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

##### **4.25.2 Mayor's Casting Vote**

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

##### **4.25.3 Method of Voting**

Unless a recorded vote is demanded under Rule 4.25.4 the Mayor will take the vote by use of the Council's electronic voting system or by show of hands, or if there is no dissent, by the affirmation of the meeting.

##### **4.25.4 Recorded Vote**

If 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

##### **4.25.5 Right to Require Individual Vote to be Recorded**

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

#### **4.25.6 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Each Member shall have one vote only at each voting, subject to the Mayor (or Chairpersons) right to give a casting vote.

### **4.26 Minutes**

#### **4.26.1 Signing the Minutes**

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

#### **4.26.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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

#### **4.26.3 Form of Minutes**

Minutes will contain all motions and amendments in the form and order the Mayor] Presiding Member put them.

### **4.27 Record of Attendance**

All Members physically 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. All Members attending a meeting by remote means must email the Head of Democratic Services to confirm their attendance before the conclusion of every meeting.

### **4.28 Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 15 of this Constitution or Rule 4.30 (Disturbance by Public).

### **4.29 Members' Conduct**

#### **4.29.1 Speaking at Meetings**

When a Member speaks at Full Council, they must address the meeting through the Mayor. If more than one Member signifies their intention to speak, the Mayor 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.

#### **4.29.2 Mayor Speaking**

When the Mayor speaks during a debate, any Member speaking at the time must stop.

#### **4.29.3 Member not to be Heard Further**

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

#### **4.29.4 Member to Leave the Meeting**

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

#### **4.29.5 General Disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

#### **4.29.6 General Conduct**

In any meeting of the Council, Committees and Sub-Committees the highest standard of behaviour will be expected from Members at all times. Members will be required to refrain from using foul language and to act in a manner that conforms with good behaviour. A Member who displays any unruly conduct or unacceptable behaviour at a meeting may also be referred to the Council's Standards Committee or to the Public Services Ombudsman for Wales (the Ombudsman). Where a co-opted member(s) attend(s) a Committee or Sub Committee meeting then the provisions set out 4.29.1 to 4.29.5 above will apply to them.

### **4.30 Disturbance by Public**

#### **4.30.1 Removal of Member of the Public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room or their removal from the online platform by which they are accessing the meeting from another location.

#### **4.30.2 Clearance of Part of Meeting Room**

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

#### **4.30.3 Clearance of Online Meeting Platform**

If there is a general disturbance on the online meeting platform, the Mayor may call for the online meeting platform to be muted, temporarily suspended or closed.

#### **4.31 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 except where meetings or parts of meetings which are held in confidential session pursuant to Section 15

#### **4.32 Electronic Broadcasts of Meetings**

4.32.1 Ordinary meetings of the Council will be broadcast electronically so that members of the public not in attendance at the meeting can see and hear the proceedings. All archived webcasts will be available to view on the Council's website for a period of at least six months. Should any recording fail as a consequence of technical difficulties, minutes of the meeting will be available.

4.32.2 On the front of each agenda and on signs to be displayed inside and outside the meeting room there will be a notice stating that the meeting may be filmed for live or subsequent broadcast via the Council's website on the internet.

4.32.3 At the start of each meeting to be filmed, an announcement will be made to the effect that the meeting is being, or may be, webcast by the Mayor.

#### **4.33 Suspension and Amendment of Council Procedure Rules**

##### **4.33.1 Suspension**

All of these Council Rules of Procedure except Rule 4.20.5, 4.25.5 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.

##### **4.33.2 Amendment**

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

#### **4.34 Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4.13 to 4.17, 4.19 to 4.22, 4.24 to 4.34 (but not Rule 4.29.1) apply to meetings of committees and sub-committees.

#### **4.35 Appointment of Substitute Members on Council Bodies**

- 4.35.1 The substitution rules will not apply to meetings of the Cabinet, the Standards Committee, the Governance and Audit Committee or the Planning Regulatory and Licensing Committee.
- 4.35.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Member Body.
- 4.35.3 The Monitoring Officer will allow a request from a Member of a Member Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 4.35.4 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.
- 4.35.5 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.
- 4.35.6 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 or the Monitoring officer of the intended substitution at least one hour before the start of the relevant meeting.

#### **4.36 Other General Matters**

Members are required to ensure that they do not eat or smoke at any meeting. Additionally, Members are required to ensure that they switch-off any mobile phones or any other form of communication (unless required for work call-out or personal emergencies).

## **SECTION 5**

### **5.1 THE CABINET**

#### **5.2 Introduction**

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

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

The Cabinet will consist of:

- 5.3.1 the Leader of the Council (the "Leader"); and
- 5.3.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

#### **5.4 Leader**

##### **5.4.1 Election**

- (a) The Leader will be a Councillor elected to the position of Leader by the Council.
- (b) Two or more Councillors may be elected to share the position of Leader by the Council.

##### **5.4.2 Term of Office**

The Leader is appointed at the annual meeting of the Council for a term of 5 years.

##### **5.4.3 Role of the Leader**

The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet. Further information is contained in Section 6.

#### **5.5 Deputy Leader**

- 5.5.1 The Leader may appoint a Deputy Leader to act as Leader in the Leader's absence. The Leader may also if they think fit remove the Deputy Leader from Office at any time.
- 5.5.2 The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

#### **5.6 Other Cabinet Members**

Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

- 5.6.1 they resign from that office; or

- 5.6.2 they are removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- 5.6.3 they cease to be a Councillor.

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

### **5.7 Delegation of Functions**

The Leader may exercise Executive Functions themselves or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

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

### **5.8 Assistants to the Executive**

- 5.8.1 Other Councillors may, from time to time, be designated by the Leader as Assistants to the Executive. Such Councillors will not be:
  - (a) a member of the Cabinet
  - (b) the Mayor and Deputy Mayor of the Council
- 5.8.2 Assistants to the Executive will not participate in Executive Decision making but may work closely with a Cabinet Member. They will not be a Member of a Scrutiny Committee relating to the specific responsibilities of the Cabinet Member they are assisting or any other areas to which they are assigned.
- 5.8.3 An Assistant to the Executive may support the Cabinet Member through the delegation of tasks as agreed for their area of responsibility, including attending/chairing meetings; speaking/opening events; reading and commenting on papers; meeting Officers; agreeing press releases/comments and carrying out interview; representative the Council on appropriate groups. An Executive Support Member will not, however, have delegated powers and will not be entitled vote at Cabinet Meetings or Cabinet Committee Meetings nor deputise for the Cabinet Member when the Cabinet Member is called to appear at a Scrutiny Committee or the Governance & Audit Committee.
- 5.8.4 Assistants to the Executive are entitled to attend, and speak at, any meeting of the Cabinet or a committee of the Cabinet.



## **5.9 Cabinet Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules in Section 5.10 below.

## **5.10 How does the Cabinet Operate?**

### **5.10.1 Delegation by the Leader**

The Monitoring Officer, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 14 to this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

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

### **5.10.2 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 Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (c) 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.
- (d) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **5.10.3 The Council's Scheme of Delegation and Executive Functions**

- (a) 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.

- (b) 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.

#### 5.10.4 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 19 of this Constitution.
- (b) If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 19 of this Constitution.
- (c) 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 Section 19 of this Constitution.

#### 5.10.5 Cabinet Meetings – When and Where?

The frequency and timing of meetings of the Cabinet (normally every four weeks) 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. The Council's arrangements for multi-location meetings do apply to meetings of the Cabinet.

#### 5.10.6 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 15, for example where confidential or exempt information is being discussed.

#### 5.10.7 Quorum

The quorum for a meeting of the Cabinet shall be three. The Leader and Deputy Leader shall be included as one of the three members if they are present at the meeting.

#### 5.10.8 Remote Attendance

- (a) Members will be regarded as present at a meeting of the Cabinet or a committee of the Cabinet where they attend that meeting by remote means in accordance with the Council's arrangements for multi-location meetings providing that they can speak to, and be heard by, other attendees at the meeting.
- (b) Any member attending remotely must keep their camera on for the duration of the meeting unless they are having difficulties with their

internet connection when they may seek leave from the Leader to turn their camera off.

- (c) For the purposes of section 5.10.8, attendance “by remote means” means attendance in a different physical location to that of other participants and participating through an online meeting platform.

#### 5.10.9 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 Section 15 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.

### 5.11 How are Cabinet Meetings Conducted?

#### 5.11.1 Who Presides?

The Leader will preside at any meeting of the Cabinet or its committees at which they are present. In the Leader’s absence, the Deputy Leader will preside. In the Deputy Leaders absence the members of the meeting will appoint a chair person from those present at the meeting.

#### 5.11.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Section 15 of this Constitution. See also Section 3 in relation to Member participation in meetings.

#### 5.11.3 What Business?

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

- (a) Apologies
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and 16 of this Constitution;
- (d) consideration of reports from Scrutiny Committees and the Governance & Audit Committee;
- (e) consideration of reports from Cabinet Committees;
- (f) reports from Cabinet Members;
- (g) reports from Officers of the Authority;
- (h) any other matters set out in the agenda for the meeting;

In respect of (c) and (d), the relevant Scrutiny Committee Chairperson and Governance & Audit Committee (or their representative) shall be allowed to introduce and speak on the matter/report and participate in any ensuing debate but not allowed to vote.

#### 5.11.4 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 any relevant Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### 5.11.5 Who can put Items on the Cabinet Agenda?

- a. The Leader will decide upon the schedule for meetings of the Cabinet and 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 Head of Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- c. The Chief Executive, 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 Chief Executive, 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.
- e. Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Member who asked for the item to be considered.

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

- 5.12.1 The provisions in Council Procedure Rules in Section 4.30 in relation to disturbance by the public apply to meetings of the Cabinet.
- 5.12.2 The provisions in Council Procedure Rules in Section 4.31 relating to filming and use of social media apply to meetings of the Cabinet.

**5.13      Job sharing by Executive Leaders and Executive Members**

- 5.13.1 Any election or appointment to the Cabinet (including the Leader) may include the election of two or more Councillors to share office.
- 5.13.2 Where two or more Members have been elected or appointed to share the same office on the Cabinet the maximum number of members of the Cabinet, including the Leader[s], will be:
  - (a) 12, where at least two of the members have been elected or appointed to share office; or
  - (b) 13, where at least three of the members have been elected or appointed to share office.
- 5.13.3 The members of the Cabinet who share the same office will have one vote between them in respect of any matter on which they have a right to vote because they are a member of the Cabinet.
- 5.13.4 Where any meeting is attended by more than one of the members who share the same office and those members are attending in their capacity as a member of the Cabinet, they together count only as one person for the purpose of determining whether the meeting is quorate.
- 5.13.5 Should a cabinet office be shared between Councillors under this sub section then they shall share any senior salary payable for the shared office to which they have been appointed.

Section 58 of, and Schedule 7 to, the Local Government and Elections (Wales) Act 2021.

## **THE SECTION 6**

### **6. THE LEADER**

#### **6.1 Election**

- a) The Leader will be elected by Full Council.
- b) The Leader will usually be elected at the Annual Council meeting for a term of 5 years. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

#### **6.2 Term of Office**

The Leader will be appointed at an annual meeting of the Council. The Leader is appointed for a term of 5 years.

#### **6.3 Resignation, Dismissal, Disqualification and Suspension**

- a) The Leader may resign the position of Leader by writing to the Mayor.
- b) The Leader can be dismissed where the Council passes a resolution removing them from office in accordance with rule 4.20.4.
- c) The Leader shall cease to be Leader if the Leader is suspended or disqualified as a Councillor, or, for other such reasons, cannot fulfil the role of Leader.
- d) The Leader will cease to be Leader upon death or upon suffering any disability which will, or is likely to, prevent them from undertaking the role of Leader for a period of three months or more.

#### **6.4 Deputy Leader**

- a) **Appointment**

The Leader may designate one of the Members of the Cabinet as Deputy Leader.

- b) **Duties of the Deputy Leader**

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

- c) **Removal from Office**

The Leader may, if they think fit remove the Deputy Leader from office at any time.

#### **6.5 Functions and Delegated Authority**

- a. **Membership of the Cabinet Executive**

The Leader appoints and dismisses the Members of the Cabinet subject only to there being a minimum of two, and a maximum of nine, Members of the Cabinet (not counting the Leader) at any time.

b) Role of the Leader

The Leader will chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

c) The Cabinet Scheme of Delegations

The Leader will prepare and submit for approval a Cabinet Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the Cabinet, and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.

(NB: no Member of the Cabinet may have a Deputy, other than the Leader. This means that no Member of the Cabinet can have responsibilities which mean that they will work to, or under, another Member of the Cabinet, except the Leader).

d) Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting three clear working days before it takes place, and other conditions contained in Section 5, the Leader can call meetings of the Cabinet at such times and places as the Leader chooses (NB: the Chief Executive, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

e) Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence the Deputy Leader will chair. If the Deputy Leader is not available, the Cabinet will appoint a Member of the Cabinet to Chair the meeting on their behalf (subject to quorum).

f) Acting as one of the Council's Representatives on the Cwm Taf Public Services Board

- (i) The Leader shall be one of the Council's two representatives at meetings of the Public Services Board. The other being the Chief Executive
- (ii) The Leader may designate another member of the Cabinet to attend a meeting of the Public Services Board in their absence. The Leader shall designate the Deputy Leader to attend in their absence unless the Deputy Leader is also not available in which case the Leader shall designate another Member of the Cabinet.

g) Acting as the Council member on a Corporate Joint Committee

The Leader shall be the Council member of a Corporate Joint Committee. Where the Leader is unable to discharge their functions in respect of the

Corporate Joint Committee, the Council shall appoint another member of the Cabinet to discharge those functions on behalf of the Council.

h) Appointments of Representatives on Outside Bodies

The Leader has authority to appoint representatives of the Council on outside bodies where those outside bodies relate to Executive Functions of the Council.



## SECTION 7

### 7.1 **SCRUTINY COMMITTEES**

#### 7.2 Introduction

- a) The Council is required by Law (Local Government Act 2000) to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Scrutiny 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 scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- b) Overview and scrutiny (referred to as scrutiny throughout this section) 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. Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

#### 7.3 Scrutiny Committees

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

- a) review or scrutinise decisions made or yet to be made (pre-decision), 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;
- b) make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
- c) review or scrutinise decisions made, or actions taken, by the Public Services Board; Section 35 of the [Well-being of Future Generations \(Wales\) Act 2015](#)
- d) consider any matter which affects the Council's area or its inhabitants enabling the voice and concerns of the public to be heard; and
- e) exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet and Officers.

#### 7.4 Role, Scope and Membership

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

| Committee and Membership                                                                                                                                                                                                                     | Role and Scope                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Social Services Committee</b><br>The Councillor membership is determined by Council<br>2 Public appointed co-opted members (non-voting)<br>1 Voluntary Sector co-opted member (non-voting).<br>1 Youth Forum Co-opted Member (non-voting) | To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in areas including – <ul style="list-style-type: none"><li>• Adults Social Services;</li><li>• Children's Social Services;</li><li>• Community Development;</li><li>• Safeguarding; Wellbeing &amp; Early response including Advocacy &amp; Leaving Care Services;</li><li>• Supporting Permanence;</li><li>• Merthyr Tydfil Family Centre;</li><li>• Family Support;</li><li>• Children with Disabilities;</li></ul> |

| Committee and Membership                                                                                                                                                                                                                                                                               | Role and Scope                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                        | <ul style="list-style-type: none"> <li>• Looked After Children;</li> <li>• Fostering &amp; Adoption LAC Education Support (LACES);</li> <li>• Cwm Taf Youth Offending Service;</li> <li>• Intake including Enhanced Child in Need Service &amp; Children's Multi Agency Safeguarding Hub;</li> <li>• Integrated Family Support;</li> <li>• Supported Housing;</li> <li>• Initial Support Services;</li> <li>• Day Services;</li> <li>• Older People Disability;</li> <li>• Psychiatry of Old Age;</li> <li>• Complaints Assessment &amp; Charging;</li> <li>• Contracting;</li> <li>• Social Care Workforce Development;</li> <li>• Community Occupational Therapy;</li> <li>• Families First;</li> <li>• Early Years / Youth Service;</li> <li>• Flying Start</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, Welsh Government - sponsored public bodies and quasi departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p> |
| <p><b>Neighbourhood Services, Countryside &amp; Planning Committee</b></p> <p>The Councillor membership is determined by Council</p> <p>2 Public appointed co-opted members (non-voting)</p> <p>1 Voluntary Sector co-opted member (non-voting).</p> <p>1 Youth Forum Co-opted Member (non-voting)</p> | <p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in areas to include-</p> <ul style="list-style-type: none"> <li>• Waste Management;</li> <li>• Environmental Cleansing</li> <li>• Highways &amp; Engineering;</li> <li>• Fleet Management;</li> <li>• Grounds Maintenance;</li> <li>• Street Cleansing / Tidy Towns;</li> <li>• Parks &amp; Bereavement Services;</li> <li>• Development Control;</li> <li>• Building Control &amp; Dangerous Structures;</li> <li>• Planning Policy;</li> <li>• Built Heritage,</li> <li>• Landscape; Ecology;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| Committee and Membership                                                                                                                                                                                                                                                                                                                                                              | Role and Scope                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                                                                                                                                                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• Biodiversity;</li> <li>• Decarbonisation</li> <li>• Geographical Information Systems and</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, Welsh Government-sponsored public bodies and quasi departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Learning and LGES (Local Government Education Service) Committee</b></p> <p>The Councillor membership is determined by Council</p> <p>2 Public appointed co-opted members (non-voting)</p> <p>1 Voluntary Sector co-opted member (non-voting).</p> <p>Education representatives as shown in the Scrutiny Procedure Rules.</p> <p>1 Youth Forum Co-opted Member (non-voting)</p> | <p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in areas to School Improvement,</p> <ul style="list-style-type: none"> <li>• Inclusion &amp; Governance;</li> <li>• School Planning &amp; Support Services;</li> <li>• Additional Learning Needs;</li> <li>• Inclusion &amp; Wellbeing;</li> <li>• Governor Services;</li> <li>• School Information / Capita One;</li> <li>• Admissions &amp; School Places;</li> <li>• Local Management of Schools &amp; School Resource;</li> <li>• Catering; Health &amp; Safety /Cleaning (Schools)</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, Welsh Government-sponsored public bodies and quasi departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p> |
| <p><b>Corporate Support &amp; Resources Committee</b></p> <p>The Councillor membership is determined by Council</p>                                                                                                                                                                                                                                                                   | <p>To scrutinise, measure and actively promote improvement in the Council's performance in the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

| Committee and Membership                                                                                                                                                                                                                                                  | Role and Scope                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <p>2 Public appointed co-opted members (non-voting)</p> <p>1 Voluntary Sector co-opted member (non-voting).</p> <p>1 Youth Forum Co-opted Member (non-voting)</p> <p>This scrutiny committee will undertake the role of the Authority's Democratic Services Committee</p> | <p>provision of services and compliance with Council policies, aims and objectives in the areas including</p> <ul style="list-style-type: none"> <li>• Corporate Communications;</li> <li>• Information Technology;</li> <li>• Print &amp; Design;</li> <li>• Business Change/Transformation;</li> <li>• Accountancy;</li> <li>• Insurance; Procurement;</li> <li>• Creditors; Corporate Finance;</li> <li>• Customer Contact Centre;</li> <li>• Service Support;</li> <li>• Parking Administration, Enforcement &amp; Strategy;</li> <li>• Risk Management;</li> <li>• Equalities/Aging Well;</li> <li>• Welsh Language;</li> <li>• Revenues (Council Tax, Debtors, Cash Collection);</li> <li>• Benefits;</li> <li>• Regional Audit;</li> <li>• Legal;</li> <li>• Democratic Services;</li> <li>• Performance &amp; Scrutiny Services (including corporate planning); and</li> <li>• Information Governance (Freedom of Information and GDPR) and</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, Welsh Government-sponsored public bodies and quasi departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p> |
| <p><b>Regeneration, Public Protection &amp; Housing Committee</b></p> <p>The Councillor membership is determined by Council</p> <p>2 Public appointed co-opted members (non-voting)</p> <p>1 Voluntary Sector co-opted member (non-voting).</p>                           | <p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in areas to include</p> <ul style="list-style-type: none"> <li>• Physical Regeneration;</li> <li>• Economic Development;</li> <li>• Tourism;</li> <li>• Employment / Employability Services;</li> <li>• External Funding;</li> <li>• Destination Management Plan;</li> <li>• Public Protection &amp; Housing;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Committee and Membership                                                                                                                                                                                                                                               | Role and Scope                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p>1 Youth Forum Co-opted Member (non-voting)</p> <p>This scrutiny committee will undertake the role of the Authority's <b><i>Crime and Disorder Committee</i></b></p>                                                                                                 | <ul style="list-style-type: none"> <li>• Housing Services (Strategic/Housing Solutions/ Homelessness);</li> <li>• Housing Renewal Area;</li> <li>• Sports, Leisure &amp; Culture Development / Leisure Trust / Active Lifestyles;</li> <li>• Disabled Facility Grants;</li> <li>• Licensing;</li> <li>• Trading Standards;</li> <li>• Environmental Health;</li> <li>• Environmental enforcement (including fly-tipping);</li> <li>• Home to School / Subsidised Transport;</li> <li>• Registry Service;</li> <li>• Community Safety.</li> <li>• CCTV / Lifeline;</li> <li>• Emergency Planning;</li> <li>• Estates &amp; Asset Management</li> <li>• Partnerships; Sports, Leisure &amp; Culture Development / Leisure Trust / Active Lifestyles; and</li> <li>• Commercialisation and Procurement</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, Welsh Government-sponsored public bodies and quasi departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p> <p>To be the Council's Crime and Disorder Committee as required by the Police and Justice Act 2006 and any re-enactment or modification thereof; and as full delegate of the Council to exercise all the powers and functions permitted under that Act.</p> |
| <p><b>Joint Scrutiny Committee</b><br/><b>(all 5 Scrutiny Committees)</b></p> <p>This Committee will be chaired by the Chair of the Corporate Support &amp; Resources Scrutiny Committee and will comprise all Members of the 5 scrutiny committees as shown above</p> | <p>This committee will meet as and when necessary and consider items that are relevant or common to each of the 5 scrutiny committees as above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Committee and Membership                                                                                                                                                                                           | Role and Scope                                                                                                                      |
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|                                                                                                                                                                                                                    |                                                                                                                                     |
| <b>Joint Scrutiny Committee<br/>(fewer than five)</b><br><br>These Committees will be chaired by the Scrutiny Chair whose committee remit corresponds with the portfolio of the Cabinet Member reporting the item. | These committees will meet as and when necessary and consider items that are relevant or common to each of the scrutiny committees. |

## 7.5 **Specific Functions**

### a. **Policy Development and Review**

The Scrutiny Committees may:

- i. assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;
- ii. conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. question Members of the Cabinet and/or Committees and Directors from the Council about their views on issues and proposals affecting the area;
- iv. 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;
- v. consider the impact of policies to assess if they have made a difference; and
- vi. consider and implement mechanisms to encourage and enhance community participation in the policy development.

### b. **Scrutiny**

The Scrutiny Committees may:

- i. 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;
- ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii. question Members of the Cabinet and/or Committees and Directors 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;
- iv. make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committees and local people about their activities and performance; and
- vi. question and gather evidence from any person (with their consent).

c. Scrutiny of the Cwm Taff Public Services Board

The Scrutiny Committees may:

- (i) review or scrutinise decisions made, or other action taken, by the Cwm Taff Public Services Board;
- (ii) review or scrutinise the Cwm Taff Public Services Board's governance arrangements;
- (iii) make reports or recommendations to the Cwm Taff Public Services Board with respect to the board's functions or governance arrangements;
- (iv) consider such matters relating to the board as the Welsh Ministers may refer to it and to report to the Welsh Ministers accordingly;
- (v) copy reports to the Cwm Taff Public Services Board regarding the board's functions and governance arrangements to: -
  - the Welsh Ministers;
  - the Future Generations Commissioner for Wales; and
  - the Auditor General for Wales; and
- (vi) require one or more of the attendees at the Cwm Taff Public Services Board, or anyone designated by such a person, to attend a meeting of the Scrutiny Committee and provide it with explanations of such matters as it may specify.

d. Finance

Scrutiny Committees may exercise overall responsibility for the finances made available to them.

e. Annual Report

The Scrutiny Committees must report annually to the Full Council on their workings with recommendations for their future work programme and amended working methods if appropriate.

**7.6 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 Scrutiny Committees and to promote support and guidance to Council Members and Officers generally about the functions of the Scrutiny Committees.

**7.7 Who May Sit on Scrutiny Committees?**

All Councillors except Members of the Cabinet may be Members of the Scrutiny Committees. However, no Member may be involved in scrutinising on decisions in which he has been directly involved. All co-opted members are expected to follow the Authority's Code of Conduct for Members and Co-opted members.

**7.8 Co-Optees**

- (a) Each Scrutiny Committee shall be entitled to recommend to Council the appointment of a maximum of seven 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.
- (b) Voluntary Sector Co-opted Members (non-voting) are nominated by Merthyr Tydfil Voluntary Action (VAMT) for a term of office being no less than 4 years and no more than 6 years.

- (c) Youth Forum Co-opted Members (non-voting) - The appointments are to be agreed on the basis that the representatives are members of the Merthyr Tydfil Borough Wide Youth Forum and subject to change by the Merthyr Tydfil Borough Wide Youth Forum itself. The term of office being no less than 4 years and no more than 6 years.

#### **7.9 Education Representatives**

- a. The Learning and LGES Scrutiny Committee shall include in its Membership voting representatives of religious faiths and of parent governors, as required by law and guidance from Senedd Cymru.
- b. The Learning and LGES Scrutiny Committee will appoint:
  - (i) 1 Diocese representative;
  - (ii) 1 Parent Governor Primary representative; and
  - (iii) 1 Parent Governor Secondary/Special representative,
- c. and may appoint (non voting):
  - (i) 1 Teacher Union representative; and
  - (ii) 1 Merthyr Tydfil Association of School Governors representative

as representatives to the Committee, in addition to the two Public appointed co-opted members, the Voluntary Sector co-opted member, and Youth Forum Co-opted Member
- d. All 3 Education Representatives (Diocese and Parent Governor representatives) can only vote on matters that relate directly to the Education functions.

#### **7.10 Who Chairs?**

The arrangements included in sections 66-75 of the Local Government (Wales) Measure 2011 will be followed for appointing persons to chair Scrutiny Committees.

#### **7.11 Role of the Chair of a Scrutiny Committee**

- a. The role of the Chair of a Scrutiny Committees will be essential in implementing the new method of working. The Chairs will liaise with the Cabinet and supervise the Work Programme of their Scrutiny Committee and identify cross cutting themes arising from the various Scrutiny Committees.
- b. In summary, therefore, the Chair will:
  - be accountable for delivering the new way of working for scrutiny;
  - will meet regularly to monitor Work Programmes for their Scrutiny Committee; and
  - will liaise with the Cabinet on issues affecting the Scrutiny Work Programme;

#### **7.12 Work Programme**

The Scrutiny Committees will be responsible for setting their own Work Programme and in doing so they should take into account wishes of Members of that Committee who are not Members of the largest political group on the Council. It should also encourage community involvement when developing the Work Programme. It may also consider urgent and unforeseen matters not included in the Work Programme.

#### **7.13 Meetings**

- a) The Scrutiny Committees will meet at least once each quarter.



- b) Extraordinary meetings may be called from time to time in order to deal with call-ins (Section 7.26) where the Chair of a Scrutiny Committee and 2 elected members of that committee (who are not all members of the same political party) agree it is necessary for that Scrutiny Committee to consider the called in decision before the Committee's next programmed meeting.

#### **7.14 Joint Scrutiny Committees**

- a) Joint Scrutiny Committees may be called from time to time involving two or more internal Scrutiny Committees (Section 7.3).
- b) Under section 58 of The Measure, regulations may be made to permit or require two or more local authorities to appoint a joint Scrutiny Committee. This is set out in the [Local Authorities \(Joint Overview and Scrutiny\) \(Wales\) Regulations 2013](#)

#### **7.15 Rules of Procedure and Debate**

The Scrutiny Procedure Rules 7.15 to 7.29 will apply to meetings of the Scrutiny Committees.

#### **7.16 What will be the Number and Arrangements for Scrutiny Committees?**

- a) The Council will have 6 Scrutiny Committees set out in the table in Section 7.4 and will appoint to them as it considers appropriate from time to time. The 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.
- b) The terms of reference of the various Scrutiny Committees will be as defined in table at 7.4 above.
- c) Each Scrutiny Committee will be Chaired by a Chair appointed from the membership of that Scrutiny Committee:
- d) There will be cross party Membership of all Scrutiny Committees;
- e) The Scrutiny Committees shall undertake the following:
  - (i) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate;
  - (ii) conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships;
  - (iii) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
  - (iv) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County Borough;
  - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
  - (vi) question and gather evidence from any person (with their consent) whilst conducting investigative and reporting processes.

#### **7.17 Meetings of the Scrutiny Committees**

The Council will determine a cycle of meetings for the Scrutiny Committees, and the time of the first meeting of each Committee. The time of subsequent meetings will be agreed at the first meeting of the Scrutiny Committee following the Council's Annual General Meeting.

#### **7.18 Quorum**

- (i) The quorum for the internal Scrutiny Committees set out in Section 7.4 (other than the Joint Committees) shall be at least half the Councillor membership of the committee eligible to be present.
- (ii) The quorum for any Joint Scrutiny Committees shall be at least half the Councillor membership of the Committee eligible to be present; to include at least one Councillor Member from each of the other scrutiny committees.
- (iii) The quorum for any other scrutiny committee not mentioned in (i) to (ii) above shall be as set out in the Council Procedure Rules in Section 4 of this Constitution.

#### **7.19 Agenda Items**

- a) Any Member of a particular Scrutiny Committee shall be entitled to give notice to the Head of Democratic Services that they wish an item relevant to the functions of the that Committee to be included on the agenda for the next available meeting. Seven working days' notice of the item should be given to the Head of Democratic Services together with sufficient information to enable the Officer to advise about the nature and purpose of the item.
- b) On receipt of such a request, so long as it is an appropriate matter to be considered, the Head of Democratic Services will ensure that it is included on the next available agenda.
- c) A Scrutiny Committee 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 Scrutiny Committee 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 Scrutiny Committee within one month of receiving it.

#### **7.20 Policy Review and Development**

- a) The role of the Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Section 15.
- b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c) A Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **7.21 Reports from Scrutiny Committees**

- a) All formal reports from Scrutiny Committees will be submitted for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- b) If a Scrutiny 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.
- c) The Council or Cabinet shall consider the report of a Scrutiny Committee within one month of it being submitted to the Head of Democratic Services.

#### **7.22 Making sure that Scrutiny Reports are considered by the Cabinet**

- a) The agenda for Cabinet meetings shall include an item entitled "Issues Arising from Scrutiny". The reports of the Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda.
- b) Where the Cabinet has delegated decision making power to another individual Member of the Cabinet a Scrutiny Committee will submit a copy of their report to them for consideration. The Member with delegated decision-making power must consider the report and respond in writing to the Scrutiny Committee. A copy of their written response to it shall be sent to the Leader. The Member may also be requested to attend a future meeting of that Scrutiny Committee to present their response.

#### **7.23 Rights of Members of Scrutiny Committees to Documents**

- a) In addition to their rights as Councillors, Members of a Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section 15 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees as appropriate depending on the particular matter under consideration.

#### **7.24 Members and Officers Giving Account**

- a) The Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. 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:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance and it is the duty of those persons to attend if so required.
- b) For this purpose, senior Officer includes any Director, deputy Director and other appropriate senior Officers. Where there are concerns about the appropriateness of the Officer who should attend, the relevant Chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- c) Where any Member or Officer is required to attend Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Democratic Services. The Head of Democratic Services shall inform the Member or Officer, if necessary, in writing, giving at least 10 working days' notice of the meeting at which, they are required to attend (unless agreed otherwise). Any notice will state the nature of the

item on which they are required to attend to give account and whether any papers are required to be produced for the Committee.

- d) Where the account to be given to a Scrutiny 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.
- e) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

#### **7.25 Attendance by Others**

A Scrutiny Committee may invite people other than those people referred to in paragraph 7.24 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. Attendance of course is entirely optional.

#### **7.26 Call-In**

##### **Rules**

- (a) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, the decision shall be published by the Head of Democratic Services, 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 Scrutiny 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 an Scrutiny Committee objects to it and calls it in for review.
- (c) During that period the Monitoring Officer shall call-in a decision for scrutiny by a Scrutiny Committee if so requested in the specified format by the Chair of the relevant Scrutiny Committee or any 5 Councillors (who are not all members of the same political party) and shall then notify the decision taker of the call-in. They shall call a meeting of that Scrutiny Committee on such a date as they may determine, where possible after consultation with the Chair or Vice Chair of that Scrutiny Committee, and in any case within five clear working days of the decision to call-in (only in exceptional circumstances will the Chair of the Scrutiny Committee consider extending this time limit).
- (d) If, having considered the decision, the Scrutiny 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 five clear working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Scrutiny 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

Scrutiny Committee meeting, or the expiry of that further 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 five working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within five 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) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
  - (i) A Scrutiny Committee may only call-in a total of three decisions per three month period;
  - (ii) five Members from at least two political groups are needed for a decision to be called in;
  - (iii) once a Member has signed a request for call-in under this paragraph, they may not do so again until the period of three months has expired.
  - (iv) No Education Co-opted Members may report a decision be called in.
- (i) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (j) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

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

- a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.
- b) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

### 7.28 **The Party Whip**

If a Member of a Scrutiny 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. In this rule, “party whip” means any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on the specific manner before the Council or any committee or sub-committee, or the application or threat to supply any sanction by the group in respect of that Councillor should they speak or vote in that particular manner.

### 7.29 **Procedure at Scrutiny Committee Meetings**

- a) A Scrutiny Committee shall consider the following business:
  - declarations of interest;
  - consideration of any matter referred to that Scrutiny Committee for a decision in relation to call in of a decision;
  - responses of the Cabinet to reports of that Scrutiny Committee;
  - the business otherwise set out on the agenda for the meeting.
- b) The Rules of Procedure at a Scrutiny 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 Scrutiny Committee or in any other capacity which allows them to contribute to the worth of the meeting.
- c) A Scrutiny Committee 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:
  - that the business be conducted fairly, and all Members of the Scrutiny Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - that those assisting by giving evidence be treated with respect and courtesy;
  - that the business be conducted as efficiently as possible.
- c) Following any investigation or review, a Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

### 7.30 **Matters within the Remit of more than one Scrutiny Committee**

Where a matter for consideration by a Scrutiny Committee also falls within the remit of one or more other Scrutiny Committees, a joint scrutiny meeting will be held. Where a Scrutiny Committee is held jointly with the Governance & Audit Committee the chair of the committee shall be the chairperson of the Scrutiny Committee otherwise a chairperson shall be appointed in accordance with 7.10 above.

### 7.31 **Councillor Call for Action**

- (a) 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”.

- (b) Any Member may request that an item is placed on the agenda of a Scrutiny Committee for consideration.
- (c) The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors can be obtained from the Head of Democratic Services

#### 7.32 **Rules for Co-optee Payments**

- (a) 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.
- (b) 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.
- (c) A half day meeting is defined as up to 4 hours.
- (d) A full day meeting is defined as over 4 hours.
- (e) The Head of Democratic Services will prepare and keep up to date Rules. Such rules will be called “Rules for Payments to Co-optees on all Council Committees” and will include current payment rates. The Rules will be provided to all Co-optees prior to the commencement of their participation on a Council Committee.

## **SECTION 8**

### **8 THE STANDARDS COMMITTEE**

#### **Composition**

##### **8.1 Membership**

The Standards Committee is composed of nine Members. Its Membership includes:

- a) 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 Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- b) Three Councillors other than the Leader and not more than one Member of the Executive; and
- c) One Community Council Member.

##### **8.2 Term of Office**

- a) Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term.
- b) Members of local authorities who are Members of the Standards Committee will have a term of office until the next ordinary local government election following their appointment. They may be reappointed for one further consecutive term.

##### **8.3 Quorum**

A meeting of the Standards Committee shall only be quorate when:

- a) at least three Members, including the Chairperson, are present; and
- b) at least half the Members present (including the Chairperson) are Independent Members.

##### **8.4 Voting**

Independent Members and Community Council Members will be entitled to vote at meetings.

##### **8.5 Chairing the Committee**

- a) Only an Independent Member of the Standards Committee may be the Chair.
- b) The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
  - (i) not less than four years or no more than six years; or
  - (ii) until the term of office of the Independent Member comes to an end.

##### **8.6 Role and Function**

The Standards Committee will have the following roles and functions:

- a) promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority (including church and parent governor representatives);
- b) assisting the Councillors and co-opted Members to observe the Members’ Code of Conduct (including church and parent governor representatives);
- c) advising the Council on the adoption or revision of the Members’ Code of Conduct;
- d) monitoring and reviewing the operation of the Members’ Code of Conduct;



- e) developing for recommendation to the Council local protocols to supplement the Members' Code of Conduct;
- f) enforcing local protocols and applying sanctions in respect of breaches as appropriate;
- g) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct and local protocols (if any);
- h) 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 and associated local protocols;
- i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred to that officer by the Public Services Ombudsman for Wales.;
- j) to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- k) to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- l) to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- m) the exercise of (a) to (l) above in relation to the Community Council wholly or mainly in its area and the members of the Community Council.

#### **8.7 Annual Report**

- a) As soon as possible after the end of each financial year, the Standards Committee must make an annual report to the Council.
- b) The annual report must include: -
  - i. a description of how the Standards Committee has discharged its functions;
  - ii. a summary of any reports and recommendations that were referred to the Standards Committee under Chapter 3 of Part 3 of the Local Government Act 2000;
  - iii. a summary of the actions that the Standards Committee has taken following consideration of the reports and recommendations referred to in (b) above;
  - iv. a summary of any notices that were given to the Standards Committee under Chapter 4 of Part 4 of the Local Government Act 2000; and
  - v. the Standards Committee's assessment of the extent to which leaders of political groups on the Council have complied with their duties to promote and maintain high standards of conduct by members of their group and to cooperate with the Standards Committee in the exercise of the Standards Committee's functions; and
  - vi. any recommendations which the Standards Committee considers it appropriate to make to the Council about any matter which falls within the Committee's functions

#### **8.8 Work Programme**

The Committee will prepare a work programme, which will be reviewed and approved at each Committee meeting.

#### **8.9 Joint Standards Committee**

The Council may establish a joint standards committee with one or more local authorities for the purpose of discharging the statutory functions of the Standards Committee.

8.10 **Rules of Procedure and Debate**

- (a) The Council Procedure Rules at Section 4 will apply to the meetings of the Standards Committee Members.
- (b) When considering the conduct of individual Councillors, the procedures outlined in Appendix 3 to Section 19 will apply.

8.11 **Rules for Co-optee Payments**

- (a) 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.
- (b) 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.
- (c) A half day meeting is defined as up to 4 hours.
- (d) A full day meeting is defined as over 4 hours.
- (e) The Head of Democratic Services will prepare and keep up to date Rules. Such rules will be called “Rules for Payments to Co-optees on all Council Committees” and will include current payment rates. The Rules will be provided to all Co-optees prior to the commencement of their participation on a Council Committee.

## **SECTION 9**

### **9 REGULATORY COMMITTEES**

#### **9.1 Regulatory and Other Committees**

The Council will appoint the Committees to discharge the functions set out in Section 14 of this Constitution.

#### **9.2 The Governance and Audit Committee**

- a) The Council will appoint a Governance and Audit Committee to discharge the functions described in Section 14 of this Constitution and in accordance with sections 81-87 of The Measure.
- b) The Committee shall comprise of two-thirds Councillor Members and one-third members who are not a Member of the Council (lay members). No more than one member of the Committee may be a member of the Cabinet (which Cabinet Member must not be the Leader) or an Assistant to the Executive, although the Committee may have no Cabinet Members or Assistants to the Executive among its membership.
- c) The Council shall appoint Members to the Governance & Audit Committee in accordance with the political balance rules.
- d) The Chair of the Governance & Audit Committee and Deputy Chair are appointed by it. The persons appointed Chair and Deputy Chair of the Audit Committee must be lay members.
- e) A meeting of the Governance & Audit Committee is to be chaired:
  - i. by the Chair of the Governance & Audit Committee, or
  - ii. if the Chair of the Governance & Audit Committee is absent, by the Deputy Chair.
  - iii. If both the Chair of the Governance & Audit Committee and the Deputy Chair are absent, the Committee may appoint a member of the Committee who is not a member of the Council's Cabinet, or an Assistant to the Executive, to chair the meeting.
- f) Members of the Governance & Audit Committee may vote on any matter from the Committee.
- g) Where the Governance & Audit Committee is held jointly with a Scrutiny Committee the chair of the committee shall be the chairperson of the Scrutiny Committee.
- h) The quorum of a meeting will be one quarter of the whole number of Members.

#### **9.3 The Democratic Services Committee**

- a) The Council will appoint a Democratic Services Committee to discharge the functions described in Section 14 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 Council shall appoint Members to the Democratic Services Committee in accordance with the political balance rules.
- d) The Chair of the Democratic Services Committee is appointed by Full Council and must not be a Cabinet Member.
- e) The members of the Democratic Services Committee will be the same as the Corporate Support & Resources Committee, excluding the co-opted members together with the Cabinet Portfolio member with responsibility for the Democratic Services function.

- f) Any Officer or Member called to attend a Democratic Services Committee meeting must do so and must answer any questions asked of them save ones which they could refuse to answer if they were in court. The Committee can invite other persons to attend before it, but anyone else so invited is under no compulsion to do so.
- g) The Democratic Services Committee must meet at least once a year and must also meet if Council so decides, or if at least one third of the Committee's Members require that a meeting be held. Otherwise, the Committee may meet as it wishes subject to the usual notice requirements and subject to the requirement to consider within three months any report presented to the Committee by the Head of Democratic Services.
- h) The Quorum shall be at least half of the Councillors eligible to be present.

#### **9.4 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 Committees terms of reference.

#### **9.5 Rules of Procedure and Debate**

- a) The Council Procedure Rules in Section 4 will apply, except as set out in paragraph 9.5.b below.
- b) A meeting of the Planning Regulatory & Licensing Committee shall only be quorate when at least half of the total number of members of the Committee, rounded to the nearest whole number, are present.

#### **9.6 Rules for Co-optee Payments**

- (a) 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.
- (b) 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.
- (c) A half day meeting is defined as up to 4 hours.
- (d) A full day meeting is defined as over 4 hours.
- (e) The Head of Democratic Services will prepare and keep up to date Rules. Such rules will be called "Rules for Payments to Co-optees on all Council Committees" and will include current payment rates. The Rules will be provided to all Co-optees prior to the commencement of their participation on a Council Committee.

## **SECTION 10**

### **10 JOINT COMMITTEES**

#### **10.1 Introduction**

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

#### **10.2 Arrangements to Promote Wellbeing**

The Cabinet in order to promote the economic, social, or environmental wellbeing of its area may:

- 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.

#### **10.3 Joint Arrangements**

- a) The Council may establish joint arrangements with one or more local authorities and/or their executives to (a) exercise functions which are not Executive Functions in any of the participating authorities or (b) 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. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- c) The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.
- d) When considering whether to establish a joint committee, the Council and the Cabinet shall have regard to any guidance issued by the Welsh Ministers about establishing joint committees and the circumstances in which it is appropriate to do so.

#### **10.4 Access to Information**

- a) The Access to Information Procedure Rules in Section 15 apply.
- b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- c) If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information Rules in Part VA of the [Local Government Act 1972](#) (as amended) will apply.

#### **10.5 Delegation to and from Other Local Authorities**

- a) The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.

- b) The Cabinet can 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 is reserved to the Full Council.

#### 10.6 **Contracting Out**

The Council (in respect of Non-Executive Functions) and the Cabinet (in respect of Executive Functions) may contract out to another body or organisation functions:

- a) 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
- b) 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.

## **SECTION 11**

### **11 CORPORATE JOINT COMMITTEES**

#### **11.1 Introduction**

Corporate joint committees may be established: -

- a) at the instigation of the Welsh Ministers, to undertake the Council's transport, strategic planning, economic development and/or improving education functions; or
- b) at the instigation of the Council, to undertake any of the Council's functions.

#### **11.2 Corporate Joint Committees**

- a) The Council may, jointly with one or more other local authorities make a joint committee application to the Welsh Ministers, asking them to consider making regulations under section 72 of the [Local Government and Elections \(Wales\) Act 2021](#) establishing a corporate joint committee to exercise a function of those authorities or the economic wellbeing function in relation to the principal areas of those authorities.
- b) The Council shall not make such an application unless and until it has consulted: -
  - i. local people in the Council's area;
  - ii. community councils in the Council's area;
  - iii. the National Park authority for a National Park, any part of which is in the Council's area;
  - iv. the Public Services Board;
  - v. every trade union which is recognised (within the meaning of the [Trade Union and Labour Relations \(Consolidation\) Act 1992](#)) by the Council; and
  - vi. such other persons as the Council considers appropriate.
- c) The Council may, jointly with all other local authorities for the principal areas in a corporate joint committee's area, make an application to the Welsh Ministers asking them to consider making regulations under section 80 of the [Local Government and Elections \(Wales\) Act 2021](#) to amend or revoke joint committee regulations which establish a corporate joint committee of which the Council is a member.
- d) The Council may not exercise the power in section 11.2.(c) to ask the Welsh Ministers to amend corporate joint committee regulations so as to omit or modify a function which relates to the Council's transport, strategic planning, economic development or improving education functions.

11.3 The Council is a member of the following Corporate Joint Committee/s –

- The South-East Wales Corporate Joint Committee

## **SECTION 12**

### **12 OFFICERS**

#### **12.1 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 Directors, which designation includes persons acting temporarily in such capacity:

| <b>Post</b>            | <b>Functions and Areas of Responsibility</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chief Executive        | <ul style="list-style-type: none"><li>• Overall corporate management and operational responsibility including overall management responsibility for all Officers.</li><li>• Principal adviser to the Council on general policy.</li><li>• The provision of professional and impartial advice to all parties in the decision-making process to the Cabinet, to Scrutiny Committees, the Full Council and other Committees.</li><li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).</li><li>• Representing the Authority on partnership and external bodies (as required by statute or the Council).</li><li>• Service to the whole Council, on a politically neutral basis.</li><li>• To undertake the statutory responsibilities of the 'Proper Officer' for the purposes of Council democratic administration except where the provisions of law, the scheme of delegation or other parts of the Constitution specify that the function should be discharged by another officer.</li><li>• Direct line management responsibility for all Directors and the Deputy Chief Executive</li><li>• To perform the statutory duties of Emergency Planning Officer,</li><li>• To perform the duties of the Returning Officer and the Electoral Registration Officer.</li></ul> |
| Deputy Chief Executive | <ul style="list-style-type: none"><li>• To work with the Chief Executive and other officers as required on strategic and financial management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which they are responsible,</li><li>• Direct line management responsibility for the Head of Housing and Regeneration and the Head of Public Protection,</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



| Post                               | Functions and Areas of Responsibility                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | <ul style="list-style-type: none"> <li>• Responsible for functions including Commercialisation, Special Projects, Corporate Property and Estates, Housing, Physical Regeneration, Economic Development, Tourism, Employability Services, Destination Management, Public Protection and Licensing.</li> <li>• Responsible for championing, promoting and providing leadership for the Corporate strategic development theme of Economic Growth &amp; Commercialisation.</li> <li>• In the absence of the Chief Executive to undertake any response as required in performance of the statutory duties of Emergency Planning Officer.</li> </ul>                             |
| Head of Finance                    | <ul style="list-style-type: none"> <li>• To work with the Chief Executive, Deputy Chief Executive, Directors and other officers on strategic and financial management of the Council, and the co-ordination of Council-wide initiatives and projects; to develop cross service policies and financial planning and control systems; and to take overall responsibility for the direction and performance of the services for which they are responsible.</li> <li>• Responsible for the IT functions of the Council.</li> <li>• To perform the statutory duties of the Chief Finance Officer and s.151 Officer.</li> <li>• Revenues, Benefits Customer Services</li> </ul> |
| Director of Neighbourhood Services | <ul style="list-style-type: none"> <li>• Responsible for functions including Planning, Building Control, Waste Services, Highways and Engineering, Fleet Management, Grounds Maintenance, Street Cleansing, Bereavement Services and Parks,</li> <li>• In the absence of the Chief Executive to undertake any response as required in performance of the statutory duties of Emergency Planning Officer.</li> <li>• Responsible for championing, promoting and providing leadership for the Corporate strategic development theme of Environment &amp; Decarbonisation.</li> </ul>                                                                                         |
| Director of Education              | <ul style="list-style-type: none"> <li>• To perform the statutory duties of the Chief Education Officer.</li> <li>• Responsible for functions including School Planning Support &amp; Resources, Improvement, Achievement and Wellbeing Inclusion and Governance, School Planning and Support Services, Additional Learning Needs, Inclusion and Wellbeing, School Information, Admissions and School Places and Welsh in Education.</li> <li>• In the absence of the Chief Executive to undertake any response as required in performance of the statutory duties of Emergency Planning Officer.</li> </ul>                                                               |

| Post                        | Functions and Areas of Responsibility                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | <ul style="list-style-type: none"> <li>Responsible for championing, promoting and providing leadership for the Corporate strategic development theme of Lifelong Learning &amp; Skills.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Director of Social Services | <ul style="list-style-type: none"> <li>To perform the statutory duties of the Director of Social Services</li> <li>To perform the statutory functions of Lead Director for Children &amp; Young People's services</li> <li>Responsible for Social Services, Community Care, and Safeguarding functions,</li> <li>Responsible for Children's Services, including child protection, safeguarding, children who are accommodated by the Council and looked after children and adoption services. Improving the well-being of children within the Council's area, in particular those with needs for care and support,</li> <li>Responsible for improving the quality of care and support for children provided in the Council's area (including the outcomes that are achieved from such provision),</li> <li>Responsible for protecting children who are experiencing, or are at risk of, abuse, neglect or other kinds of harm (within the meaning of <a href="#">The Children Act 1989</a>),</li> <li>Responsible for Improving Wellbeing, Prevention and Early Intervention,</li> <li>Responsible for protecting vulnerable adults who are experiencing, or are at risk of, abuse, neglect or other kinds of harm,</li> <li>Responsible for Adult Services, Community Development, Social Care, and Safeguarding,</li> <li>In the absence of the Chief Executive to undertake any response as required in performance of the statutory duties of Emergency Planning Officer.</li> <li>Responsible for championing, promoting and providing leadership for the Corporate strategic development theme of Poverty, Prevention and Safeguarding.</li> <li>To be the source of advice to the authority on all social services matters and be responsible for decision-making in relation to individuals in its area in accordance with the requirements of legislation.</li> <li>To be accountable for the quality and delivery of services for the purposes of discharging social services functions, including ensuring effective safeguarding arrangements are in place.</li> <li>Responsible for providing effective service and performance management, a clear strategic direction and professional leadership for staff and services; fostering effective joint working relationships with within and outside the local authority.</li> </ul> |

| Post                               | Functions and Areas of Responsibility                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Director of Governance & Resources | <ul style="list-style-type: none"> <li>Responsible for Governance &amp; Resources to include Finance, Revenues &amp; Benefits, ICT, Human Resources, Policy and Improvement, Legal, Corporate Services and Democratic Services.</li> <li>To perform line management duties to the 'Proper Officer' for Births, Deaths and Marriages.</li> <li>Corporate Functions – Transformation and Business Change; Corporate Planning; Commination, Reputation and Participation.</li> <li>In the absence of the Chief Executive to undertake any response as required in performance of the statutory duties of Emergency Planning Officer.</li> <li>Responsible for championing, promoting and providing leadership for the Corporate strategic development theme of Sustainability and Improvement.</li> </ul> |
| Monitoring Officer                 | <ul style="list-style-type: none"> <li>To perform the statutory duties of Monitoring Officer</li> <li>To perform the role of the "appropriate officer" for the "Rules for Payments to Co-optees on all Council Committees.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Head of Democratic Services        | To perform the statutory duties of the Head of Democratic Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

c) Statutory Officers

The Council will designate the following posts as shown:

| Post                        | Designation                                            |
|-----------------------------|--------------------------------------------------------|
| Chief Executive             | Chief Executive                                        |
| Head of Legal Services      | Monitoring Officer                                     |
| Head of Finance             | Chief Finance Officer and s.151 Officer                |
| Director of Social Services | Director of Adult Social Services                      |
| Director of Social Services | Lead Director for Children and Young People's Services |
| Director of Education       | Chief Education Officer                                |
| Head of Democratic Services | Head of Democratic Services                            |
| Data Protection Officer     | Data Protection Officer                                |

Such posts will have the functions described in Sections 12.2 to 12.5.

Only the Monitoring Officer and the Head of Finance respectively can nominate the Deputy Monitoring Officer and the Deputy Chief Finance Officer respectively, not the Council.

## **12.2 Functions of the Chief Executive**

### **(a) Discharge of Functions by the Council**

- (i) Section 4 of the [Local Government and Housing Act 1989](#) imposes a duty on authorities to designate one of their officers as Chief Executive. The Chief Executive will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.

- (ii) The Chief Executive must keep the following matters under review:

- (aa) the manner in which the exercise by the Council of its different functions is co-ordinated;
- (bb) the council's arrangements in relation to —
  - financial planning,
  - asset management, and
  - risk management;
- (cc) the number and grades of staff required by the Council for the exercise of its functions;
- (dd) the organisation of the Council's staff;
- (ee) the appointment of the Council's staff; and
- (ff) the arrangements for the management of the Council's staff (including arrangements for training and development).

- (iii) If the Chief Executive considers it appropriate to do so, they must make a report to the Full Council setting out their approach to these matters. As soon as possible after preparing a report, the Chief Executive must arrange for a report to be sent to each Member of the Council.

- (iv) Acting as one of the Council's Representatives on the Public Services Board

The Chief Executive shall be one of the Council's two representatives at meetings of the Public Services Board.

### **(b) Restrictions on Functions**

The Chief Executive may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

## **12.3 Functions of the Monitoring Officer**

These are set out in section 5 of the [Local Government and Housing Act 1989](#) as amended.

### **(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 Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to any Function if they consider 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 Public Services Ombudsman for Wales and decisions of the case tribunals.
- (e) Conducting Investigations  
The Monitoring Officer will conduct investigations into matters referred by the Public Services Ombudsman for Wales 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 Cabinet are within the Budget and Policy Framework  
The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet – are in accordance with the Budget and Policy Framework.
- (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 the Councillors.
- (i) Restrictions on Posts  
The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

#### 12.4 **Functions of the Chief Finance Officer**

These are set out in section 6 of the [Local Government and Housing Act 1989](#) and they are:

- (a) Ensuring Lawfulness and Financial Prudence of Decision Making  
After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if they consider 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.

(f) Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

(g) Restrictions on Posts

- (i) The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.
- (ii) The Chief Finance Officer must be a member of one or more of the following professional bodies: -
  - the Institute of Chartered Accountants in England and Wales;
  - the Chartered Association of Certified Accountants;
  - the Chartered Institute of Public Finance and Accountancy;
  - the Chartered Institute of Management Accountants; or
  - any other body of accountants established in the United Kingdom and for the time being approved by the Welsh Ministers for this purpose.

## 12.5 **Functions of the Head of Democratic Services**

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

- (a) to provide support and advice to the authority in relation to its meetings, subject paragraph 12.5.(i)(ii);
- (b) to provide support and advice to committees of the authority and the members of those committees, subject to paragraph 12.5.(i)(ii);
- (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 paragraph 12.5.(i)(ii);
- (d) to promote the role of the authority's Scrutiny Committees;
- (e) to provide support and advice to:
  - (i) the authority's Scrutiny Committees and the members of those committees;
  - (ii) the authority's Democratic Services Committee and the members of that committee; and
  - (iii) to provide support and advice in relation to the functions of the authority's Scrutiny Committee to each of the following:
    - members of the authority;
    - members of the executive of the authority;
    - officers of the authority;
- (f) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 12.5.(i)(iii);
- (g) 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;
- (h) such other functions as may be prescribed by law.
- (i) **Restrictions on Posts**
  - (i) The Head of Democratic Services cannot be the Chief Executive, or the Chief Finance Officer.
  - (ii) 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 Scrutiny Committees and Democratic Services Committee.
  - (iii) 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 Scrutiny Committee or Democratic Services Committee).

#### **12.6 Duty to Provide Sufficient Resources to the Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

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

#### **12.7 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 21 and 22 of this Constitution.

#### **12.8 Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

#### **12.9 OFFICER EMPLOYMENT PROCEDURE RULES**

##### **12.9.1 *MADE UNDER PROVISIONS RELATING TO STAFF ([LOCAL AUTHORITIES \(STANDING ORDERS\)\(WALES\) REGULATIONS 2006](#) AS AMENDED BY THE [LOCAL AUTHORITIES \(STANDING ORDERS\) \(WALES\) \(AMENDMENT\) REGULATIONS 2014](#)***

- A. Subject to paragraphs A) and B) below the function of appointment and dismissal of, and the taking disciplinary action against, a member of staff of the Council must be discharged on behalf of the Council by the officer designated under section 4(1) of the [Local Government and Housing Act 1989](#) (the 1989 Act) (designation and reports of head of paid service) as the head of the Council's paid service or by an officer nominated by the head of the Council's paid service details of which are set out in these rules.
- B. Paragraph A above does not apply to the appointment or dismissal of, or disciplinary actions against:
  - (i) the officer designated as the head of the Council's paid service;

- (ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
  - (iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
  - (v) a person appointed in pursuance of section 9 of the 1989 Act;
  - (vi) the Monitoring Officer within the meaning of Section 5 of the [Local Government and Housing Act 1989](#) as amended
  - (vii) the Head of Democratic Services
  - (viii) a person to whom regulations made under section 35(4) and (5) (provisions with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the [Education Act 2002](#) apply.
- C. Where a committee, sub-committee or officer is discharging, on behalf of the Council the function of the appointment or dismissal of an officer designated as the head of the Council's paid service, the Council must approve that appointment before an offer of appointment is made or as the case may be, must approve that dismissal before notice of dismissal is given.
- D. Nothing in paragraph A) prevents a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by a member of staff of the Council against a decision relating to dismissal or the taking of disciplinary action against a member of staff.

#### **12.9.2 RESTRICTIONS ON THE APPOINTMENT OF MEMBERS AS OFFICERS**

A Member of the Council is disqualified from being appointed to any Officer position at the Council while they remain a Member.

#### **12.9.3 RECRUITMENT & APPOINTMENT**

- (a) Declarations
  - (i) The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are the Parent, Brother, Grandparent, Sister, Partner, Uncle, Child, Aunt, Stepchild, Nephew, Adopted Child, Niece, Grandchild of an existing Councillor or officer of the Council; or of the partner of such persons.
  - (ii) No candidate so related to a Councillor or employee will be appointed without the authority of the relevant Director or an Officer nominated by them.
- (b) Seeking support for appointment
  - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. This rule will be included in any recruitment information.
  - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.



- (iii) Nothing in paragraph (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

#### **12.9.4 RECRUITMENT OF CHIEF EXECUTIVE AND DIRECTORS/CHIEF OFFICERS**

Where the Council proposes to appoint the Chief Executive or a Director/Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and it is not proposed that the appointment be made exclusively from among its existing officers it must:

- (a) Draw up a statement specifying:
  - (i) the duties of the officer/post concerned, and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.

Where a post has been advertised as provided in paragraph (b) above, the Council must:

- (i) interview all qualified applicants for the post, or
- (ii) select a short list of such qualified applicants and interview those included on the short list.

Where no qualified person has applied, or if the Council decide to re-advertise the post/appointment, the Council may make further arrangements for advertisement in accordance with paragraph (b) above.

The steps taken above may be taken by a committee, sub-committee or chief officer of the Council;

Any Director/Chief Officer may be appointed by a committee or sub-committee of the Council or a joint committee.

Where the duties of a Director/Chief Officer include the discharge of functions of two or more Council's in pursuance of section 101(5) of the [Local Government Act 1972](#) then :

- a) the steps taken under paragraph (a), (b) and (c) or (i) and (ii) above may be taken by a joint committee of those Councils, a sub-committee of that committee or a chief officer of any of the Councils concerned; and
- b) any Director/Chief Officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those Council's

#### **12.9.5 APPOINTMENT OF CHIEF EXECUTIVE**

The full Council will appoint the Chief Executive in accordance with 12.9.4 above however such appointment is likely to be based on a shortlist and feedback from an initial interview undertaken by a panel (such panel to be appointed by Council) advised by the Head of Human Resources.

#### **12.9.6 APPOINTMENT OF DEPUTY CHIEF EXECUTIVE / DIRECTORS / CHIEF FINANCE OFFICER / MONITORING OFFICER**

The Council will appoint the Deputy Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Director/Chief Officer positions in accordance with 12.9.4 above however such appointment is likely to be based on a shortlist and feedback from an initial interview undertaken by a panel (such panel to be appointed by Council) advised by the Chief Executive or their nominated representative and the Head of Human Resources.

#### **12.9.7 APPOINTMENTS TO MANAGER POSITIONS**

Appointment to these posts are the responsibility of the Chief Executive or their nominee and relevant Director, in conjunction with the Head of Human Resources.

#### **12.9.8 OTHER APPOINTMENTS**

Appointment to these posts is the responsibility of Managers or their nominated representative(s).

N.B. Honorarium payments/acting up appointments can be considered by Cabinet but the decision to do so will be made by the Chief Executive or the appropriate Director. However, such arrangements should not exceed a period of 6 months. Any extension to these arrangements must be made in conjunction with the HR Manager.

#### **12.9.9 DIRECTOR/CHIEF OFFICER AND DEPUTY DIRECTOR/CHIEF OFFER APPOINTMENTS**

Where the Authority proposes to appoint a Director/Chief Officer or Deputy Director/Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and the remuneration which it proposes to pay to the Chief Officer is £100,000 or more per annum, it must:

- 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 publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c) Make arrangements for a copy of the statement mentioned in paragraphs (a) & (b) mentioned in (a) to be sent to any person on request.

The Authority is not required to take the step set out in 12.9.9 (b) i.e. to publicly advertise, if it proposes to appoint the chief officer for a period of no longer than 12 months.

#### **12.10 DISCIPLINARY MATTERS**

##### **12.10.01 CHIEF EXECUTIVE, MONITORING OFFICER, CHIEF FINANCE OFFICER, AND THE HEAD OF DEMOCRATIC SERVICES**

##### **12.10.02 GENERAL**

- a) No disciplinary action in respect of the Chief Executive, its Monitoring Officer, its Chief Finance Officer or its Head of Democratic Services may be taken by the Council, or by a committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council other than in accordance with a recommendation in a report made by the designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct).
- b) The action under 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. The principles of natural justice and of good management practice must govern the conduct of any proceedings against the officers referred to in the above paragraph on the grounds of either alleged misconduct (i.e. 'discipline') or alleged inability to carry out their roles (i.e. 'capability').
- c) Council should also have full regard to the principles and standards set out in the [ACAS Code of Practice on Disciplinary Procedures](#).

#### 12.10.03 **DISCIPLINARY PROCEDURE – INVESTIGATION OF ALLEGED MISCONDUCT**

- 1) Subject to the above general provisions and in accordance with [The Local Authorities \(Standing Orders\) \(Wales\) Regulations 2006](#) as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014, where it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against:
  - a) the Chief Executive;
  - b) its Monitoring Officer;
  - c) its Chief Finance Officer, or
  - d) its Head of Democratic Services
 ("the relevant officer"), as the case may be, the Council must appoint a committee (an investigation committee") to consider the alleged misconduct.
- 2) The investigation committee must:
  - a) consist of a minimum of 3 Councillors of the Council;
  - b) be politically balanced in accordance with section 15 of the 1989 Act; and
 must within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
- 3) For the purpose of considering the allegation of misconduct, the investigating committee:
  - a) may make such enquiries of the relevant officer or any other person it considers appropriate;
  - b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and

- c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- 4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person (“the designated independent person”) for the purposes of these Rules.
- 5) The designated independent person who is appointed:
  - a) must be such person as may be agreed between the Council 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 Government.
- 6) The designated independent person:
  - a) may direct:
    - i) that the Council terminate any suspension of the relevant officer;
    - ii) that any such suspension is to continue after the expiry of the period of two months;
    - 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 Council or any committee, sub-committee or officer acting on behalf of the Council) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence or with the agreement of the designated independent person are to be taken before a report is made under sub-paragraph (d);
  - b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council or which the Council has power to authorize the designated independent person to inspect;
  - c) may require any Councillor or member of staff of the Council to answer questions concerning the conduct of the relevant officer;
  - d) must make a report to the Council:
    - i) stating an opinion as to whether (and if so the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
    - ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer, and
  - e) must no later than the time at which the report is made under sub-paragraph d) send a copy of the report to the relevant officer.
- 7) Subject to paragraph 8 below the relevant officer and the Council must after consulting the designated independent person attempt to agree a timetable within which the designated independent person is to undertake the investigation.

- 8) Where there is no agreement under paragraph 7 above the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- 9) The Council must consider the report prepared under paragraph 6 d) above within 1 month of receipt of that report.
- 10) A Council must pay reasonable remuneration to the designated independent person appointed by the investigation committee and any costs incurred by or in connection with the discharge of the functions under this Rule.

12.10.04      **DIRECTORS AND MANAGERS (Assistant Directors and Heads of Service)**

12.10.05      **GENERAL**

The procedures relating to discipline and capability apply to Directors/Chief Officers and related posts above Spinal Column Point 49 of the [National Pay and Grading Salary Scales for Local Government Employees](#) (Green Book) with the exception of those posts detailed in 12.10.01. In cases of gross misconduct, it may not be necessary to operate all stages of the disciplinary procedure.

12.10.06      **DISCIPLINARY PROCEDURE**

- 1) The Chief Executive should undertake a preliminary investigation of any disciplinary complaint against a Chief Officer/Director or related post. If appropriate, because of prior personal involvement by the Chief Executive or for other special reasons the Council may instead arrange for the preliminary investigation to be undertaken by another suitable Chief Officer.
- 2) Prior to the appointment of an Investigating Committee, the Chairman of the Council (Mayor), the Leader of the Council and the Cabinet Member with responsibility for Human Resources together with such other nominated Councillors as are needed to satisfy the political balance requirements of the Local Government and Housing Act 1989, shall be empowered to suspend from duty the officer concerned.

Full details of the procedure are contained within the Terms and Conditions of Service for Chief Officers.

**General Note**

Schedule 3 Part 1 Paragraph 3 (a) to (i) of [The Local Authorities \(Standing Orders\) \(Wales\) Regulations 2006](#) as amended by the Local Authorities (Standing Orders) (Wales) Amendment) Regulations 2014 set out mandatory requirements in respect of disciplinary proceedings relating to specified posts to include (a) the Chief Executive; (b) a statutory chief officer, (c) a non-statutory chief officer, (d) a deputy chief officer, (e) a person appointed as an assistant for a political group; (f) a person appointed as a mayor's assistant, (g) a person to whom regulations made under section 35(4) and (5) of the [Education Act 2002](#) apply, (h) the Monitoring Officer and (i) the Head of Democratic Services. The provisions relating to these posts also apply to an officer who was, but at the time of the proposed disciplinary action no longer is such an officer, and where the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was such an officer.

12.10.07      **OTHER POSITIONS**

Power to suspend and discipline employees below Chief Officer/Director level is the responsibility of Directors and where appropriate Managers. In addition, Managers are authorised to give warnings up to a final written level. Dismissal from service will normally be the responsibility of Directors however in their absence a Manager can be nominated by the Director. Full details of the procedure are contained within the Disciplinary Policy for Council Employees. All Appeals up to and including dismissal under the Council's Disciplinary Policy, below Chief Officer level, will be heard by the Chief Executive or in his or her absence by a nominated Director, advised by the Head of Human Resources.

12.10.08      **GRIEVANCE MATTERS**

12.10.09      **CHIEF EXECUTIVE**

Full details are contained within the Terms and Conditions of Service document for Chief Executives.

12.10.10      **DIRECTORS, CHIEF FINANCE OFFICER AND MANAGERS**

The procedures relating to grievance apply to chief officers and related posts above Spinal Column Point 49 of the [National Pay and Grading Salary Scales for Local Government Employees](#) (Green Book) with the exception of the Chief Executive. Full details are contained within the Terms and Conditions of Service document for Chief Officers.

12.10.11      **OTHER POSITIONS**

Power to determine upon grievances below Chief Officer level is the responsibility of Directors and where appropriate Managers. All Appeals up to and including dismissal under the Council's [Grievance Policy](#), below Chief Officer level, will be heard by the Chief Executive or in his or her absence by a nominated Director, advised by the Head of Human Resources.

12.10.12      **MANAGEMENT AND CONTROL OF SICKNESS ABSENCE**

12.10.13      **CHIEF EXECUTIVE**

The procedure for capability in terms of medical fitness will be in accordance with the Council's [Sickness Absence Procedures](#) . In the case of permanent ill-health an independent person need not be appointed.

12.10.14      **DIRECTORS, ASSISTANT DIRECTORS, CHIEF FINANCE OFFICER, MONITORING OFFICER AND MANAGERS.**

The procedure for capability in terms of medical fitness will be in accordance with the Council's Sickness Absence Procedures.

12.10.15      **OTHER POSITIONS**

Power to determine upon sickness absence matters below Director/Chief Officer level is the responsibility of Directors and Managers. In addition, Managers are authorised to give warnings up to a final written level. Dismissal from service will normally be the responsibility of Directors however in their absence a Manager can be nominated by the Director. All Appeals up to and including dismissal under the Council's [Disciplinary Procedure and Guidance](#) (including those for sickness absence), below Director/Chief Officer level, will be heard by the Chief Executive or in their absence by a nominated Director, advised by the Head of Human Resources.

N.B. Any request received in relation to extending an employee's sickness pay entitlement will be determined upon by the Chief Executive/ Director/Chief Finance Officer, in conjunction with the Head of Human Resources.

12.10.16      **MANAGING CHANGE**

Managers are authorised to consult with trade unions on managing change issues e.g. restructures, re-gradings, employee transfers, in conjunction with the Head of Human Resources.

## **SECTION 13**

### **13     FINANCE CONTRACTS AND LEGAL MATTERS**

#### **13.1   Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Section 17 of this Constitution.

#### **13.2   Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Section 18 of this Constitution.

#### **13.3   Legal Proceedings**

- a) The Chief Executive and the Head of Legal Services are authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Executive or the Head of Legal Services consider that such action is necessary to protect the Council's interests.
- b) The Chief Executive and the Head of Legal Services have delegated powers to authorise Officers to appear in court on the Council's behalf.

#### **13.4   Authentication of Documents**

- a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive or the Head of Legal Services or other person authorised by them, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.
- b) Any contract with a value exceeding £25,000, entered into on behalf of the Council in the discharge of a Cabinet function shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two Officers of the Council or made under common seal of the Council attested by the Chief Executive, the Head of Legal Services or some other person authorised by them.
- c) 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:
  - (i) the Chief Executive;
  - (ii) the Head of Legal Services;
  - (iii) any Chief Officer or Director of the Council concerned with the matter to which the document relates; or,
  - (iv) any Officer authorised in writing by such Director/Chief Officer.

#### **13.5   Common Seal of the Council**

- a) Common Seal
  - (i) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services.
  - (ii) A decision of the Council, including decisions under delegated powers, will be sufficient authority for sealing any document necessary to give effect to the decision.
  - (iii) The Common Seal will be affixed to those documents which in the opinion of the Chief Executive should be sealed. The affixing of the Common Seal will



be attested by the Chief Executive or the Head of Legal Services, the Senior Solicitor or some other person authorised by the Chief Executive.

b) Sealing and Execution of Documents

- (i) The Chief Executive, the Head of Legal Services and the Senior Solicitor shall have authority to jointly affix the Common Seal and execute under Seal any deed or document.
- (ii) The Chief Executive, the Head of Legal Services and the Senior Solicitor shall have authority to execute any deed or document not required by law to be under seal which is necessary to affect the decisions of the Council.
- (iii) This function can be delegated further by the Chief Executive and the Head of Legal Services.

c) Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Head of Legal Services and consecutively numbered in a book to be provided for the purpose.

## **SECTION 14**

### **14      RESPONSIBILITY FOR FUNCTIONS - SUMMARY**

The purpose of this Section of the Constitution is to set out who is responsible for making the various decisions in the Council.

#### **14.1    Who can be Decision Makers?**

Under this constitution, there are a number of different decision makers:

- Full Council;
- a Committee or Sub-Committee of the Council;
- the Executive Leader;
- the Cabinet;
- a Committee of Cabinet;
- an individual Cabinet Member;
- a Joint Committee;
- a Corporate Joint Committee;
- an Officer.

The Council will issue and keep up to date a record of which individual has responsibility for particular types of decisions. This record is set out in Section 14 of this Constitution.

#### **14.2    Principles of Decision Making**

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

- proportionately (ie the action must be proportionate to the desired outcome);
- due consideration and the taking of professional advice from Officers;
- respect for human rights;
- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- consideration of any alternative options; and
- the giving and recording of reasons for the decision and the proper recording of these reasons.

#### **14.3    Functions of Decision makers**

Functions fall into the following categories:

##### **a) Functions of the Full Council**

The Council is the supreme decision-making body and may, with some exceptions, exercise any of the functions vested in the Council by Law. It may also delegate many of those functions to a Committee, Sub-Committee or Officer. The functions of the Full Council are set out in Section 4.

##### **b) Non-Executive Functions**

These are functions which, by law, may **not** be the responsibility of the Cabinet. In some cases, only the Full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an Officer.

##### **c) "Local Choice" Functions**

There are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion.

d) Executive Functions

All other functions are Executive Functions.

14.4 **Other Bodies**

a) Advisory Bodies

The Council and/or the Leader can also set up Advisory Committees and Joint Advisory Committees.

b) Scrutiny Committees

Scrutiny Committees are responsible for the overview and scrutiny function. They cannot exercise other functions and make decisions.

c) Officer Delegations

Officer delegations are also contained in the Appendices of this Section of the Constitution.

14.5 **Who Decides – Non-Executive Functions?**

- a) The Council may decide whether to delegate Non-Executive Functions to a committee, sub-committee, delegated Officer or joint committee.
- b) Where a non-Executive Function has been delegated to a committee, the committee may further delegate to a sub-committee or delegated Officer.
- c) Where a non-Executive Function has been delegated to a sub-committee, the sub-committee may further delegate to a delegated Officer.

14.6 **Who Decides – Executive Functions?**

The Leader may decide whether to delegate Executive Functions to a committee of the Cabinet, an individual Cabinet Member, a delegated Officer or a joint committee.

14.7 **Removal of Delegation**

- a) Where a function has been delegated, the body that delegated the function may withdraw the delegation generally or in any particular case and may exercise the function itself.
- b) Where a function has been delegated, the decision maker is not required to exercise the delegation and may refer any particular matter to the body that made the delegation or any other body that has power to exercise the function.

14.8 **Who May Exercise Officer Delegations?**

Where a function has been delegated to an Officer(s) ("delegated Officer(s)"), the decision may be taken in the name of (but not necessarily personally by) such delegated Officer(s) ("authorised Officer(s)") in accordance with arrangements made from time to time by such delegated Officer(s) for this purpose. The Officer with delegated powers can only delegate to a third party if that Officer is given delegated powers to "delegate on" that decision making.

| SECTION 14<br>APPENDIX 1         | SECTION 14<br>APPENDIX 2  | SECTION 14<br>APPENDIX 3                                | SECTION 14<br>APPENDIX 4                                                             |                                                                                          |
|----------------------------------|---------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| <u>Non - Executive</u> Functions | Delegations to Committees | Responsibility for <u>Executive</u> Functions           | Delegations to Officers                                                              |                                                                                          |
|                                  |                           | ↓                                                       | ↓                                                                                    |                                                                                          |
|                                  |                           | <b>SCHEME A</b>                                         | <b>SCHEME B</b>                                                                      | <b>SCHEME C</b>                                                                          |
|                                  |                           | <u>Executive</u> Functions delegated to Cabinet Members | <u>Executive</u> functions delegated to Council Officers                             | <u>Non-Executive</u> functions delegated to Council Officers                             |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART I</b>                                                                        | <b>PART I</b>                                                                            |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Senior Council Officers with consultation    | <u>Non-Executive</u> functions delegated to Senior Council Officers with consultation    |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART II</b>                                                                       | <b>PART II</b>                                                                           |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Senior Council Officers without consultation | <u>Non-Executive</u> functions delegated to Senior Council Officers without consultation |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART III</b>                                                                      | <b>PART III</b>                                                                          |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Council Officers without consultation        | <u>Non-Executive</u> functions delegated to Council Officers without consultation        |

## **SECTION 15**

### **15.0 ACCESS TO INFORMATION PROCEDURE RULES**

#### **15.01 Scope**

These rules apply to all meetings of the Council, the Cabinet, Scrutiny Committee, the Standards Committee, and Regulatory Committees including Sub-Committees.

#### **15.02 Additional Rights to Information**

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

#### **15.03 Rights to Attend Meetings**

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

#### **15.04 Notices of Meeting**

- (i) Unless a meeting is convened at short notice, the Council will give at least three clear working days' notice of any meeting by posting details of the meeting at the Civic Centre and on its website.
- (ii) If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide three clear days notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the meeting, the Monitoring Officer may call a meeting at short notice, subject to the agenda and reports being available to the public on the same day that they are made available to Members.
- (iii) Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.
- (iv) Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.
- (v) Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.
- (vi) Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

#### **15.05 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 Civic Centre and on its website at least three clear working days before the meeting.

#### **15.06 Supply of Copies**

The Council will supply copies of:

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (iii) if the Head of Democratic Services thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person either electronically or on payment of a charge for postage and any other printing and handling costs for a paper copy.

#### **15.07 Access to Minutes etc after the Meeting**

The Council will make available either electronic or hard copies of the following for a period of six years after the date of a meeting:

- (i) the minutes of the meeting or record of decisions taken by the Cabinet, 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;
- (ii) 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;
- (iii) the agenda for the meeting;
- (iv) reports relating to items when the meeting was open to the public.

#### **15.08 Background Papers**

##### **(i) List of Background Papers**

The Officer preparing the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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 15.10.

##### **(ii) Public Inspection of Background Papers**

The Report author 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.

## **15.09 Summary of Public's Rights**

The Council's "Constitution Guide" will contain a summary of the public's rights to attend meetings and to inspect and copy documents. The Constitution Guide will be kept at the Civic Centre and made available to the public and published on the Council's website.

## **15.10 Exclusion of Access by the Public to Meetings**

### **(i) 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.

### **(ii) Exempt Information – Discretion to Exclude Public**

- a) 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.
- b) 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.

### **(iii) 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.

### **(iv) Meaning of Exempt Information**

Exempt information means information falling within the following seven categories (subject to any condition) – see [Schedule 12A Local Government Act 1972 \(as amended\)](#)

NOTE: Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the [Town and Country Planning General Regulations 1992](#) .

| Para. | Category of Exempt Information                                                                                                         | Condition                                                                                                                               |
|-------|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 12    | Information relating to any individual.                                                                                                | Public interest test applies (see below).                                                                                               |
| 13    | Information which is likely to reveal the identity of an individual.                                                                   | Public interest test applies (see below).                                                                                               |
| 14    | 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: |

| Para. | Category of Exempt Information                                                                                                                                                                                                                                                                                                | Condition                                                                                                                                                                                                                                                                                                                                                                   |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|       |                                                                                                                                                                                                                                                                                                                               | <ul style="list-style-type: none"> <li>• The Companies Act 1985;</li> <li>• The Friendly Societies Act 1974;</li> <li>• The Friendly Societies Act 1992;</li> <li>• The Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• The Building Societies Act 1986; or</li> <li>• The Charities Act 1993.</li> </ul> <p>Public interest test applies (see below).</p> |
| 15    | 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 Welsh Minister or a Minister of the Crown and employees of, or office holders under, the authority.                               | Public interest test applies (see below).                                                                                                                                                                                                                                                                                                                                   |
| 16    | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                             |
| 17    | <p>Information which reveals that the authority proposes:</p> <ul style="list-style-type: none"> <li>• to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>• to make an order or direction under any enactment.</li> </ul>                                     | Public interest test applies (see below).                                                                                                                                                                                                                                                                                                                                   |
| 18    | <p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p> <p>Public interest test applies (see below).</p> <p><i>(In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to</i></p> | Public interest test applies (see below).                                                                                                                                                                                                                                                                                                                                   |



| Para. | Category of Exempt Information                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Condition |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|       | <p><i>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>18A Information which is subject to any obligations of confidentiality.</p> <p>18B Information which relates in any way to matters concerning national security.</p> <p>18C The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p> |           |

### 15.11 **Public Interest Test**

a) Information which:

(i) falls within any of paragraphs 12 to 15, 17 and 18 above; and

(ii) 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.

b) The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

c) There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

(i) There is a distinction between public interest and what merely interests the public.

(ii) Does it further the understanding of and participation in the public debate of issues of the day?

(iii) Does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?

(iv) Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?

(v) Does it bring to light information affecting public health and public safety?

#### **15.12 Exclusion of Access by the Public to Reports**

If the Head of Democratic Services in consultation with the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 15.10, 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 and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

#### **15.13 The Forward Work Programme**

##### **(a) Period of Forward Work Programme**

Forward Work Programmes are a series of documents which list the subject matters of decisions that the Council and the Cabinet intend to take and what business the Scrutiny Committees will be considering and when those matters will be discussed and when those matters will be considered.

- A Forward Work Programme will be prepared for the Council by the Chief Executive to cover a period of 12 months from the beginning of the Municipal Year.
- A Forward Work Programme will be prepared by the Cabinet and will be updated quarterly
- Forward Work Programmes will be prepared by each Scrutiny Committee and will be updated quarterly

This does not prevent urgent or unforeseen matters being considered.

##### **(b) Contents of Forward Work Programmes**

The Forward Work Programmes will contain matters which the Cabinet, Scrutiny Committees and Full Council are likely to consider. They will contain information on:

- (i) 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;
- (ii) the timetable for considering any plans which are the responsibility of the Cabinet;
- (iii) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- (iv) the Work Programme of the Scrutiny Committees, to the extent that it is known"

The Forward Work Programmes will then be published.

#### **15.14 Consultation on Proposals to be Considered by the Cabinet**

- a) At least 2 weeks should be permitted in the Forward Work Programme for consultation with the relevant Scrutiny Committee and Electoral Division Members

where a matter is to be considered by the Cabinet and is not urgent (as defined below) or confidential or exempt (as defined in paragraph 15.10).

- b) 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.
- c) 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 the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Mayor or, in their absence, the Deputy Mayor 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.

### **15.15 Record of Decisions of the Cabinet**

#### **a) The Decision Record**

- (i) A record will be made of every Executive Decision made by the Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.
- (ii) This decision record will include a statement, for each decision, of:
  - the decision made;
  - the date the decision was made;
  - the reasons for that decision;
  - any personal interest declared;
  - any dispensation to speak granted by the Authority's Standards Committee;
  - any consultation undertaken prior to the decision.

#### **b) Preparing the Decision Record**

- i) The Head of Democratic Services or their representative shall attend any meeting of the Cabinet, a Committee of the Cabinet 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.
- ii) Where an individual Cabinet Member has made any Executive Decision:
  - that Member shall as soon as reasonably practicable instruct the Chief Executive to produce a decision record; and
  - the decision shall not be implemented until that decision record has been produced, subject to paragraph iii) below.

- iii) Where the date by which an Executive Decision made by an individual Cabinet Member must be implemented makes compliance with 15.15.2(b)(ii) above impracticable, the decision may be implemented if the decision maker has the agreement of
- the Chair of the relevant Scrutiny Committee; or
  - if there is no such person or that person is unable to act, the Mayor; or
  - if there is none of the above then the Deputy Mayor,
- c) that the making of the decision is urgent and cannot reasonably be deferred.

#### **15.16 Decisions by An Individual Member of the Cabinet**

a) Reports Must Be Taken Into Account

Where an individual Member of the Cabinet intends to make any decision, then they will not make the decision until taking into account the contents of an Officer report.

b) Provision of Copies of Reports to Scrutiny Committees

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

c) Record of Individual Decision

The decision recording rules in paragraph 15.15 will apply.

#### **15.17 Scrutiny Committees and Members' Access to Documents**

a) Rights of Access

Subject to paragraph b) below, Scrutiny Committees will be entitled to access to any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- (i) any business transacted at a meeting of the Cabinet or its Committees; or
- (ii) any decision taken by an individual Member of the Cabinet.

b) Limit on Rights

Scrutiny Committees will not be entitled to any part of a document that contains:

- (i) confidential or exempt information; or
- (ii) 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 the Committees.

#### **15.18 Additional Rights of Access for Members of Scrutiny Committees**

a) Rights of Access

All Members will be entitled (except where a Member has a prejudicial interest in any matter) to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a meeting of a decision-making body of the Council or by an individual Member of the Cabinet.

b) Limitation on Rights

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

- (i) it would disclose exempt information falling within paragraphs 12 to 18, 21, 23, 24, and 26 of Part 4 of Schedule 12A of the [Local Government Act 1972](#); or
- (ii) it would disclose advice of a political advisor or assistant.

c) Nature of Rights

These rights of a Member are additional to any other right they may have.

## **SECTION 16**

### **16.0 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

#### **16.1 THE FRAMEWORK FOR CABINET DECISIONS**

- a) 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 Cabinet. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.
- b) The Cabinet (operating collectively or individually) will also have regard to other plans and strategies approved by the Council and other community stakeholders.

#### **16.2 PROCESS FOR DEVELOPING THE FRAMEWORK**

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

- a) The Cabinet will publicise by publishing on the Website and in the Local Press taking whatever other steps it deems appropriate 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 Chairs of the Scrutiny Committees will also be notified. The consultation period shall in each instance normally be not less than 8 weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programmes, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Scrutiny Committees 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 Cabinet's response.
- c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration or, in principle, substitute its own proposals in their place.
- e) If it accepts the recommendation of the Cabinet 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 Section 4 and a copy shall be given to the Leader.

- g) An in-principle decision will automatically become effective 5 days from the date of the Council's decision, unless the Leader informs the proper officer in writing within 5 days that they object to the decision becoming effective and provides reasons why.
- h) In that case, the proper officer will either refer the matter to the next available Council meeting or call a special or extraordinary Council meeting, using their judgment as to how quickly a final decision is required. The Council at the meeting will be required to reconsider its decision and the Leader's written submission. The Council may
  - i) approve the Cabinet'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 Cabinet by a simple majority.
  - iii) The decision shall then be made public in accordance with Section 4 and shall be implemented immediately.
  - iv) 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 Cabinet, in accordance with paragraphs 16.5 and 16.6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **16.3 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of paragraph 16.5 (virement) the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any officers or joint arrangements discharging Cabinet 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 paragraph 16.4 below.
- (b) If the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Chief Executive and/or the Monitoring Officer and/or the Chief Finance 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 any 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 16.4 (urgent decisions outside the budget and policy framework) shall apply.

### **16.4 URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or officers, or joint arrangements discharging Cabinet 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 Chairperson of the relevant Scrutiny 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 Chairperson of the Scrutiny Committee's 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 Chairperson of the relevant Scrutiny Committee the consent of the Mayor or, in the absence of both, the Deputy Mayor, 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.

#### **16.5 VIREMENT**

The Council is responsible for agreeing procedures for virement of expenditure between budget headings. Steps taken by the Cabinet, a committee of the Cabinet, individual Members of the Cabinet or Officers or joint arrangements discharging Executive Functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules in Section 17 of this Constitution.

#### **16.6 IN-YEAR CHANGES TO POLICY FRAMEWORK**

- (a) The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or officers, or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:
  - (i) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
  - (ii) necessary to ensure compliance with the law, ministerial direction or government guidance;
  - (iii) 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;
  - (iv) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

#### **16.7 CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where a Scrutiny Committee is of the opinion that a Cabinet 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, and the decision was not taken in accordance with the principles set out in Section 14, then it shall seek advice from the Chief Executive and/or Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Chief Executive's report and/or the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Councillor. Regardless of

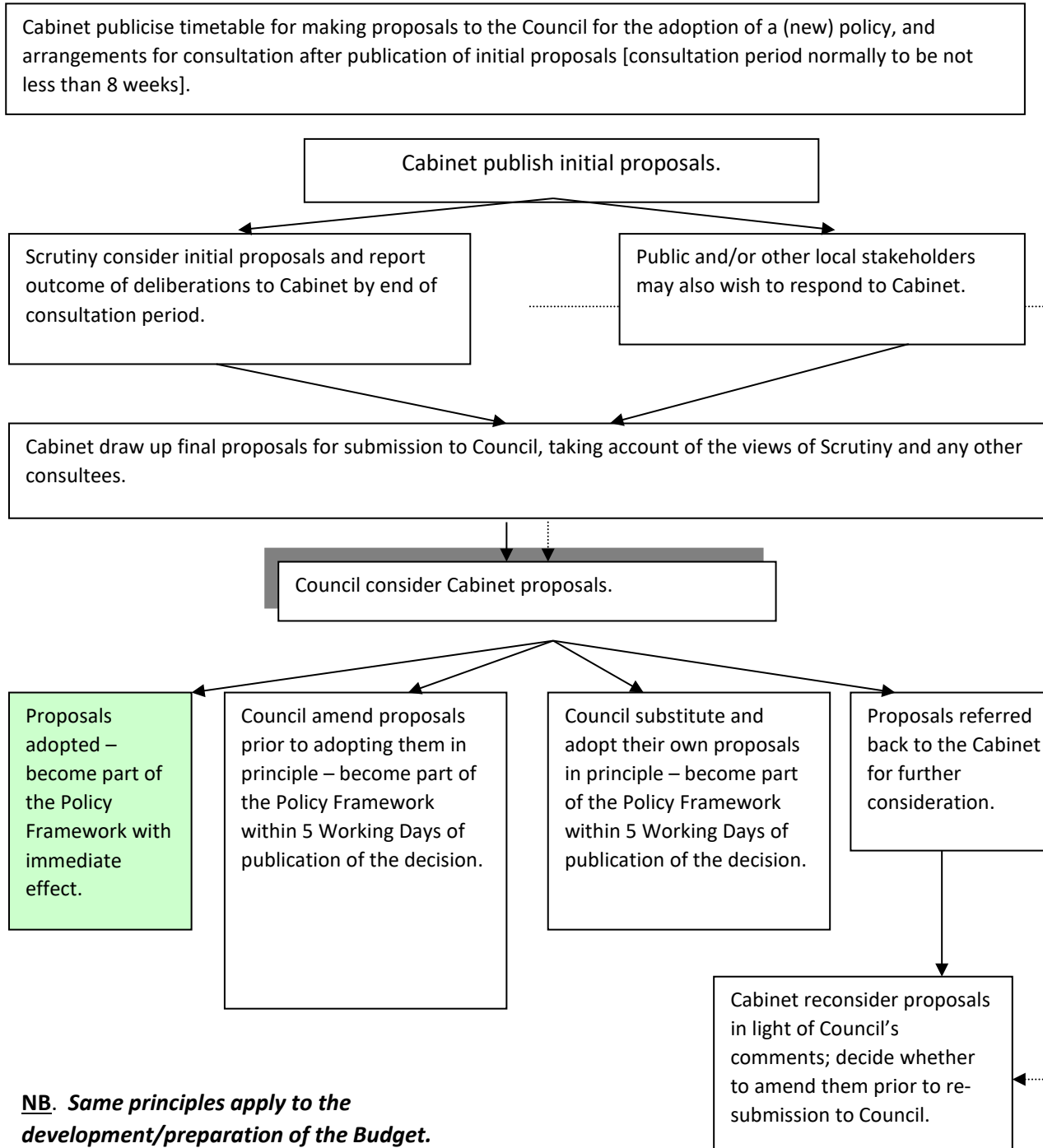


whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Chief Executive's/Monitoring Officer's/Chief Finance Officer's report and to prepare a report to Council in the event that the Chief Executive or the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Scrutiny Committee if the Chief Executive or 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 Chief Executive and/or the Monitoring Officer and/or the Chief Finance 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, and the decision was not taken in accordance with the principles set out in Section 14, the relevant Scrutiny 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 as soon as practicable after receipt of the request by the relevant Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer. The Council may:
- i) endorse a decision or proposal of the Cabinet 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 the policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet 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 Cabinet to reconsider the matter in accordance with the advice of the Chief Executive/Monitoring Officer/Chief Finance Officer

## 16.8 POLICY DEVELOPMENT PROCESS

(in respect of policies that form part of the Policy Framework)



## **SECTION 17**

### **FINANCIAL PROCEDURE RULES**

#### **17.1 STATUS OF FINANCIAL PROCEDURE RULES**

- 17.1.1 Financial Procedure Rules provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 17.1.2 The rules identify the financial responsibilities of the Council, Cabinet and Scrutiny Members, the Chief Executive, the Chief Finance Officer and Directors. Members of the Cabinet and Directors should maintain a written record where decision-making has been delegated to Members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as school governors, references to the Director in the rules should be read as referring to them.
- 17.1.3 All Members and staff 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, is properly authorised, provides value for money and achieves best value.
- 17.1.4 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet or the Governance & Audit Committee or equivalent.
- 17.1.5 Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's Financial Procedure Rules and other internal regulatory documents, such as the Procurement and Contracting Rules and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their departments.
- 17.1.6 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Members, officers and others acting on behalf of the authority are required to follow.
- 17.1.7 As stated above these Rules represent Council policy on managing the authority's financial affairs and therefore it is important to emphasise that they apply to **all** Members and Staff, irrespective of status or Department and must be strictly adhered to at all times. Any breach of these Rules will be investigated by the Internal Audit Division and depending on the severity of the breach appropriate disciplinary action will be taken.
- 17.1.8 The Fair Funding: Scheme For Financing Schools may contain different Rules in some instances. For avoidance of doubt where this occurs the Fair Funding: Scheme For Financing Schools will supersede these Rules.

#### **17.2 FINANCIAL MANAGEMENT – GENERAL ROLE & RESPONSIBILITIES**

##### **(A) Introduction**

Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

**(B) The Council**

- (a) The Council is responsible for adopting the authority's constitution and Members' code of conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- (i) The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution and Scheme of Delegation.

**(C) Committees of the Council**

**The Cabinet**

- (i) Arrangements for the discharge of Cabinet functions are set out within the Constitution and Scheme of Delegation. The arrangements will provide for Cabinet functions to be discharged by:
  - (a) the Cabinet as a whole;
  - (b) a Committee of the Cabinet;
  - (c) to a limited extent by an individual Member of the Cabinet;
  - (d) to an Officer;
  - (e) to an area Committee;
  - (f) joint arrangements; or
  - (g) another local authority.
- (ii) In taking decisions, the Cabinet (including individual Members) will have regard to the plans and strategies set out in the Policy Framework Procedure and will abide by the protocols approved by the Council.
- (iii) The Cabinet will also be required to ensure that no 'key decision' is taken unless adequate and proper consultation has been taken with community stakeholders and other members of the Council in accordance with the requirements stipulated by the Welsh Government.
- (iv) The Scrutiny Committees are responsible for discharging the functions conferred by section 21 of the [Local Government Act 2000](#).

The Scrutiny Committees being;

- (a) Neighbourhood Services, Countryside & Planning Scrutiny Committee;
- (b) Regeneration, Public Protection & Housing Scrutiny Committee;
- (c) Social Services Scrutiny Committee;
- (d) Learning and LGES Scrutiny Committee
- (e) Joint Scrutiny Committee

(f) Corporate Support & Resources Scrutiny Committee

- (v) A Joint Overview and Scrutiny Committee has also been established with Rhondda Cynon Taf County Borough Council namely “The Cwm Taf Public Services Board Joint Overview and Scrutiny Committee”.

**Governance & Audit Committee**

The Authority has also established a Governance & Audit Committee. The Governance and Audit Committee will have the function set out in section 1.09 of Appendix 2 to Section 14. It may also take on other Council functions as required by Welsh Government.

**Standards Committee**

The Standards Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members’ code of conduct, and for monitoring the operation of the code.

**Planning Regulatory and Licensing Committee**

This Committee is responsible for all town and country planning and development control matters plus licensing and other regulatory matters and reports to the Council.

**The Statutory Licensing Committee**

This Committee is responsible for the discharging of licensing functions pursuant to the Licensing Act 2003, the Gambling Act 2005 and any other licensing function governed by statute.

**Appeals Committee**

This Committee will have the functions set out in section 1.05 of Appendix 2 to Section 14.

**Democratic Services Committee**

In accordance with s11 of the Local Government (Wales) Measure 2011, the Council has a democratic services committee to perform the following roles; carry out the local authority’s function of designating the Head of Democratic Services keep under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, in order to ensure that it is adequate for the responsibilities of the post; and make reports, at least annually, to the full council in relation to these matters.

**(D) The Statutory Officers**

Statutory Officers and their roles are identified in the Council’s Constitution.

**(E) Other Financial Accountabilities**

Virement

- (i) The Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- (ii) Directors with the agreement of the Chief Finance Officer may approve virement up to the limits set down below. Virements should be sought before there is any commitment to incur expenditure.

#### Virement Limits

|                      |                |
|----------------------|----------------|
| Individual Transfer  | Up to £100,000 |
| Cumulative Transfers | Up to £200,000 |

- (iii) There is no upper limit to the amount of virement that may be approved by the Cabinet.
- (iv) All proposals for virement that exceed the above limits must be considered for approval by the Cabinet. Virement proposals must also be reported if they:
  - Imply a change in the policies or programmes of the Council;
  - Concern proposals specifically approved in the Revenue Budget;
  - Imply additional revenue commitment in future years.
- (v) The virement of fortuitous savings to finance continuing expenditure should be avoided to prevent a build-up of future commitments for which there may not be a future budget provision.

#### **(F) Treatment Of Year-End Balances**

The Council is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

#### **(G) Accounting Policies**

The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

#### **(H) Accounting Records And Returns**

The Chief Finance Officer is responsible for determining the accounting procedures and records for the authority.

#### **(I) The annual statement of accounts**

The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC). The Council is responsible for approving the annual statement of accounts.

### **17.3 FINANCIAL PLANNING**

#### **(A) Introduction**

The Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- Transformational Strategic Plan, Improvement Reports, Community Strategy, and other specific Strategies and Plans.
- Medium Term Financial Plan (MTFP)
- Annual Treasury Management report
- The Budget
- The Capital Programme.

## **(B) Policy Framework**

- (i) The Council is responsible for approving the policy framework and budget. The policy framework comprises many statutory and non-statutory plans and strategies which are identified in the Council's Constitution.
- (ii) The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Council by the Chief Executive
- (iii) The Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities to deliver the budget policy framework within the financial limits set by the council.

## **(C) Budgeting**

### Budget format

The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Chief Finance Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### Budget preparation

- (i) The Chief Finance Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to the Council. The Council may amend the budget or ask the Cabinet to reconsider it before approving it. This will depend on Welsh Government arrangements for informing Local Government of funding.
- (ii) The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Chief Finance Officer as soon as possible following approval by the Council.
- (iii) It is the responsibility of Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet

**(D) Setting of the Council Tax Rate**

When the budget estimates have been approved by the Council the Chief Finance Officer will recommend the Council Tax Rate for the year to Council.

**(E) Budget Monitoring and Control**

- (i) The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a quarterly basis.
- (ii) It is the responsibility of the Chief Executive and Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

**(F) Resource Allocation**

The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.

**(G) Preparation of the Capital Programme**

The Chief Finance Officer is responsible for ensuring that a four-year Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

**(H) Monitoring of the Capital Programme**

The Chief Finance Officer is responsible for providing appropriate financial information to enable the Capital Programme to be monitored effectively. They must monitor and control expenditure against the Programme and report to the Cabinet on the overall position on a quarterly basis.

**(I) Variation of Capital Schemes**

Any Director proposing to vary an approved programme of Capital Expenditure by the addition, deletion or modification which involves an increase in a project in that programme will make such a recommendation to the Cabinet which will then make a proposal to Council or if necessary a Special Council to approve or disapprove such action.

**(J) Excess Expenditures Other Than Emergencies**

Where, during the course of completion of a project, the approved cost of the scheme is likely to be exceeded, Directors must ensure that the relevant section(s) of the 'Procurement and Contracting Rules' are adhered to.

**(K) Emergencies Resulting in Supplementary Estimate or Virements.**



In the case of exceptional circumstances, a Director may incur expenditure not provided for in the estimates, however they must ensure that the relevant section(s) of the 'Procurement and Contracting Rules' relating to 'Exemptions due to Emergency works and Special circumstances' are adhered to.

**(L) Guidelines**

Guidelines on budget preparation are issued to Members and Directors by the Cabinet following agreement with the Chief Finance Officer. The guidelines will take account of:

- Legal requirements
- Medium-term planning prospects
- Transformational Strategic Plan, Improvement Reports, Community Strategy, and other specific Strategies and Plans.
- Available resources
- Spending pressures
- Best value and other relevant government guidelines
- Other internal policy documents
- Cross-cutting issues (where relevant).

**(M) Maintenance of reserves**

It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the Council on prudent levels of reserves for the authority.

## **17.4 RISK MANAGEMENT AND CONTROL OF RESOURCES**

**(A) Introduction**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

**(B) Risk Management**

The Cabinet is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

The Chief Finance Officer is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority and for advising the Cabinet on proper insurance cover where appropriate.

**(C) Internal Control**

- (i) Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the authority's assets and interests are safeguarded.

- (ii) The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and Rules, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- (iii) It is the responsibility of Directors to establish 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.
- (iv) The Accounts & Audit Regulations (Wales) Regulations 2018 states that Local Authorities are responsible for ensuring that their financial management is adequate and effective and that they have a sound system of internal control which is regularly reviewed.
- (v) It is required that a Statement on Internal Control is issued with the financial statements.

#### **(D) Audit Requirements**

- (a) Internal Audit is a statutory service. Part 3 of the Accounts and Audit (Wales) Regulations 2018, Regulation 7 (Internal Audit) directs that:  
  
*'A relevant body must maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control.'*
- (b) There is a statutory requirement for Internal Audit to work in accordance with the "proper audit practices". These are set out in the Public Sector Internal Audit Standards (PSIAS) which the Chartered Institute of Public Finance and Accountancy (CIPFA) developed in collaboration with the Chartered Institute of Internal Auditors (CIIA).
- (c) The Auditor General for Wales is the Appointed External Auditor and is supported by Audit Wales to deliver the audit work at the Council. The main legislative duties and powers for external Audit work in Wales is set out in a number of pieces of legislation including Public Audit Wales Act 2004; Well-being of Future Generations Act (Wales) 2015; Local Government and Elections (Wales) Act 2021.
- (d) The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as Her Majesty's Revenue and Customs who have statutory rights of access.

#### **(E) Preventing fraud and corruption**

The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

#### **(F) Assets**

Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **(G) Treasury Management**

- (i) The authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- (ii) The Council is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The Policy Statement is proposed to the Council by the Cabinet. The Chief Finance Officer has delegated responsibility for implementing and monitoring the statement.
- (iii) All money in the hands of the authority is controlled by the officer designated for the purposes of section 151 of the [Local Government Act 1972](#), referred to in the code as the Chief Finance Officer.
- (iv) The Chief Finance Officer is responsible for reporting to the Cabinet a proposed Treasury Management Strategy for the coming financial year at or before the start of each financial year.
- (v) All Cabinet decisions on borrowing, investment or financing will be delegated to the Chief Finance Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- (vi) The Chief Finance Officer is responsible for reporting to the Cabinet annually on the activities of the Treasury management operation.

## **(H) Staffing**

- (i) The Council is responsible for determining how officer support for Cabinet and non-Cabinet roles within the authority will be organised.
- (ii) Directors are responsible for controlling staff numbers by:
  - Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - The proper use of appointment procedures.

## **17.5 FINANCIAL SYSTEMS AND PROCEDURES**

### **(A) Introduction**

Sound systems and procedures are essential to an effective framework of accountability and control.

### **(B) General**

- (i) The Chief Finance Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors to the existing financial systems or the establishment of

new systems must be approved by the Chief Finance Officer. However, Directors are responsible for the proper operation of financial processes in their own departments.

- (ii) Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Chief Finance Officer.
- (iii) Directors should ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.
- (iv) Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

#### **(C) Income and Expenditure**

It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Director's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

#### **(D) Payments to Employees and Members**

The Director of Governance and Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime (which have been sanctioned by the relevant Director) and for payment of allowances to Members.

#### **(E) Taxation**

- (i) The Chief Finance Officer is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- (ii) The Chief Finance Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

#### **(F) Trading Accounts/Business Units**

It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

### **17.6 EXTERNAL ARRANGEMENTS**

#### **(A) Introduction**

The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion and improvement of the economic, social and environmental wellbeing of its area.

## **(B) Partnerships**

- (i) The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- (ii) The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority's constitution. Where functions are delegated, the Cabinet remains accountable for them to the Council.
- (iii) The Chief Finance Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- (iv) The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- (v) Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

## **(C) External Funding**

The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts. Directors are responsible for ensuring that contracts are not entered into until final approval has been received by the funding body.

## **(D) Work for Third Parties**

The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

## **17.7 INTERNAL AUDIT**

- a) Section 151 of The [Local Government Act 1972](#) requires that authorities "make arrangements for the proper administration of their financial affairs and shall ensure that one of their officers has responsibility for the administration of those affairs". At Merthyr Tydfil County Borough Council that Officer is the Chief Finance Officer.
- b) Part 3 of The Accounts and Audit (Wales) Regulations 2014 (as amended from time to time) concerns financial management and internal control. Regulation 5 directs that:  
  
'The relevant body must ensure that there is a sound system of internal control which facilitates the effective exercise of that body's functions, and which includes:  
(a) Arrangements for the management of risk, and  
(b) Adequate and effective financial management.'
- c) Regulation 7 of the Accounts and Audit (Wales) Regulations 2014 (as amended from time to time) states that "A relevant body (i.e. a Council) must maintain an adequate

and effective system of internal audit of its accounting records and of its system of internal control". Any officer or member of that body shall, if the body requires;

- i. Make available such documents of the body which relate to its accounting or other records as appear to that body to be necessary for the purpose of audit; and
  - ii. Shall supply the body with such information and explanation as the body considers necessary for that purpose".
- d) Internal Audit in Local Government is required to comply with the Public Sector Internal Audit Standards (PSIAS). Conformance with the Standards, the Definition of Internal Auditing and Code of Ethics is mandatory. The Regional Internal Audit Service (RIAS) which delivers Internal Audit for the Council is committed to meeting the standards laid down in the Public Sector Internal Audit Standards Framework and any significant deviations from the Standards will be reported to the Governance and Audit Committee.
- e) The scope for Internal Audit work includes the control environment comprising risk management, control and governance.
- f) This effectively means that Internal Audit has the remit to independently review all the Council's operations, resources, services and processes in place to:
- Establish and monitor the achievement of Council objectives;
  - Identify, assess and manage the risks to achieving the Council's objectives;
  - Facilitate policy and decision making;
  - Ensure the economical, effective and efficient use of resources;
  - Ensure compliance with established policies, procedures, laws and regulations;
  - Safeguard assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption; and
  - Ensure the integrity and reliability of information, accounts and data, including internal and external reporting.
- g) All the Council's activities, funded from whatever source, and indeed the entire control environment fall within the remit of Internal Audit.
- h) Internal Audit will consider the adequacy of controls necessary to secure propriety, economy, efficiency and effectiveness in all areas. It will seek to confirm that management have taken all necessary steps to achieve these objectives.
- i) The scope of Internal Audit work should cover all operational and management controls and should not be restricted to the audit of systems and controls necessary to form an opinion on the financial statements. This does not imply that all systems will necessarily be reviewed, but that all will be included in the audit needs assessment and hence considered for review following the assessment of risk. The Internal Audit activity is free from interference in determining the scope of internal auditing, performing work and communicating results.
- j) The PSIAS require that an Internal Audit Charter (which is a formal document that defines the purpose, authority and responsibility of Internal Audit activities.) is considered and approved by the Governance & Audit Committee of the Council annually. The Charter is split into the following sections:
- Purpose, Authority and Responsibility;
  - Independence and objectivity;

- Proficiency and due professional care;
  - Quality assurance and improvement programme.
- k) Internal Audit, the Section 151 Officer, or their authorised representative has right of access to all of the Council's records, information and assets considered necessary to fulfil their responsibilities, including those of partner organisations. Internal Audit staff shall have unrestricted access to all Council activities and records (whether manual or computerised systems), personnel, cash, stores, other assets and premises, including those of partner organisations and have authority to obtain such information and explanations as considered necessary to fulfil Internal Audit's responsibilities.
- l) Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, the Chief Officer, or any other Officer, concerned shall forthwith notify the Section 151 Officer and Internal Audit.
- m) All Directors, Heads of Service, Managers and staff have responsibilities in relation to Audit matters as follows:
- To ensure that 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.
  - To ensure that Auditors are provided with any information and explanations that they seek in the course of their work.
  - To consider and respond promptly to recommendations in audit reports.
  - To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
  - To notify the Chief Finance Officer and Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Director / Manager should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
  - 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 Audit, Performance and Partnerships Manager prior to implementation.

## **17.8 BANKING ARRANGEMENTS AND CHEQUES**

- (i) All arrangements with the Council's Bankers concerning the Council's banking accounts and the issue of cheques will be made through the Chief Finance Officer.
- (ii) The Chief Finance Officer will be authorised to operate such subsidiary banking accounts as he thinks necessary.
- (iii) The Chief Finance Officer will be the sole officer authorised to obtain cheques and will make proper arrangements for their safe custody.
- (iv) Cheques on the Council's Bank account will bear the facsimile signature of the Chief Finance Officer. Cheques in excess of a prescribed value must also be countersigned by an authorised Officer.
- (v) No overdraft will be permitted on any of the Council's Bank accounts, except with the approval of the Chief Finance Officer and the overdraft will not be in excess of the

maximum overdraft approved by the Council and agreed with the Bank from time to time.

- (vi) The Chief Finance Officer will be responsible for all direct debit and credits on the Council's Bank account.
- (vii) The Chief Finance Officer will report periodically to the Cabinet on the operation of the Council's Bank accounts and to operate same. At intervals to be agreed by Council, negotiations on a selective tender basis are to be conducted between the Banks concerned and the Chief Finance Officer or his nominated representative, with a view to entering into an agreement for the administration of the Authority's Bank accounts over a defined period, such period not to exceed five years.
- (viii) The Chief Finance Officer is responsible for arranging the reconciliation of the main bank account with the Council's cash accounts.

## **17.9 INCOME**

- (i) The collection of all monies due to the Council will be under the general control of the Chief Finance Officer. The day-to-day responsibility of the Officer concerned will be under the general control of the Departmental Director who will at all times take the advice of the Chief Finance Officer in such matters.
- (ii) The level of Council rents will be considered at regular intervals by the Council.
- (iii) The Cabinet will review all fees and charges annually at the time of setting departmental budgets by following the Fees and Charges Inflation Policy.
- (iv) If the Council is able to obtain income from a range of sources then the method of choosing the best value source must be chosen on the basis of a tendering procedure as outlined in the Procurement and Contracting Rules.
- (v) Each Director will furnish the Director of Governance and Resources with such particulars in connection with work done, goods supplied or services rendered, and of all other amounts due as may be required to record correctly all sums due to the Council, and to ensure the prompt rendering of accounts for the recovery of income due. When Departments are responsible for rendering accounts for monies due to the Council, such accounts will be rendered as soon as possible after they become due for collection.
- (vi) The Chief Finance Officer will be notified promptly of all monies due to the Council under contracts, lease or other arrangements, or arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer will have the right to inspect any documents or other evidence in these matters as he considers necessary. Schools with their own bank account must keep records as authorised by the Chief Finance Officer.
- (vii) All amounts due to the Council will be claimed on official invoices. Instructions for the cancellation or reduction of invoices for income must be authorised by the appropriate Director or such member of staff specifically designated by them for that purpose.
- (viii) Directors must designate Members of staff to receive monies due and should ensure that all appropriate records are maintained. All monies received by collecting officers



will be acknowledged at once by the issue of a numbered official receipt in a form prescribed or agreed by the Chief Finance Officer.

- (ix) Each Director will ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and banked at least weekly and each time £200 or more is held in cash, unless specifically agreed by the Chief Finance Officer.
- (x) No disbursements will be made from such monies.
- (xi) Any shortfall between the amount recorded as collected and that banked by an officer must be made good by that officer immediately, unless agreed otherwise in a specific case by the Chief Finance Officer.
- (xii) All cash handling staff must be issued with written instructions on cash handling and till operation by the relevant Director and have signed to acknowledge that instructions have been received and understood. These procedures must be agreed by the Chief Finance Officer.
- (xiii) In accordance with the Account and Audit Rules, each Officer who banks money will enter on the paying-in slip and carbon duplicate thereof in the case of each cheque paid in:
  - (xiv) The amount of the cheque;
  - (xv) Some reference (such as receipt number, account number or the name of the debtor) which will connect the cheque with the debt(s) in discharge or partial discharge of which it was received. On the reverse of all cheques accepted, there will be entered a reference to identify the debt to which the payment refers.
- (xvi) Personal cheques will not be cashed out of money held on behalf of the Council.
- (xvii) Every transfer of official money from one member of staff to another will be evidenced in the records of the Departments concerned by the signature of the receiving Officer.
- (xviii) The Director of Governance and Resources will, after exhausting recovery procedures, with the agreement of Chief Finance Officer write off irrecoverable rental arrears not exceeding **£1000** (or such other amount that the Council will from time to time determine) which remain upon the termination of a tenancy/ secure contract.
- (xix) The Director of Governance & Resources must, with the agreement of the Chief Finance Officer report all irrecoverable arrears in excess of this amount to the Cabinet with a recommendation for authority to write off.
- (xx) Apart from rental arrears referred to in the preceding paragraphs, all other debts not exceeding £1000 (or such other amount that the Council will from time to time determine) will after exhausting recovery procedures be written off by the Director of Governance and Resources.
- (xxi) The Director of Governance and Resources must not write off any debt without the agreement of Chief Finance Officer and, in excess of £1000 without also receiving prior authorisation from the Cabinet.

(xxii) The Director of Governance and Resources will advise the Chief Executive of debts, which have remained unpaid with a view to the institution of legal proceedings in appropriate cases.

(xxiii) Any sum due to the Council will only be discharged by payment or write off.

#### **17.10 INVESTMENTS AND BORROWING**

- (i) All borrowing will be effected in the name of the Council. All Bonds or Deposit Receipts issued as security for monies borrowed by the Council will be signed on behalf of the Council by the Chief Finance Officer or another Officer authorised to do so by the Council.
- (ii) The Chief Finance Officer or an agent nominated by him will be the Council's registrar of stocks and bonds and will maintain records of all borrowing of money by the Council.
- (iii) It will be the duty of the Council to approve the purchase and sale of investments. No transaction in connection therewith will be carried out until it has been reported to and authorised by the Council. All investments of money of Trust Funds under its control will be made in the name of the Council.
- (iv) All securities, the property of or in the name of the Council, and the title deeds of all property in its ownership, will be held in safe custody by the Chief Executive.
- (v) All Officers acting as trustees by virtue of their official position, will deposit all securities relating to the Trust with the Chief Executive, unless the deed otherwise provides.

#### **17.11 PURCHASES / LEASING (NOT LAND)**

- (i) Procedures for all purchasing are as per the Council's 'Procurement and Contract Procedure Rules'.
- (ii) Directors are not permitted to enter into any lease agreement (except for land which is covered under Section 17.31 below) without the written authorisation of the Chief Finance Officer.
- (iii) Only the Chief Finance Officer or in his or her absence the Head of Accountancy are authorised to sign lease agreements on behalf of the Council.

#### **17.12 ORDERS FOR GOODS AND SERVICES (INCLUDING E-COMMERCE)**

- (i) Official orders in writing will be issued for goods required or work/services to be performed. Such orders will be in a form prescribed by the Chief Finance Officer and are to be signed only by an Officer authorised by the Director
- (ii) The names of Officers authorised to sign such official orders, will be sent to the Chief Executive by each Director together with specimen signatures, and will be amended on the occasion of any changes.
- (iii) Copy signatures, rubber stamps or computer generated / scanned signatures must not be used.

- (iv) All orders must be written and authorised at the time the order is placed and not when the invoice is received. Where, on the grounds of urgency, an order is placed orally, an official order will be issued within 24 hours, clearly marked as being in confirmation of the earlier verbal instruction.
- (v) Before issuing official orders, Officers authorised to sign them must be satisfied that provision for the expenditure has been made in the estimates and that the estimate is sufficient to cover the proposed expenditure. Also, that alternative quotations or tenders have been received as required by the Council's 'Procurement and Contracting Rules' and Best Value principles are applied.
- (vi) Each order will conform with the directions of the Council with respect to any policy on central purchasing, computer purchasing, standardisation, quality and Environmental Strategy as may from time to time be adopted by the Council. Directors will ensure that all purchases comply with any legal, health and safety requirements.
- (vii) Official orders will be issued for all works, goods and services supplied to the Council. Exceptions may be made for periodical payments such as rent, rates, gas, electricity, water and telephones, and for petty cash purchases or such other exceptions as the Chief Finance Officer considers appropriate.
- (viii) All orders placed must clearly show the tender price, negotiated price, catalogue price, accepted quotation or supply agreement together with any trade and/or cash discount.
- (ix) Payment in advance of receipt of goods or services may be made only where it is essential in order to secure the particular supply required or where beneficial discount would otherwise be lost.
- (x) Each Director will be responsible for the validity of all orders issued and for the control and safe custody of the official order books.
- (xi) Official orders must not be raised for any personal or private purchase, nor must personal private use be made of Council contracts.
- (xii) E-Commerce will be introduced at the discretion of the Chief Finance Officer who will be responsible for ensuring that procedures are in place and amended as necessary to maintain the security and validity of data for transmitting business electronically.
- (xiii) Directors will be responsible for ensuring that procedures for E – Commerce are strictly adhered to.

## **17.13      PAYMENT OF ACCOUNTS**

- (i) All payments on behalf of the Council will be made by the Chief Finance Officer with the exception of disbursements from petty cash imprests and from subsidiary bank accounts which have been authorised by the Chief Finance Officer. The normal method of payment of money due from the Council will be by cheque, BACS or other instrument drawn on the Council's banking account. For Schools who have their Budget share paid into a bank account, the above payments will be drawn on that account.

- (ii) The Chief Finance Officer will be responsible for making safe and efficient arrangements for all payments. All cheques will be dispatched direct to the recipient and will not be returned to the initiating officer authorising the payment, unless specifically authorised by the Chief Finance Officer.
- (iii) Each Director will be responsible for the submission and certification of accounts for payment in accordance with arrangements made by the Chief Finance Officer. Wherever practicable the respective duties of ordering, receiving goods or services and certifying the account will not be performed by one and the same officer.
- (iv) Payment will be made only against suppliers invoices or standing journals, not on statements of account. Copy invoices may only be processed provided that the department is satisfied that the original invoice has not previously been passed for payment. A note to this effect will be made on the copy invoice by the certifying officer.
- (v) Requisition forms for payment must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor. Requisitions will only be used for internally generated payments i.e. where no invoice is generated.
- (vi) Each Director issuing an order is responsible for examining, verifying and certifying the related invoices and similarly for any other payment vouchers or accounts arising from sources in that Department. The names of the Officers authorised to sign such records will be sent to the Chief Executive by each Director together with specimen signature and will be amended on the occasion of any changes.
- (vii) The Chief Finance Officer or relevant Director or their nominated Officers will be responsible for examining, verifying and certifying all invoices. The certification of the invoice will include:
- That the relevant work, goods or services have been received, carried out, examined and approved;
  - That Procurement and Contract Rules have been complied with;
  - That prices, calculations, trade and cash discounts, other allowances, credits are correct;
  - That the expenditure was incurred under the head of estimates indicated, and was necessary for that purpose;
  - That appropriate entries have been made on inventories, stores records or stock books;
  - That the account has not been previously passed for payment, and is a proper liability of the Council;
  - That payment of the account is in all respects proper.
- (viii) At least two officers must be involved in completing the payment authorisation stamp.
- (ix) All sections of the payment authorisation stamp must be completed at all times:-
- Goods received by  
This is completed by the person who receives the goods or confirms that works/services have been carried out. In exceptional circumstances where payment is made in advance of works/services e.g. subscription then the member of staff who requests the works/services must sign and add "advance payment".

- Checked and marked off by  
When a payment is being made, the details of the payment must be recorded on the official order. The person who marks off the invoice, against the order book and updates the order with details of the invoice should sign this box. If there is no order e.g. Public Utilities Payments then an appropriate officer must confirm the meter readings before completing this section.
  - Certified and date  
The certification officer must be an authorised signatory whose name appears on the Authorities official signatory list for that budget area. Invoices must not be certified for payment unless the goods received by and checked/marked off sections on the authorisation stamp have been fully completed. The date of signing must always be entered.
  - Input by  
This box must be completed by the person who actually input the invoice to the Council's computerized credit system. Invoices must not be input or this section completed unless the goods received by, checked/marked off, certified and date sections of the authorisation stamp have been fully completed.
- (x) The person certifying the payment must be different to the person(s) completing the 'checked and Marked off' section of the stamp, and must be a designated authorised signatory. Authorised signatories must sign in their own name and not sign in the name of their Director.
- (xi) Full signatures must be given and under no circumstances are initials to be accepted. Copy signatures, rubber stamps or computer generated / scanned signatures must not be used.
- (xii) The Chief Finance Officer will schedule and pay all accounts that are considered satisfactory and in order, to be paid within 30 days of the invoice date or sooner if necessary to comply with contractual terms and to obtain discounts or any other valid reason.
- (xiii) Directors must ensure that payments are made within contractual terms and where such terms do not exist within 30 days from the date of invoice. Where payment is made outside of the 30 days the reason for late payment must be noted on the invoice.
- (xiv) Where Directors have direct access to the Council's computerised creditor system:
- Names and signatures of Officers involved in the input and authorising of invoices and or accounts will be submitted to the Chief Executive by all Directors and will be amended on the occasion of any change therein. Employees authorised to certify invoices should not normally be authorised to input invoices into the system. Each Officer who is authorised to access the creditor system, will have a password which must be confidential and not divulged to any other person.
  - Payment terms (Contractual terms or 30 days payment from invoice date, where such terms do not exist) have been pre set into the system. Therefore to comply with payment terms all Invoices/accounts must be input to the system without delay, ensuring that invoice dates are entered at all times.

- All invoices/accounts will be filed and stored securely in a manner prescribed by the Chief Finance Officer.
- Each Director will, at the 1st April, or as required in each year notify the Chief Finance Officer of all outstanding expenditures relating to the previous financial year and comply with any instructions issued in connection with year-end accounting arrangements.

**(A) Construction Industry Contractual Payments**

- (i) No contract is to be awarded to a Contractor who has not registered with the Inland Revenue as a Sub Contractor.
- (ii) Evidence of such must be received by Merthyr Tydfil County Borough Council prior to being invited to Tender / Quote.
- (iii) When the Sub Contractor has registered with Inland Revenue they will be allocated a Unique Tax Reference Number.
- (iv) Together with the Unique Tax Reference Number and the Company's Registration Number or the Individual's National Insurance Number must be present to the Central Payment Division prior to the Order / Contract being awarded.
- (v) If the Sub Contractor is deemed by the Inland Revenue to be paid Net at the Standard Rate of Deduction, then the ensuing invoice must separately identify both the Materials and Labour content on the invoice so that the correct Tax Deduction can be made. Where the Sub Contractor is identified as a Gross Payment Contractor then the Company may be paid Gross (i.e., Without Deduction of Tax).
- (vi) To assist in the Council's compliance with the Finance Act, Departments must identify the invoice as being payable to a sub-contractor for payment.
- (vii) Where a signed contract is required, no payments will be made until the contract has been duly signed and sealed by the contractor concerned and received by Council.
- (viii) Where contracts provide for payment to be made by instalments, the Chief Finance Officer will arrange for the keeping of a contract register or registers to show the state of account on each contract between the Council and the Contractor, together with any other payments and the related professional fees:
- (ix) Payments to Contractors on account of contracts will be made only on a certificate issued by the appropriate Director or Consultant where one is engaged by the Council.
- (x) In the case of certification by a Consultant, the appropriate Director will ensure that each certificate is supported by a copy of the Valuation and the Consultant will ensure that it contains no unusual features such as large variations of which the Council has no knowledge.
- (xi) The Chief Finance Officer will be entitled to make such enquiries and to receive such information and explanations as they may require in order to satisfy themselves as to the accuracy of such interim valuations as they consider necessary.
- (xii) Subject to the conditions of the contract, the final certificate will not be issued until the appropriate Director or Consultant has produced to the Chief Finance Officer a detailed statement of the final account, together with all relevant documents if

required. The Chief Finance Officer will, to the extent they consider necessary, examine final accounts for contracts and they will be entitled to make all such enquiries and receive such information and explanations as they may require in order to satisfy themselves as to the accuracy of such final accounts. The purpose of these requirements under this paragraph is to assist Directors in ensuring that the accounts are correct, but in no way diminishes their personal responsibility for the contracts.

(xiii) The Department's responsibilities do not cease with the receipt of material or goods etc. Most contracts give price and/or discounts if paid within a specific period after receipt, and considerable sums of money could be lost if Centralised Purchasing Section or the Chief Finance Officers' Payment Section, as the case may be, are not notified of receipt immediately. It is the duty of each Director to carry out this responsibility.

(xiv) The Chief Finance Officer will be entitled to apply any check thought desirable, and to receive any such information and explanations as thought required regarding any payment.

#### **17.14      PETTY CASH AND IMPREST ACCOUNTS**

- (i) The Chief Finance Officer will provide such accounts as considered appropriate for such Officers of the Council as may need them for the purpose of defraying petty cash and other expenses. Except as otherwise agreed between the Chief Finance Officer and the Director concerned, payments out of these accounts will be limited to minor items of expenditure.
- (ii) Where they consider it appropriate the Chief Finance Officer will open an account with the Council's bankers for use by the imprest holder, who will not cause such an account to be overdrawn. It will be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest account will be reported forthwith to the Chief Finance Officer.
- (iii) Under no circumstances should personal cheques be cashed or money borrowed from imprest accounts.
- (iv) No salaries or wages payments may be made to employees from an imprest account. No payment must be made to sub-contractors for building or maintenance work unless specifically authorised, in writing, by the Chief Finance Officer.
- (v) An officer responsible for an imprest will:
  - Obtain and retain vouchers to substantiate each payment from the imprest. Care should be taken to obtain a VAT invoice when this tax is charged;
  - Ensure the safe custody of the imprest cash, by keeping it securely locked away, preferably in a safe. Guidance on this matter can be obtained from the Internal Audit Division;
  - Restrict the amount of each separate payment to £50 or as otherwise agreed by the Chief Finance Officer in a specific case;
  - Produce, upon demand, to the Chief Finance Officer or representatives' cash and/or vouchers to the total of the imprest;
  - When requested, give the Chief Finance Officer a certificate as to the state of the imprest account;

- 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 these Rules are followed;
- Reconcile and balance the imprest at least monthly. Periodic checks should be made by a senior officer to ensure that this is being properly carried out. Any deficiency must be notified to the Chief Finance Officer and made good by the imprest holder or as otherwise agreed in a specific case by the Chief Finance Officer;
- No income received on behalf of the Council will be banked to an imprest account. Such income must be banked and accounted for as provided elsewhere in these Rules;
- On leaving the employment of the Council or otherwise ceasing to hold an Imprest advance, an Officer will account to the Chief Finance Officer for the amount advanced and make good any deficiency, which may be found.
- On appointment, an Officer responsible for an imprest, will immediately account for the cash and invoices to the value of the advance.

#### **17.15      SALARIES AND WAGES**

- (i) The Chief Executive is the Officer responsible for advising the Council on the efficient utilisation of manpower resources (including training and development), and upon the operation and control of procedures for appointment, discipline, grievance, salaries and wages and general conditions of service as applied nationally, provincial and locally.
- (ii) Appointments of all employees will be made in accordance with the Rules of the Council and the approved establishments, grades or rates of pay.
- (iii) The calculation, payment and control of all salaries, wages and other emoluments to all employees of the Council will be made by the Chief Finance Officer, or under arrangements approved and controlled by the said Chief Finance Officer.
- (iv) Each Director or his authorised representative will notify the Chief Finance Officer as soon as possible and, in the form, prescribed, of all matters affecting the payment of such emoluments and in particular:
  - Of all appointments, resignations, dismissals, suspensions, supervisions, secondments and transfers, and
  - Of all absences from duty for sickness, maternity leave, accidents or other reasons, apart from approved leave, and
  - Of all authorised and approved changes in remuneration, including normal increments, but excluding pay awards or agreements of general application, and
  - Of all changes in standard hours or terms of employment, and
  - Of changes to circumstances surrounding the payment of car allowances, including change of vehicle or change of status of payment, and
  - Furnish all personnel information necessary to maintain individual records of service for the Superannuation Scheme, Inland Revenue, and other appropriate agencies.
- (v) All-time records or other pay documents will be in a form prescribed or approved by the Chief Finance Officer and will be certified by signatories by or on behalf of the relevant Director. The names of the Officers authorised to sign such records, **will be sent to the Chief Executive** by each Director together with specimen signatures and will be amended on the occasion of any changes therein.



- (vi) Each Director will submit to the Chief Finance Officer, weekly for wage earners, a properly completed time sheet for each employee, duly certified as to correctness and validity.
- (vii) Each Director will submit to the Chief Finance Officer on a weekly and monthly basis for salaried staff, a properly completed time claim form for each Department or Division of the Department, duly certified as to correctness and validity

#### **17.16 TRAVELLING, SUBSISTENCE, EXPENSES AND ATTENDANCE ALLOWANCES**

- (i) All claims for payment of subsistence allowances, travelling and incidental expenses, which have been properly certified in a form approved by the Chief Finance Officer, will be submitted to the Chief Finance Officer within one month thereof. Payment will be made through Payroll. The names of Officers authorised to sign such records, together with their specimen signatures, will be sent to the Chief Executive by each Director, together with changes of authorised Officers as and when they arise.
- (ii) Car allowance claims will be made up monthly and submitted for payment within one week thereof.
- (iii) The certification by or on behalf of the Director will be taken to mean that the certifying Officer is satisfied that the journeys made were necessary and authorised, the expenses properly incurred, the mileages claimed are reasonable, the Claim form is arithmetically correct and that the allowances are properly payable by the Council.
- (iv) Officers' claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer.
- (v) Directors must ensure that car details, insurance details and driving licence details, for all new staff and current staff who change cars are immediately notified to the Chief Finance Officer.
- (vi) Directors must ensure that staff who do not have Insurance cover for business use do not use their car for Council purposes.

Payments to Members including co-opted Members of the Council or its Committees, who are entitled to claim allowances, will be made by the Chief Finance Officer upon receipt of the appropriate claim form duly completed. All claims in respect of the financial year ending on 31 March are to be submitted within one month.

#### **17.17 TAXATION**

- (i) 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 are severe.
- (ii) The Chief Finance Officer must ensure:
  - To complete all Inland Revenue returns (Income Tax and National Insurance Contributions) regarding PAYE.
  - To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

- To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.
  - To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.
- (iii) It is the responsibility of all Directors:
- To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise Rules.
  - To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
  - To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- (iv) All documents identifying Taxation, including proof of payment and banking records, are retained for six years plus the current year to satisfy the requirements of Inland Revenue and Customs and Excise.

## **17.18      INSURANCES**

- (i) The Chief Finance Officer will be responsible for effecting all the Council's insurance and keeping insured all Council buildings, property, vehicles and plant, and all other necessary insurable risks to such extent as the Council determine.
- (ii) The Chief Finance Officer will arrange a policy of fidelity insurance of appropriate amount in respect of those employees for whom such is relevant.
- (iii) The Chief Finance Officer will review all insurance at intervals not less frequently than annually, and will consult with other Directors on matters in their respective Departments.
- (iv) The Chief Finance Officer will be responsible for obtaining insurance quotations on a selective tender basis at intervals as decided by Council, but such intervals not to exceed 5 years.
- (v) The Chief Finance Officer will hold in safe custody all insurance policies of the Council, arrange for payment of premiums by the due date and manage the Council's own Insurance Fund. Procedures for dealing with claims on the Council's own Insurance Fund will be prescribed from time to time by the Chief Finance Officer.
- (vi) The Chief Finance Officer will be responsible for devising and implementing proper administrative procedures for making claims, and effecting recoveries under the various policy heads. For this purpose, the Chief Finance Officer will be entitled to receive from each Director such information, as he requires to facilitate making insurance claims.
- (vii) Each Director or his representatives are obliged to notify the Chief Finance Officer or his representative of any matter that may involve insurance claims being made either by or against the Authority, and to comply with the Civil Justice Timescales in relation to personal injury claims.

- (viii) The Chief Finance Officer will recover all costs / penalties imposed by the Courts from any Department who fails to comply with the Civil Justice Timescales in relation to personal injury claims.
- (ix) No admission of liability is to be made by any Member or Officer. All questions of liability will be handled by the appropriate Council Claims Handler.
- (x) Directors will forthwith notify the Chief Finance Officer, in writing, of any loss, liability or damage or any event likely to lead to a claim and inform the police, where necessary. Directors will submit claims in such form as may be required by the Chief Finance Officer.
- (xi) 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.
- (xii) Directors will immediately advise the Chief Finance Officer whenever land, buildings, vehicles and plant, office equipment or buildings subject to lease are:
  - Acquired
  - Disposed of
  - Subject to alteration on the structure, heating or occupation.
- (xiii) No Director will give any indemnity on the Council's behalf without first consulting with the Chief Finance Officer and also the Chief Executive.

#### **17.19      INVENTORIES**

- (i) Inventories of the Council's property, other than stores will be kept by the Director of the Department concerned. The extent of the articles to be included on inventories and the form in which inventories will be kept is to be determined by the Chief Finance Officer in consultation with the relevant Director.
- (ii) Each Director will be responsible for ensuring that inventories are kept fully up to date, and that an annual check of all items on the inventories is carried out. Any surpluses or deficiencies will be noted on the inventories with a note of action taken in respect of such differences.
- (iii) The Council's property will not be removed otherwise than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes, except in accordance with specific directions issued by the Director concerned.
- (iv) The Chief Finance Officer will, at reasonable times, have access to all property of the Council to audit the inventories.
- (v) In line with the requirements of the Council to maintain an asset register, and to enable charges for the use of such items to be calculated in accordance with the capital accounting system, inventories should include for each item information relating to date of purchase, cost, location and any technical features which might affect its value or usefulness.

#### **17.20      STORES**

- (i) All requirements of material and stores including furniture, fittings, office equipment, stationery, trees, plants, shrubs, tree stakes etc will be channelled through the Corporate purchase to pay system.
- (ii) Stock and materials requirements for any department should be ordered, received, stored and issued to the highest degree of efficiency and cost having due regards to the Council's Procurement Rules.
- (iii) Each Director, through their nominated officer, will be responsible for the care and custody of stores in their department. The Director is also responsible for ensuring that the level of stocks held are reasonable, bearing in mind rates of usage and immediate requirements. Departments should not act as a stocking centre unless absolutely unavoidable.
- (iv) Stores records will be kept in a form to be approved by the Chief Finance Officer. Arrangements for the receipt, issue and control of stores will be agreed by the Director concerned and the Chief Finance Officer.
- (v) Directors will arrange for periodical test examination of stocks so as to ensure that all stock items are physically checked at least once a year.
- (vi) Each Director will certify the stock of stores held in their department at the end of each accounting period, as and when such certificates are required.
- (vii) The Chief Finance Officer will be entitled to receive from each Director such information as they require in relation to stores for accounting, costing and financial records.
- (viii) All surplus and obsolete materials, stores or equipment will be disposed of at best possible prices and in accordance with tender procedures where applicable. The procedure for disposal must be agreed with the Chief Finance Officer.
- (ix) Adjustment to write off deficiencies or account for surplus must be in accordance with procedures as agreed by the Chief Finance Officer.
- (x) Significant deficiencies in stores items will be notified to the Director concerned and to the Chief Finance Officer.

#### **17.21      DISPOSAL PROCEDURES**

- (i) The method of disposal for obsolete vehicles and plant which are not leased or hired must be coordinated through the Fleet Manager.
- (ii) Methods of disposal are to be determined by the Fleet Manager in conjunction with the Service Department ensuring fair market value is obtained for those disposals
- (iii) All other items of equipment, furniture, scrap materials and other assets that are no longer required by the Council may be disposed of by the relevant Director after consultation with Internal Audit.

#### **17.22      INFORMATION AND COMMUNICATIONS TECHNOLOGY**

- (i) Where systems are shared, services will have the maximum freedom of information to be held subject to minimum standards necessary to meet corporate and legal obligations.
- (ii) All non-curricular Computer and Information Technology equipment will be purchased in accordance with specifications laid down by the Head of ICT and will conform to the corporate strategy for information systems and network connections. The Head of ICT will maintain a central inventory of Technology equipment and operate the Technology Reserve.
- (iii) The provision of the Councils Computer Security Policy will apply to all employees of the Council as appropriate to their use of information technology. The Head of ICT, in conjunction with Directors, will provide all staff who are responsible for and/or use computer equipment with detailed guidance on their responsibilities within this policy.
- (iv) It is the responsibility of each Director to implement and monitor the procedures contained in the security policy. All Members of staff must be familiar with, and comply with, data protection legislation, the [Copyright, Designs and Patents Act 1988](#), the [Computer Misuse Act 1990](#) and any other legislation or Council policy which may apply to all employees at any time.
- (v) Misuse of computer resources can seriously affect the business interests of the Authority. Such misuse or any breach of security policy will result in disciplinary action being taken.
- (vi) The Head of ICT will be responsible for ensuring that the Councils Internet and E-mail policies are reviewed and amended as and when necessary. Directors will be responsible for ensuring that they are adhered to at all times.

## **17.23      HOSPITALITY, GIFTS AND SPONSORSHIP**

- (i) Members and employees should only accept offers of modest 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.
- (ii) Hospitality should be properly authorised and recorded as follows:
  - Members must record both the offer and/or acceptance in the Register of Members Interests and authorised by the Chief Executive or the Monitoring Officer. Employees must record both the offer and/or acceptance in the Register of Officers Interests and authorised by the appropriate Director or Manager.
  - Directors should agree with the Chief Executive before accepting hospitality and record any acceptance, together with details of the consultation, in the Register of Officers Interests and authorised by the Chief Executive.
  - The Chief Executive should agree with the Monitoring before accepting hospitality and record any acceptance, together with details of the consultation, in the Register of Officers Interests and authorised by the Monitoring Officer.

- (iii) When hospitality has to be declined the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
- (iv) Members and employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow Members and employees to keep insignificant items of token value such as pens, diaries, etc.
- (v) When receiving authorised hospitality Members and employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing hospitality.
- (vi) Acceptance by Members and employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment etc. are required, Members and employees should ensure that the authority meets the cost of such visit to avoid jeopardising the integrity of subsequent purchasing decisions.
- (vii) If a Member is in any doubt about the course of action they should take they should consult with the Chief Executive or the Monitoring Officer. An entry should be made in the Register of Members Interests to record the matter.
- (viii) If an employee is in any doubt about the course of action they should take they should consult with their Director / Manager and if necessary Internal Audit. An entry should be made in the Register of Officers Interests to record the matter.
- (ix) Apart from participating in concessionary schemes arranged by trade unions or other groups for their Members, Members and employees will not avail themselves of the services of contractors employed by the Council for acquiring materials, labour or plant at cost, trade or discount prices. While in some cases this may enable a personal saving compared with other courses of supply, the risks to the Member or employee of finding themselves in an embarrassing situation in a future date cannot be over-emphasized or accepted.
- (x) Employees responsible for the purchase of goods and supplies on behalf of the Council should note that any promotional offers given by suppliers are the property of the Council.
- (xi) Where an outside organisation wishes to sponsor or is seeking to sponsor a local government 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.
- (xii) Where the authority wishes to sponsor an event or service neither a member or employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate person of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, Members and employees should ensure that impartial advice is given and that there is no conflict of interest involved.
- (xiii) All Members and employees should ensure that they follow their particular Code of Conduct in respect of their particular duties relating to the acceptance of hospitality, gifts and sponsorship, otherwise disciplinary action may result.

#### **17.24      SECURITY**

- (i) Each Director is responsible for maintaining proper security at all times for all property, stocks, stores, furniture, equipment, and cash under his control. He will consult with the Director of Governance & Resources in any case where security is thought to be defective, or where it is considered that special security arrangements are needed.
- (ii) Maximum limits for cash holdings will be agreed with the Chief Finance Officer which will not be exceeded without his express permission.
- (iii) Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. Nominated substitute key holders should be available in the absence of the principal holder. The loss of such keys must be reported to the Chief Finance Officer forthwith. The holders of safe keys will not accept unofficial funds or valuables for depositing in the safe unless authorised by the Chief Finance Officer. In such circumstances it must be made clear to the depositors that the Council is not to be held liable for any loss.

#### **17.25      INCOMING MAIL**

The opening of incoming mail in which remittances can be expected will be undertaken by at least two responsible officers. Remittances will be written on an approved form of postal remittance register, as prescribed by the Director of Governance & Resources.

#### **17.26      UNOFFICIAL FUNDS**

- (i) The Director concerned will be responsible for the financial management and audit of unofficial funds and will consult the Chief Finance Officer before formulating Rules which will apply to such funds.
- (ii) Notwithstanding the duties of Directors in this instance, the Chief Finance Officer will have the right to audit any unofficial fund at any time.
- (iii) An unofficial fund will mean any fund in the management of which an officer of the Council is concerned and which may affect any person or property for which the Council has a responsibility.

#### **17.27      PROTECTION OF PRIVATE PROPERTY**

- (i) The Director of Governance and Resources will in any known case where steps are necessary to prevent or mitigate loss of or damage to moveable property, prepare in a form agreed with the Chief Finance Officer, an itemised inventory in each case, prepared in the presence of two Officers.
- (ii) All valuables such as jewellery, watches and other small articles of a similar nature and documents of title deposited with the Director of Governance and Resources for safe custody will be recorded in a form agreed by the Chief Finance Officer.

## **17.28      FINANCIAL STATIONERY**

All official receipt forms, books, tickets, stores requisitions, official order forms, order books and other documents representative of money or monies worth, will be ordered, controlled and issued under rules approved by the Chief Finance Officer. There will be maintained a register of all receipts and issues of such forms, books etc, and each issue will be acknowledged by the signature of the official to whom the issue is made. The quantity issued will be governed by ascertained needs.

## **17.29      FINANCIAL PROCEDURES**

These Financial Procedure Rules will be supplemented by procedures setting out detailed financial procedures as determined from time to time by the Chief Finance Officer.

## **17.30      RETENTION OF FINANCIAL RECORDS**

(i) Financial records must be retained for the periods prescribed by statutory or external Rules. In the case of financial records where there are no such requirements the Chief Finance Officer will determine the retention periods.

(ii) Directors will ensure that Financial records relating to:

|                         |                             |                                        |
|-------------------------|-----------------------------|----------------------------------------|
| Income                  | must be retained for        | 6 years plus the current year,         |
| Payroll                 | must be retained for        | 6 years plus the current year,         |
| Superannuation          | must be retained for        | 6 years plus the current year,         |
| Payments -              | must be retained for        | 6 years plus the current year,         |
| <b>Capital Contract</b> | <b>must be retained for</b> | <b>14 years plus the current year,</b> |

(iii) In the case of all other financial records the Chief Finance Officer will determine the retention periods.

(iv) Directors must not destroy or dispose of financial records without the prior agreement of the Chief Finance Officer.

(v) Financial records will not be disposed of other than in accordance with prescribed statutory requirements and as approved by the Chief Finance Officer.

## **17.31      IRREGULARITIES**

In any case, where financial irregularity is suspected, the Departmental Director concerned will immediately inform the Chief Executive and the Chief Finance Officer. The Chief Finance Officer will make what investigation he thinks proper and, if they are satisfied that irregularity exists, and if they consider it necessary they will inform the Chief Executive, the appropriate Portfolio member, the External Auditor and possibly the Police.

## **17.32      ESTATES, LAND, BUILDINGS AND DEVELOPMENTS**

(i) The Deputy Chief Executive will maintain a terrier of all properties owned by the Council in a form agreed with the Chief Finance Officer, recording the holding department, purpose for which held, location, extent and deed reference, together



with enforcement of contractual responsibilities. A register(s) containing purchase details, particulars of nature of interest and rent payable, particulars of tenancies granted together with renewals shall be maintained by the Head of Corporate Property and Physical Regeneration, where the information is available.

- (ii) The Deputy Chief Executive will have custody of all title deeds under secure arrangements agreed with the Chief Finance Officer.

#### **(A) Appointment of Developers and Development Projects**

The policy identified below with regard to the 'Acquisition and Disposal of Land and Buildings' is also intended to cover the appointment of developers and development projects. An open and transparent tendering process must be adhered to when appointing developers on the same basis as outlined below.

#### **(B) Acquisition and Disposal of Land and Buildings**

- (i) This area is controlled by sections 123-127 of the [Local Government Act 1972](#) as amended by the General Disposal Consent 1997.
- (ii) It requires the Council to achieve the 'best consideration that can be reasonably be obtained'.
- (iii) In order to achieve this the following procedure must be followed:
- (iv) All land and buildings, that in the opinion of the Deputy Chief Executive are surplus to requirements, after consultation with Director, Chief Executive and Member of the Cabinet and which could be of interest to more than one party, should be offered for sale on the open market, **unless otherwise approved by the Cabinet**.
- (v) All surplus land or buildings (excluding garages, way leaves, easements and grazing land) that are to be let must be offered on the open market, except where those assets may be required to fulfil a statutory obligation or to mitigate compulsory purchase obligations or to support or enhance an existing Council service. Any exception to this policy is to be approved by the Cabinet.
- (vi) In appropriate cases the Deputy Chief Executive after consultation with Directors and Chief Executive may present reports to the Cabinet to agree or otherwise if land or buildings are to be disposed of.
- (vii) All property to be sold or let on the open market must be advertised on at least two separate occasions within the press, and such other journals or publications that may be considered appropriate. This procedure will also apply in relation to the appointment of developers and development projects.
- (viii) No land or buildings shall be sold or let without receiving an opinion of value from a suitably qualified Valuer.
- (ix) In dealing with the disposal of property the Council will adopt the Critchel Down rules. This relates to the disposal of surplus land which was previously acquired by or under threat of compulsory purchase. This places the Authority under obligation to offer land back if surplus, at current open market value to the original vendor where this land had not materially changed in character since acquisition. The current

legislation also requires that if land is not returned to its former owner or successor in title, then the former owner is to be reimbursed where the value of land is enhanced by any planning permission given within 10 years of any acquisition completed on or after the 25 September 1991.

(x) Decisions for acceptance will be made by the following:

| <b>Valuation Level (not Offer)</b>   | <b>Approved By</b>                 |
|--------------------------------------|------------------------------------|
| Under £5,000                         | Deputy Chief Executive             |
| £5,000 and over but under £150,000   | Director                           |
| £150,000 and over but under £250,000 | Director and Member of the Cabinet |
| £250,000 and over                    | Cabinet                            |

### **(C) Procedures for Receiving and Acceptance of Officers**

It is for the Deputy Chief Executive to determine the most appropriate method of disposal of land from the following options unless otherwise agreed by the Cabinet.

### **(D) Private Treaty Sales**

- (i) A sequentially numbered 'offer sheet' and a green envelope marked in the top left-hand corner with the name of the land or building, must be sent to all who wish to make an offer.
- (ii) The completed 'offer sheet' must be returned in the green envelope to the Director (Pers, Bus Admin, Org Imp).
- (iii) Any offer not in the above form will not be accepted.
- (iv) The green envelope will be opened by the tender Cabinet, consisting of:
  - Representative of the Director,
  - Representative of the Deputy Chief Executive, and
  - Representative of Internal Audit.
- (v) The 'offer sheet' will be signed by all present and the offer entered into the Register of Tenders.
- (vi) When an offer is received which the Council is mindful of accepting:
  - All previous 'offerers' must be written to and asked if they wish to submit a final offer. A closing date and time must be stated.
  - Another advert inviting final offers by a closing date and time must be placed in the same journals and publications as previously.
  - All final offers received by the stated closing date and time will be opened by the tender Cabinet.
  - All offers received after the closing date and time will be opened and marked 'late offer' and returned to the sender.
  - No offers will be accepted after the closing date.

### **(E) Tender**

- (i) A Notification of Invitation to Tender must be completed for all tenders requested. Copies are to be sent to both the Chief Finance Officer, Administration Officer and Internal Audit. A copy remains in the requesting Department's book.
- (ii) Once a list of tenderers to invite to tender has been prepared, the invitation to tender (ITT) letter must be sent out. This letter must be formal, it must refer to attachments and it must set out (or refer to) the tendering instructions quite explicitly. The letter must include:
  - (iii) The closing time and date for tenders will be 4.00pm on day of closing. At least 14 working days must be allowed between sending the invitation and the closing date.
  - (iv) In all cases a green tender envelope must be enclosed, which bears the words 'Tender' and the name of the contract in the 'top left-hand corner' and state that a tender will only be considered if it is received in the sealed green envelope.
  - (v) It must also state that there must be no mention of the sender's name or any way of identifying them from the envelope. **THE SENDER MUST NOT BE IDENTIFIED FROM THE ENVELOPE.**
  - (vi) Tenders must be returned to **The Director of Governance & Resources, Merthyr Tydfil County Borough Council, Civic Centre, Castle Street, Merthyr Tydfil, CF47 8AN.**
  - (vii) It must require tenderers to confirm receipt of the ITT and tender documentation.
  - (viii) A single named point of contact for the tenderer should be offered so that all queries are handled consistently.
  - (ix) Once the invitation to tender has been posted to or collected by the proposed tenderers, except as may be provided for in the invitation to tender document, no Council Member or Officer should communicate in any way concerning the contract or the tendering process with any party proposing to tender except:
    - Where it is necessary for an Officer or tenderer to carry out an inspection of the land or buildings;
    - To inform parties of a change in the tendering arrangements, including the supply of additional or altered information;
    - For clarification. Should clarification be required to any one tenderer, any clarification should also be circulated to all other tenderers.
    - Queries should be answered promptly always taking into account overall time-scales.
    - Great care must be taken to offer equal opportunity to all tenderers and not give any preferential treatment. No hospitality shall be accepted during this period.
    - No other offers will be accepted after the closing date.

**(F) By a Reputable Auctioneer at a Public Auction**

- (i) Cabinet approval must be obtained prior to any land or building being entered into auction which has a valuation in excess of £250,000.

- (ii) A suitably qualified independent Valuer must set a reserve price, below which the land or building will not be sold.
- (iii) All the Laws / Rules and procedures governing Auctions must be adhered to and therefore, acceptance or an offer by the Auctioneer must meet these requirements.

## **SECTION 18**

### **CONTRACT PROCEDURE RULES (PROCUREMENT RULES)**

APPROVED 16<sup>TH</sup> JUNE 2021

|                                               |                                           |
|-----------------------------------------------|-------------------------------------------|
| Title of Document:                            | Contract Procedure Rules                  |
| Document Date:                                | June 2021                                 |
| Author/s:                                     | Commercial Unit Manager                   |
| Service Responsible for this document:        | Procurement                               |
| Directorate:                                  | Place & Transformation                    |
| Approved by:<br>(E.g.Cabinet, Council, Board) | Council                                   |
| Approved on:                                  | 16 <sup>th</sup> June 2021                |
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| Related Documents and Policies:               | Procurement Strategy<br>Purchasing Policy |

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## 18.2 Definitions and Interpretations

In these Rules the following definitions apply:

|                                |                                                                                                                                                                                                                                                                  |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Authorised Officer</b>      | means the holder for the time being of any post named in the Scheme of Delegations as having delegated powers and duties in respect of the procurement concerned and the budget line responsible officer.                                                        |
| <b>Chief Officer</b>           | means any officer in the following categories of officer, Chief Executive, Deputy Chief Executive, Director, Chief Finance Officer and Monitoring Officer.                                                                                                       |
| <b>Contract</b>                | means any form of agreement (including, without limitation, official purchase orders) for the supply of Goods, provision of Services or carrying out of Works.                                                                                                   |
| <b>Contract Manager</b>        | means an officer responsible for the delivery of a Contract.                                                                                                                                                                                                     |
| <b>Contracting Authority</b>   | means Merthyr Tydfil County Borough Council or another public body responsible for the procurement of a Contract or Framework.                                                                                                                                   |
| <b>Contractor</b>              | means any Contractor, supplier or provider with whom the Council enters into a Contract for the carrying out of Works, provision of Services or the supply of Goods.                                                                                             |
| <b>Corporate Procurement</b>   | means the central procurement department                                                                                                                                                                                                                         |
| <b>Exception</b>               | A contract formed by the Council that does not, for a specified and accepted reason comply with the Procurement Rules.                                                                                                                                           |
| <b>Framework Agreement</b>     | means an agreement with one or more Contractors, the purpose of which is to establish the terms (in particular with regard to price and quantity) governing a Contract or Contracts to be awarded during the period for which the framework agreement applies.   |
| <b>Goods</b>                   | Covers all Goods, supplies, substances and materials that the Council purchases, hires or otherwise obtains.                                                                                                                                                     |
| <b>Head of Service</b>         | means the responsible manager of the service area who has control over the departmental budget.                                                                                                                                                                  |
| <b>PCR 2015 Thresholds</b>     | means the financial values at which the Public Contracts Regulations 2015 require tenders to be advertised in the Supplement to the Official Journal of the European Union ("OJEU") (or its successor).                                                          |
| <b>Nominated Officer</b>       | means any officer delegated responsibility by the Commercial Unit Manager for carrying out procurement process(es) detailed in these rules                                                                                                                       |
| <b>Procurement</b>             | means the process by which the Council manages the acquisition of all its Goods, Services and Works. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the Contracts. |
| <b>Procurement Board</b>       | means the board that is responsible for all procurement activity across the Council                                                                                                                                                                              |
| <b>Commercial Unit Manager</b> | means the Manager or any officers under that persons supervision or management who are given delegated authority to carry out any of the obligations, duties or                                                                                                  |

|                            |                                                                                                                                                                                                                                                                           |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                            | activities required to be performed by that person under these Rules or to act in that person's absence.                                                                                                                                                                  |
| <b>Procurement Process</b> | means the procurement process that spans the whole life cycle, from identification of needs, options appraisal, supplier selection, award, and Contract management through to the end of a Contract or the end of the useful life of the asset, or disposal of the asset. |
| <b>Ring Fenced</b>         | The process of complying with rules in terms of inviting at least the minimum number of companies to quote or tender, where possible these should include local companies.                                                                                                |
| <b>Rules</b>               | means these Contract Procedure Rules/standing orders.                                                                                                                                                                                                                     |
| <b>Services</b>            | includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency staff etc.                                                                                                                                  |
| <b>Tenderer/ Tenderers</b> | individual, individuals, partnerships, companies or other bodies invited to submit quotes/tenders/prices for providing the Council with Services, supplying Goods or carrying out Works.                                                                                  |
| <b>Variation(s)</b>        | means any alteration to a Contract, including additions, omissions, substitutions, alterations, or changes of any other nature.                                                                                                                                           |
| <b>Works</b>               | includes all works of new construction and repairs in respect of physical assets (buildings, roads, etc.) including all those activities constituting Works for the purposes of the Public Contracts Regulations 2015.                                                    |

### 18.3 Key Messages

- a) Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council (in accordance with the Scheme of Delegation) are affected by these Rules.
- b) The funding for all contracts must be in accordance with approved budgets and comply with Financial Regulations.
- c) One of the most significant areas of Council business is procurement, this is part of the Councils commercial activity. Procurement is the process by which the Council manages the acquisition of all its Goods, Services (including but not limited to consultants/consultancy services of any type) and Works of all sorts. It includes the identification of need, consideration of options, the actual tendering process and the subsequent management and review of the contracts.
- d) Procurement by the Council is governed by detailed legislation, as are other areas of Council contracting. The Law requires all Council procurement and contracting to be conducted transparently, fairly and in a non-discriminatory manner. In the event of statutory or other legal requirement exceeding the requirements contained within these Contract Procedure Rules, then statute shall take precedence over any provision in these Rules.
- e) Procurement planning must take into account the key themes of the Wellbeing of Future Generations (Wales) Act 2015, the Councils 'Focus on the Future'



Wellbeing Policy and take steps to ensure that outcomes are aligned to relevant Wellbeing Objectives.

- f) Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers **must** make full use of Corporate Contracts/Frameworks and the Procurement Department for other contracts
- g) All values referred to in these Rules are exclusive of VAT.
- h) Any dispute regarding interpretation of these Rules shall be referred to the Head of Legal and Governance and Commercial Unit Manager for resolution.
- i) These Rules are not intended as detailed guidance for implementation and they should be read in conjunction with the Council's Constitution as a whole and in particular, in respect of Contract payments, the Council's Financial Procedure Rules, which must be complied with.
- j) The Commercial Unit Manager shall undertake a formal review of these Rules at least every three years unless a change in legislation requires more frequent changes.
- k) Procurement should be contacted to identify potential frameworks or contracts that may be used. Procurement should be contacted at [procurement@merthyr.gov.uk](mailto:procurement@merthyr.gov.uk).

#### **18.4 Aims**

These Contract Procedure Rules:

- a) Aim to support the achievement of value for money for the Council in the market by ensuring provision for securing competition at appropriate levels of expenditure whilst avoiding disproportionate or bureaucratic costs where levels of expenditure are less significant.
- b) Aim to achieve fullest accountability at all levels whilst ensuring an adequate audit trail.
- c) Aim to ensure that Officers follow proper and fair procedures for the involvement and selection of Contractors.
- d) Aim to ensure compliance with Procurement Directives.
- e) Aim to ensure that proper Specification is made by Officers which reflect the appropriate and realistic quality requirements for any defined need, and that offers may be judged by objective criteria.
- f) Aim to ensure that levels of monitoring and training exist to ensure proper compliance and that these rules are regularly reviewed to take account of new circumstances.

#### **18.5 Status**

These Contract Procedure Rules:

- a) Are made under Section 135 of the Local Government Act 1972 and all other powers enabling the Council.
- b) Are applicable to all parts of the Council's activities, including any type of sub-contracting, apart from contracts for the acquisition and sale of interests in land (where there is no obligation to build) and the Exempt Contracts described in section 1 below.

- c) Are applicable where the Council is acting as agent for another body unless the principal directs otherwise.
- d) Must be adopted by any external contractors empowered to form Contracts on behalf of the Council and by any person who is not an Officer of the Council engaged to manage a Contract on behalf of the Council.
- e) Shall apply to the selection of nominated suppliers and nominated Sub-contractors for products covered by prime costs and provisional sums in a main contract.
- f) Shall be interpreted so far as possible to ensure the Aims set out in these rules are achieved.
- g) Are not applicable to expenditure between Service Areas, Groups or the use of the Council's trading organisations.

### **Who is affected by these Procedure Rules?**

Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council.

### **18.6 Exempt Contracts**

The following Contracts are exempt from the requirements of these Contract Procedure Rules:

- 18.6.1 Employment Contracts (this exemption does not extend to the recruitment of agency staff or external secondment arrangements).
- 18.6.2 Contracts relating **solely** to disposal or acquisition of an interest in land and property, for which there is separate protocol contained within the Council's constitution. Disposal of land where there is a duty to construct on that land may be subject to Procurement Legislation as a Public Works Contract – there must be consultation with legal before proceeding.
- 18.6.3 In a genuine emergency threatening public health, injury to persons or serious and immediate damage to property, an Authorised Officer can take any necessary action to alleviate the threat. This power is limited to the alleviation of the threat and does not extend to any works beyond what is strictly essential.
- 18.6.4 In circumstances where a matter, which is not deemed to be an emergency, but nonetheless is considered to be of an urgent nature arises, approval from the appropriate Head of Service must be given in writing. However, should the estimated expenditure be within level D (works) or Level E high value, approval in writing must be sought from the following officers:  
The appropriate Chief Officer and the Section 151 Officer subject to an upper threshold prior to the commencement of the procurement process of level C for goods or services or level D for works.
- 18.6.5 Where it has been necessary to procure under 18.6.3 or 18.6.4 stated above, every case should be reported to the next available meeting of the Corporate Management Team.
- 18.6.6 The award of Contracts for individual placements (for Children and Adult Services) will remain at the discretion of the respective Statutory Officer.

## **18.7 Excepted Contracts**

- 18.7.1 An exception to any of these Contract Procedure Rules shall only be given in exceptional circumstances and, in most cases, following a written report to, consultation with and the written approval of the Commercial Unit Manager and the relevant Chief Officer (see Appendix K).
- 18.7.2 When consulting with the Commercial Unit Manager and relevant Chief Officer, the originator of the report requesting the exception is responsible and accountable for ensuring that the contents of the report are factually correct. The originator of the report should ensure that all supporting documentation is retained on an easily accessible file for auditing purposes. Should it be found that incorrect information has been knowingly or negligently submitted or omitted in order to obtain approval for an exemption to these Contract Procedure Rules, the originator of the report may be subject to the Council's disciplinary procedure.
- 18.7.3 An exception may be sought for 'single tender action' where a single firm or Contractor or a proprietary item or service of a special character is required and justified.
- 18.7.4 The execution of works or the purchase of goods and materials necessary for urgent maintenance work to highways, buildings, bridges, plant or other assets to prevent rapid and progressive deterioration or to maintain essential services will be excepted.
- 18.7.5 In certain circumstances it may be necessary to except a specific rule not related to any specific contract, in these cases, agreement must be given by the Commercial Unit Manager and recorded on the exception form.
- 18.7.6 An exception form does not need to be completed for any of the reasons stated in section 18.6 above.

## **18.8 Procurement Planning**

- 18.8.1 At the end of each calendar year, Chief Officers should submit to the Commercial Unit Manager a completed Procurement Forward Plan Notice (see Appendix P) detailing the additional planned procurement activities over £75,000 (new purchasing requirements associated with budget planning for the forthcoming financial year). The Corporate Procurement Unit will use this information for procurement planning, identification of a forward work plan for procurement board, to identify collaborative opportunities, to allocate appropriate resources and to ensure all relevant legislative requirements are observed.

## **18.9 Procurement Board**

- 18.9.1 The Procurement board is the governing body for procurement activity across the Council. Nominated and/or Authorised Officers across the Council will be required to report to the board for specific projects. No applicable procurement process shall proceed unless approved by the board. Reporting requirements are contained within the board's terms of reference. These thresholds are £75,000 for goods and services and £1million for works (only where there has

been identified that there is future revenue implications for the Council). Procurement Board reports may be exempted if project decisions have been taken in Cabinet or Council. The principles of calculating contract values are the same as those identified in section 18.13 of these rules.

- 18.9.2 The procurement board reserves the right to call in any officer of the Council that has not followed the procurement processes laid out in these rules.

## **18.10 Tendering / Ordering / Advertising**

- 18.10.1 Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts/Frameworks and the Corporate Procurement Unit for other Contracts.
- 18.10.2 A pre-tender form for works up to £1million must be completed and signed by Procurement before any tendering activity commences.
- 18.10.3 Quotations and Tenders up to level E may be completed by a Nominated Officer, however, any tenders valued at level E must be let by the Corporate Procurement Unit.
- 18.10.4 Insurance indemnity limits for each procurement project should be confirmed with the Insurance section prior to commencement of the procurement process, unless these have been pre-set on any compliant framework used.
- 18.10.5 Aligned to the Council's continued modernisation agenda, Corporate Procurement has implemented a number of Electronic Procurement Systems that should be utilised as corporate solutions to support the cost efficient procurement of goods and services (streamlining the transaction process and reducing unnecessary administration overheads where possible). Please refer to the Council's Procurement intranet site for further information regarding the use of these systems or contact the Corporate Procurement section on [procurement@merthyr.gov.uk](mailto:procurement@merthyr.gov.uk).

## **18.11 Thresholds for Procurement**

Thresholds for procurement do not apply within existing framework agreements endorsed for use by the council. See rule 9 below.

- 18.11.1 All goods & services except works  
*(please refer to Appendices A to F for chart and process flows):*
- Up to £15,000 it is necessary only to demonstrate and record that value for money is being achieved.
  - For level A requirements, procurements above £25,000, consideration should be given to openly advertising on [www.sell2wales.gov.wales](http://www.sell2wales.gov.wales) where it is established that there is an appropriate number of suppliers registered. Exceptions can be allowed by agreement from the Commercial Unit Manager. At least 3 quotations must be invited in ring fenced procurements - this does not mean 3 quotations received. (See Appendix B).

- c) For level B requirements, the gateway process should be followed. If approved by the board, tenders should be advertised on the national procurement website [www.sell2wales.gov.wales](http://www.sell2wales.gov.wales) depending on the procurement route approved at board. A minimum of three tenders must be invited - this does not mean that 3 must be received.
- d) For level E requirements, the gateway process should be followed. If approved, requirements in this value band must be tendered by Corporate Procurement and advertised on [www.sell2wales.gov.wales](http://www.sell2wales.gov.wales) using the appropriate notice template, unless a framework is the approved route to market. Where a restricted tendering procedure is used, a minimum of five tenders must be invited (See Appendix F) following the selection stage.
- e) Confirmation of award (Appendix M) should be sent to procurement once the procurement process has been completed unless the procurement was carried out on the Council's e-sourcing system. This is especially important for Level A requirements.

#### 18.11.2 Works

*(please refer to Appendices A to F for process flows and chart):*

***For any Building Works requirements, departments should consult with Property Services prior to commencing the Procurement process. Constructionline may be used to assist in the pre-qualification process for works contractors.***

- a) Up to £15,000, it is necessary only to demonstrate and record that value for money is being achieved.
- b) For level A requirements, quotations to be requested, at least three quotations must be invited in ring-fenced procurements (See Appendix B) – this does not mean that 3 have to be received.
- c) For level C requirements, a pre-tender report must firstly be completed and approved (available at Appendix I and on the intranet). If approved, a compliant tender process is to be actioned. A minimum of three tenders must be invited in ring-fenced procurements (see Appendix D) this does not mean that 3 tenders must be received.
- d) For level D requirements, the gateway process must be followed unless the project is grant funded (if the grant specifically requires evidence of approval to proceed then board processes shall apply) and there are no residual revenue implications for the Council. If approved by the procurement board, a fully compliant tender process should be actioned unless a compliant framework is used. Where a restricted procedure is adopted, a minimum of three tenders must be invited (See Appendix E) - this does not mean that 3 tenders must be received.
- e) For level E requirements, the gateway process must be followed unless the project is grant funded (if the grant specifically requires evidence of approval to proceed then board processes shall apply) and there are no residual revenue implications for the Council. If approved by the procurement board, requirements above this value must be tendered by the Corporate Procurement Unit and advertised via the national

procurement website ([www.sell2wales.gov.wales](http://www.sell2wales.gov.wales)) unless a compliant framework is used. Where a restricted tender procedure is adopted, a minimum of five tenders must be invited (See Appendix F) following selection stage.

- f) Confirmation of award (Appendix M) should be sent to procurement once the procurement process has been completed, unless the procurement was carried out on the Council's e-sourcing system.

## **18.12 Form of Tender**

- 18.12.1 For all tender processes (above the value of £75,000), a Form of Tender must be completed by all tenderers. This form is a declaration by tenderers of their overall tender price, that they undertake to execute and complete the Goods, Services and/or Works in accordance with the Contract Documents, certification that no canvassing or soliciting of any member, officer or employee of the council has taken place, and that it is a bona fide tender intended to be competitive and not collusive in any way. The form must be signed by the tenderer. The open for acceptance period should be amended when used. The adopted Form of Tender template is available at Appendix J.

## **18.13 Estimating the Contract value**

- 18.13.1 The value of a Contract means the estimated total monetary value over its full duration (not the annual value), including any extensions or other options. Where the duration of a Contract is indeterminate, this should be taken to be the estimated value of the Contract over a period of four years. Requirements should not be artificially split to avoid compliance with these Contract procedure rules.
- 18.13.2 If it is known that the Contract duration will be longer than four years, then the Contract value will be the total estimated value over the full term of the Contract.
- 18.13.3 Where the value is, or may be, equal to or greater than relevant thresholds, councils should also have regard to the valuation rules in regulation 6 of the Public Contracts Regulations 2015.

## **18.14 Framework agreements**

- 18.14.1 Established framework and consortia arrangements endorsed by the Commercial Unit Manager for use by the council shall be mandatory. On occasion, it may be deemed that the framework agreement would not provide best value – this will need to be proven and approved by the Commercial Unit Manager.
- 18.14.2 The Nominated Officer must ascertain whether there is a Framework Agreement approved by the Commercial Unit Manager for use by the council. Where currently valid frameworks are available, the framework must be used in accordance with the guidance provided by the Framework owner and Corporate Procurement.

- 18.14.3 The Framework Agreement may include within its terms a requirement for a mini competition exercise between those Contractors who are parties to the Framework Agreement. These shall be tendered in accordance with these Contract Procedure Rules and/or the terms of the Framework Agreement itself.
- 18.14.4 Where the Council is able to call off from existing Framework Agreements procured by central Government agencies, purchasing consortia or other local authorities or public bodies, then the Council may benefit from using those frameworks without entering into a separate procurement exercise. Where such Framework Agreements contain a number of different Contractors able to provide a particular category of goods or services, a mini competition exercise between those Contractors who are parties to the Framework Agreement may have to be carried out.
- 18.14.5 However, if such Framework Agreements are used it will be in accordance with the terms of those agreements which may not be appropriate to the particular procurement in question. Under no circumstances should nominated officers directly award from a framework which does not provide that method of appointment. Advice and approval must be sought from Corporate Procurement prior to commencing the procurement.
- 18.14.6 The use of all frameworks must be approved by Corporate Procurement. It is not possible to use a framework unless Merthyr Tydfil County Borough Council has been named on the Contract Notice and/or procurement documents of said framework.
- 18.14.7 Any Framework Agreement established or identified by a client department shall be notified to the Corporate Procurement Unit by the Nominated Officer and must be approved by the Commercial Unit Manager. Upon approval, Corporate Procurement can incorporate the Framework Agreement onto the Contract Register to make it available to other departments where applicable.
- 18.14.8 Any joint procurement arrangements with other local authorities and/or public sector bodies including membership or use of any consortia must be approved by the Commercial Unit Manager.

## **18.15 Wellbeing of Future Generations (Wales) Act 2015 & Community Benefits**

- 18.15.1 The Council is committed to achieving economic, social and environmental well-being for its residents and implementing Community Benefits and meeting the requirements of the Wellbeing of Future Generations (Wales) Act 2015, so as to ensure a better quality of life for everyone, now and for generations to come.
- 18.15.2 All procurement processes that are presented to Procurement Board, should consider sustainability, economic, social and environmental impacts and five ways of working through gateway reporting and presentation.
- 18.15.3 The inclusion of Community Benefits is mandatory for all tenders valued above £1million. Justification will be required for Contracts above this level that do not contain Community Benefits. For tenders valued below £1million, Community Benefits should still be considered at Corporate Procurement or Service Area's discretion.

## **18.16 Insurance**

- 18.16.1 Financial liability for causing death, injury or damage to property is potentially unlimited but insurance cover is not. Determining the limit of indemnity for contractors' public liability, professional indemnity and product liability insurances is essential to protect the Council.
- 18.16.2 The Council's Insurance Officer should be consulted at an early stage in the procurement process to provide an accurate assessment of the necessary indemnity limit. Applying an arbitrary figure to the limit of indemnity is generally insufficient and could result in cover which is disproportionate to the risk which can have budgetary implications.
- 18.16.3 A risk-based approach to setting indemnity levels should be considered in consultation with the Insurance Officer.
- 18.16.4 For all Contracts, it is essential for proof of insurance requirements to be provided. The Contractor's public liability indemnity should be a minimum of £10m. It is the responsibility of the Chief Officer in all cases to ensure that all Insurances which the Contractor is required to effect are examined by the Insurance Officer prior to work commencement. Any deviation from the minimum indemnity requirements in these rules must be recorded as an exception on the exception form.

## **18.17 Supplier Selection**

- 18.17.1 It must be demonstrated that the appropriately experienced, technically competent, and financially competent contractors or suppliers have been shortlisted.
- 18.17.2 Care must be taken to differentiate supplier selection criteria for short-listing and entry to tender process from tender award criteria.
- 18.17.3 This demonstration may include, but need not be limited to:
- Eligibility;
  - Financial standing, including provisions for insurance and liability;
  - Technical or professional capacity and capability;
  - Health and Safety;
  - Quality Standards including certification by official quality control institutes or agencies of recognised competence and or attesting conformity to quality assurance standards and/or measures;
  - Sustainability, including environmental management measures ;
  - Ethical business practices (Ethical Employment in Supply Chains);
  - Evidence as to whether they are unsuitable on grounds, e.g., of bankruptcy, criminal conviction or failure to pay taxes.
- 18.17.4 Nominated Officers shall ensure that appropriate questions are included at the selection or pre-qualification stage depending on the process used.
- 18.17.5 Nominated Officers shall ensure that the Councils Information Security Policies are adhered to in terms of checking a potential suppliers capability and resilience to Cyber Crime, as a minimum this should include checking and confirmation of Cyber Essentials and/or signposting to core membership of the Cyber Resilience Centre for Wales (CRCW). The supplier will be required to complete a Cyber Security Risk Assessment.



- 18.17.6 If relevant, evidence of registration under the Construction Industry Tax Scheme must be provided to the Payments Supervisor prior to the Contract being awarded.

#### **18.18 Tender Evaluation**

- 18.18.1 The Nominated Officer shall examine tenders in accordance with the predetermined evaluation criteria for the tender and identify tenders that best meet the criteria including value for money.
- 18.18.2 In respect of all tenders where the tender criterion is the most economically advantageous tender, the evaluation criteria or sub-criteria shall as a minimum be listed in the Invitation to Tender documentation. Any particular scoring or weighting attributable to any criteria or sub-criteria must be clearly stated. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the evaluation and Contract award procedure.

#### **18.19 Bonds and Securities**

- 18.19.1 For any requirement valued above £1million, the Nominated Officer shall undertake a risk assessment to determine whether a performance bond or performance guarantee is required.

#### **18.20 Parent Company Guarantees**

- 18.20.1 The Nominated Officer shall seek a Parent Company Guarantee when a candidate is a subsidiary of a parent company and/or:
- The total value is £1million or more;
  - The award is based on evaluation of the parent company;
  - There is some concern over the stability of the candidate.

#### **18.21 Procurement of Consultants**

- 18.21.1 For the avoidance of doubt, the appointment of consultants shall be made in accordance with the requirements of these Contract Procedure Rules.

#### **18.22 Electronic Tendering**

- 18.22.1 The tender process including invitation and receipt of tenders will ordinarily be conducted electronically by Corporate Procurement and/or personnel that have been trained to use the approved e-Sourcing system. The provisions of Rule 18 below will therefore be modified in accordance with the secure electronic tendering system which is to be approved by the Chief Finance Officer.
- 18.22.2 All Tender processes subject to Regulations will be managed by Procurement.
- 18.22.3 All Tendering activity related to a Dynamic Purchasing System (DPS) will be conducted electronically. Opening rules as described in rule 18.24.7 shall apply to all competitions in a DPS.

- 18.22.4 All communications related to a tender conducted electronically shall be directed through the e-sourcing system, no communication outside of the system will be allowed unless approved by the Commercial Unit Manager. 'All communications' shall be described as but not limited to – General Enquiries, Clarifications, Addendums, Award and Rejection Notifications.
- 18.22.5 Manual tendering will only occur in the event of long-term unavailability/system outage event.

### **18.23 Electronic Tenders and Electronic Auctions**

- 18.23.1 The requirements of 18.24 below shall be deemed to have been satisfied if the Council's approved Electronic Tendering and/or Electronic Auction elements of the Council's e-sourcing system have been used in accordance with appropriate guidance, user documentation and procedures for using the systems. Further information regarding the use of the Council's e-sourcing System may be obtained via Corporate Procurement.
- 18.23.2 Where an externally hosted e-Sourcing system is to be used to support the tendering process, other than the Council's approved system, prior approval of the Commercial Unit Manager and Chief Finance Officer must be obtained.

### **18.24 Tender Process**

- 18.24.1 Reminder: Please ensure you have informed and received approval from the Procurement Board for your tender via the gateway process, or Corporate Procurement (whichever applies).
- 18.24.2 Manual or alternative tendering processes should only occur where the e-sourcing system is incapable of managing the process and/or the system is unavailable for a long period of time.
- 18.24.3 Tender documents shall be prepared and issued as part of the tender process. Tender documents should accurately describe requirements and include, instructions to tenderers, evaluation criteria, specification and terms and conditions.
- 18.24.4 Tender closing dates will be managed by the e-sourcing system. Access to received tenders before the closing date shall not be permitted.
- 18.24.5 No Tenders received in the system after the opening time will be considered.
- 18.24.6 A Tender received after the time fixed for receipt but before the other Tenders have been opened may be considered. Where this happens, approval must be obtained from the relevant Chief Officer.
- 18.24.7 Tenders shall be opened by a member of the Corporate Procurement Team.
- 18.24.8 The opening time/date and opening person is recorded by the e-sourcing system.
- 18.24.9 Forms of tender must be signed and dated by tenderers.
- 18.24.10 The first stage of a restricted (2 stage) procedure (Pre-qualification) shall observe opening rules.

### **18.25 Amendment to Tenders, Errors and Omissions**

- 18.25.1 As a general rule, no adjustment or qualification to any tender(s) is permitted. Errors found during the examination of tenders shall be dealt with as follows:
- Whether the error contained in an offer appears to be a genuine mistake by typing, printing or arithmetic, or appears to be an eTenderwales technical issue, the tenderer shall be given details of the error(s) and shall be given the option to either agree to the tender being corrected or withdrawing the tender. This rule also applies where the genuine mistake may have been made by the Local Authority.
  - The tenderer will be given up to 3 working days to respond.
  - If confirmation from the tenderer is not received within 3 working days, the tender will be withdrawn.
  - Invitation to Tender documents must state how errors in Tenders will be dealt with.
  - All correspondence must be in writing.
- 18.25.2 No request to amend a Tender after the time fixed for receipt shall be accepted.

## **18.26 Post Tender Negotiation and Clarification**

- 18.26.1 A Nominated Officer may seek clarification of the information provided (or not provided) by a Tenderer only where this is necessary to aid understanding. The types of clarification will generally be:
- Where a Tenderer has missed a question and not answered it;
  - Where a Tenderer has made an accidental omission such as not including a relevant certificate;
  - Where ALL Tenderers responding have misinterpreted a question.
- 18.26.2 The Council will not seek clarifications from individual Tenderers where a question has been misinterpreted and/or poorly answered (this will include where a Tenderer has not followed the format of the Invitation To Tender and/or submitted standard text in place of a fully informed written answer) and other submissions received, fully interpreted and answered in full the same question. A clarification of this nature would not be permissible due to the Tenderer having a second chance at providing information which would alter the evaluation, and be unfair to other Tenderers.
- 18.26.3 If, for any reason, it is necessary to amend the Specification after Tenders have been received, the Tender procedure shall be repeated unless the Nominated Officer receives written advice from Legal Services which certifies that this is not possible and records the reasons why.
- 18.26.4 Where procurement is conducted pursuant to the Public Contracts Regulations 2015 through either the open, restricted procedures, no post-tender negotiations are permitted. The authorised officer may seek clarification from tenderers where appropriate in consultation with Corporate Procurement.
- 18.26.5 Where procurements do not exceed the Public Contracts Regulations 2015 thresholds, the Commercial Unit Manager may authorise negotiations if it is in the Council's interest to do so. The Commercial Unit Manager will also

establish the timescales for said negotiation procedure. Such actions must not distort competition.

18.26.6 At all times during the procurement process the council shall ensure that all tenderers are treated with

- Equality
- Transparency
- Mutual Recognition
- Proportionality

### **18.27 Reduced Number of Quotations or Tenders**

18.27.1 For a procurement with a value between £5,000 and less than £75,000 where a Nominated Officer wishes to invite less than 3 organisations to bid, they must consult with the Commercial Unit Manager.

18.27.2 For a procurement in excess of £75,000, where a Nominated Officer wishes to invite less than 3 tenderers to bid, the Nominated Officer must seek the approval of the appropriate Chief Officer after consultation with the Commercial Unit Manager. This should be justified in Procurement Gateway 2.

18.27.3 Where the minimum number of tenders stated in these Contract Procedure Rules have not been received, then consideration must be given (which must be recorded in writing) to re-running the procurement unless the Nominated Officer can determine best value has been achieved. If the Contract is for a sum less than £75,000, the decision can be taken by the relevant Head of Service. If the Contract is for a sum in excess of £75,000, the decision will be taken by the appropriate Chief Officer after consultation with the Commercial Unit Manager.

### **18.28 Reports on Tenders**

18.28.1 Reports must be prepared for all tenders and submitted to the appropriate Officer(s) or Cabinet for decision (see appendices A to F for approval requirements).

18.28.2 The Contract Award Report template is available at Appendix L and is available on the intranet as an e-form.

18.28.3 The Contract Award Report can also be used as an approved audit trail for level B requirements.

18.28.4 A notification of award for low value Contracts should be sent to Procurement following the completion of a procurement exercise (Appendix M).

18.28.5 All procurement activity should be reported to either Cabinet or Procurement Board at least once per year to ensure a holistic view of wider Council procurement activity is monitored.

### **18.29 Contract Award**

18.29.1 Every Council Contract shall be in writing in a form and on terms approved by the Head of Legal & Governance and shall specify:

- The work, materials, services or things to be furnished, had, done or disposed of.
  - The price to be paid (or, as appropriate, the sums to be received), with a statement of discounts or other deductions, and where not known, committed estimated price, or the basis upon which the final Contract sum is to be calculated.
  - The time or times within which the Contract is to be performed, together with the termination date of the Contract.
- 18.29.2 For Works Contracts, it is essential for proof of insurance requirements to be provided. 2 stage works contracts shall be initially awarded at stage 1 via a tender award report in accordance with the value of the stage 1 proposal.
- 18.29.3 If the form of Contract used contains a clause for a higher indemnity limit than that set out in section 18.16, then this limit will be required. At the award stage the Nominated Officer must request current valid insurance evidence.
- 18.29.4 For works Contracts, evidence of registration under the Construction Industry Tax Scheme must be provided to the Payments Supervisor prior to the Contract being awarded.
- 18.29.5 The award must be made by an authorised officer in compliance with the awarded by row (10 ) in Appendix A.
- 18.29.6 The contract formation process shall follow the flowcharts identified in Appendices G (over £75,000) and H (less than £75,000)
- 18.29.7 Generally, A contractor should not start work until the above processes have been completed unless a limited letter of intent has been agreed and/or it is agreed that the binding statement in the Form of Tender is sufficient until such time the Contract is completed.
- 18.29.8 Where a Contract has been tendered and advertised on the Sell2Wales website, the council shall publish a Contract Award Notice on the Sell2Wales website within 25 days after the decision to award the Contract has been taken.

### **18.30 Debriefing**

- 18.30.1 Should the Council receive a request from any supplier who was unsuccessful (at either the selection or tender stage), the Nominated officer shall inform that supplier of the reasons for being unsuccessful and, if the supplier was unsuccessful at the tender stage, the responsible officer shall inform him of the characteristics and relative advantages of the successful tender as well as the name of the business awarded the Contract.
- 18.30.2 The Council has, in any case, a statutory duty under section 20 of the Local Government Act 1988 and section 55 of the Public Contracts Regulations 2015 to inform unsuccessful tenderers promptly.

### **18.31 Contract Management**

- 18.30.1 In addition to the processes by which Contracts are established, there is a need to ensure that Contracts are properly managed during their life. These Contract Procedure Rules therefore cover aspects of Contract Management,

which relate to ongoing Contract variation & price control at any time during the Contract period.

18.30.2 The day to day management of Contracts shall be undertaken by the Contract Manager and shall include monitoring in respect of – as example:-

- Performance
- Compliance with specification and contract terms
- Cost
- Value for money
- User satisfaction
- Risk
- Community benefits (where applied)

18.30.3 It is the responsibility of the contract manager to raise any incidents of poor performance immediately with the Contractor and seek rectification. In instances of particularly poor performance, or persistent poor performance, the Contract Manager should consider the appropriate course of action taking advice from Legal Services.

18.30.4 If contract terms are to be negotiated, the negotiation plan/strategy should be referred to Legal & Procurement prior to commencing any negotiation.

### **18.32 Variations to Contract Value**

18.32.1 Variation or aggregate value of all variations made to the Contract shall be subject to the thresholds and approval requirements as outlined in Appendices N and O. Contractor claims (unforeseen works for example) are not classed as variations but should be approved in the same manner as any Council requested variation to Contract.

18.32.2 A variation cannot be higher than the original Contract value and must be limited to 50% where the Contract was tendered at level E.

18.32.3 For the avoidance of doubt, no variation may be made to a Contract if the proposed variation would mean the works, services or goods to be added to the original Contract are substantially different in scope or type to those contemplated by the original procurement exercise or would serve to take the Contract outside the budget.

18.32.4 Whether or not it is a requirement of the Contract, every variation (whether having a financial implication or not) will be authorised in writing by the appropriate officer(s). The Nominated officer will keep detailed records (Appendix O must be completed) of any such variation which shall be open to inspection by the Chief Finance Officer even if approval is not required. The authorisation will be issued before the variation is placed.

18.32.5 As soon as it becomes known or apparent (whichever is the earlier) that the total cost of a scheme including variations will or is likely to exceed the Contract sum by more than **5%**, the Chief Finance Officer must be informed for financial monitoring purposes and may inform the Nominated officer of any further financial requirements to be complied with.

18.32.6 All variations must be forwarded to procurement to ensure that the contract register is updated.

### **18.33 Extensions**

- 18.33.1 Where a contract or framework has the option to extend for a period this may be granted provided the contractor is performing to expectations. Such decision shall be made by the relevant authorised officer in consultation with the Commercial Unit Manager. Confirmation of the agreed extension should be made in writing to the contractor and the contract register must be updated accordingly.
- 18.33.2 Where the terms of the Contract and/or original procurement exercise do not expressly provide for extension, then such Contract may only be extended by exceptional circumstances, where legislation permits and value for money issues have been addressed. Such decision shall be made by the relevant authorised officer in consultation with the Commercial Unit Manager. Appendix O must be completed, reported and maintained or dependent upon value and risk, a report to cabinet should be completed for approval.

### **18.34 Procurement by consultants**

- 18.34.1 Where the council uses consultants to act on its behalf in relation to any procurement, then the head of service shall ensure that the consultants carry out any procurement in accordance with these Contract procedure rules.
- 18.34.2 All decisions must be made in accordance with the council's scheme of delegations.
- 18.34.3 No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to. The head of service shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract procedure rules and all statutory procurement obligations.
- 18.34.4 Where the council uses consultants to act on its behalf in relation to any procurement, the consultant must declare any potential conflict of interest that may arise to the head of service prior to the commencement of the procurement process or at such time that the Contractor becomes aware of such a potential conflict of interest.
- 18.34.5 Where the head of service considers that such a conflict of interest is significant, the consultant shall not be allowed to participate in the procurement process.
- 18.34.6 Note that it is the council, as the Contracting Authority, which is responsible for all actions and decisions of consultants in relation to the conduct of procurements, therefore there need to be proper governance procedures in place to manage and monitor consultants appropriately.

### **18.35 Internal providers**

- 18.35.1 These Contract Procedure Rules are the Council's procedure rules for buying goods and services for the Council. They do not apply to internal purchases or service provision, but to external suppliers and providers.
- 18.35.2 Consideration should be given to internal providers before the procurement process provided the internal provider demonstrates best value.

## APPENDIX A – SUMMARY OF PROCEDURES FOR PROCUREMENT OF GOODS, SERVICES & WORKS

| 1 Value Levels                                            | A. Below £75,000<br>(Goods, Services & Works)                                                                                                                                                                         | B. £75,000 – PCR<br>Thresholds (Goods & Services)                                                                               | C. £75,000 -<br>£1,000,000 (Works<br>only)                                                                                      | D. £1,000,000 –<br>PCR Threshold<br>(Works Only)                                                                                | E. Above PCR<br>Thresholds<br>(Goods, Services & Works)                                                                         |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 2 Method                                                  | Quotations                                                                                                                                                                                                            | Formal Tenders                                                                                                                  | Formal Tenders                                                                                                                  | Formal Tenders                                                                                                                  | Formal Tenders                                                                                                                  |
| 3 Gateway Report                                          | No                                                                                                                                                                                                                    | Yes                                                                                                                             | No – pre tender report only                                                                                                     | Yes                                                                                                                             | Yes                                                                                                                             |
| 4 Selection Method & Number for Goods, Services and Works | <p>&lt;£15K demonstrate best value</p> <p><b>Goods &amp; Services</b><br/>Prepare spec and criteria, Invite at least 3 Suppliers</p> <p><b>Works</b><br/>Prepare spec and criteria, Invite at least 3 contractors</p> | <p>Prepare specification and award criteria</p> <p>Invite at least 4 tenders using the Councils Electronic Tendering System</p> | <p>Prepare specification and award criteria</p> <p>Invite at least 3 tenders using the Councils Electronic Tendering System</p> | <p>Prepare specification and award criteria</p> <p>Invite at least 4 tenders using the Councils Electronic Tendering System</p> | <p>Prepare specification and award criteria</p> <p>Advertise on sell2wales<br/>Use the Councils Electronic Tendering System</p> |
| 5 Opened by                                               | Nominated Officer / Procurement                                                                                                                                                                                       | Procurement                                                                                                                     | Procurement                                                                                                                     | Procurement                                                                                                                     | Procurement                                                                                                                     |
| 6 Records to be completed                                 | Quote details kept on file, award & reject letters – notification to procurement of outcome                                                                                                                           | Gateway 1,2,3, Tender Report, award & reject letters                                                                            | Pre-tender, Tender Report, award & reject letters - notification to procurement of outcome                                      | Gateway 1,2,3, award & reject letters                                                                                           | Gateway 1,2,3, Cabinet Report**, award & reject letters                                                                         |
| 7 Contracts Payment Register for Works                    | Kept by Individual Departments                                                                                                                                                                                        | Kept by Chief Finance Officer                                                                                                   | Kept by Chief Finance Officer                                                                                                   | Kept by Chief Finance Officer                                                                                                   | Kept by Chief Finance Officer                                                                                                   |
| 8 Contractors Insurances for Services / Works             | Confirmed by Insurance Officer prior to Award                                                                                                                                                                         | Confirmed by Insurance Officer prior to Award                                                                                   | Confirmed by Insurance Officer prior to Award                                                                                   | Confirmed by Insurance Officer prior to Award                                                                                   | Confirmed by Insurance Officer prior to Award                                                                                   |
| 9 Sub Contractors Tax Registration for Works              | Required to be with Payments prior to Award                                                                                                                                                                           | Not applicable                                                                                                                  | Required to be with Payments prior to Award                                                                                     | Required to be with Payments prior to Award                                                                                     | Required to be with Payments prior to Award                                                                                     |
| 10 Awarded by                                             | Authorised Officer                                                                                                                                                                                                    | Authorised Officer and Chief Officer<br>***                                                                                     | Authorised Officer and Chief Officer<br>***                                                                                     | Chief Officer and Chief Finance Officer                                                                                         | Chief Officer, Chief Finance Officer, portfolio member                                                                          |
| 11 Method of Awarding                                     | Letter of Award/ Legal Contract/PO                                                                                                                                                                                    | Letter of Award/ Legal Contract                                                                                                 | Letter of Award/ Legal Contract                                                                                                 | Legal Contract                                                                                                                  | Legal Contract                                                                                                                  |
| 12 Report to Cabinet                                      | No                                                                                                                                                                                                                    | No                                                                                                                              | No                                                                                                                              | No                                                                                                                              | Yes* – information only                                                                                                         |

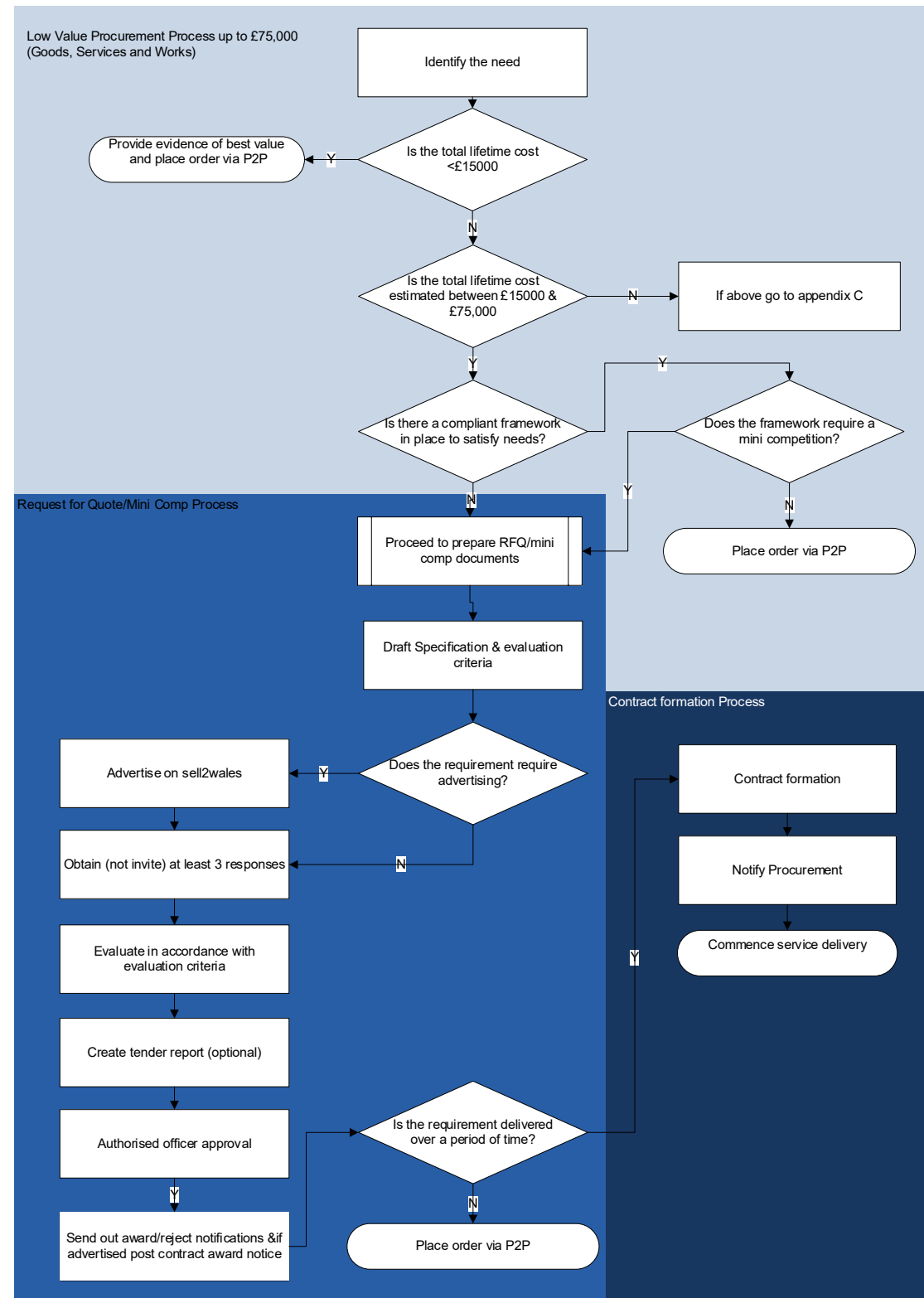
\*Information Reports - ordinarily will be presented on a quarterly basis.

\*\* Where a report may have political interest, or to maintain probity, advice must be sought from Chief Officer and Chief Finance Officer with regards to a full cabinet report for decision.

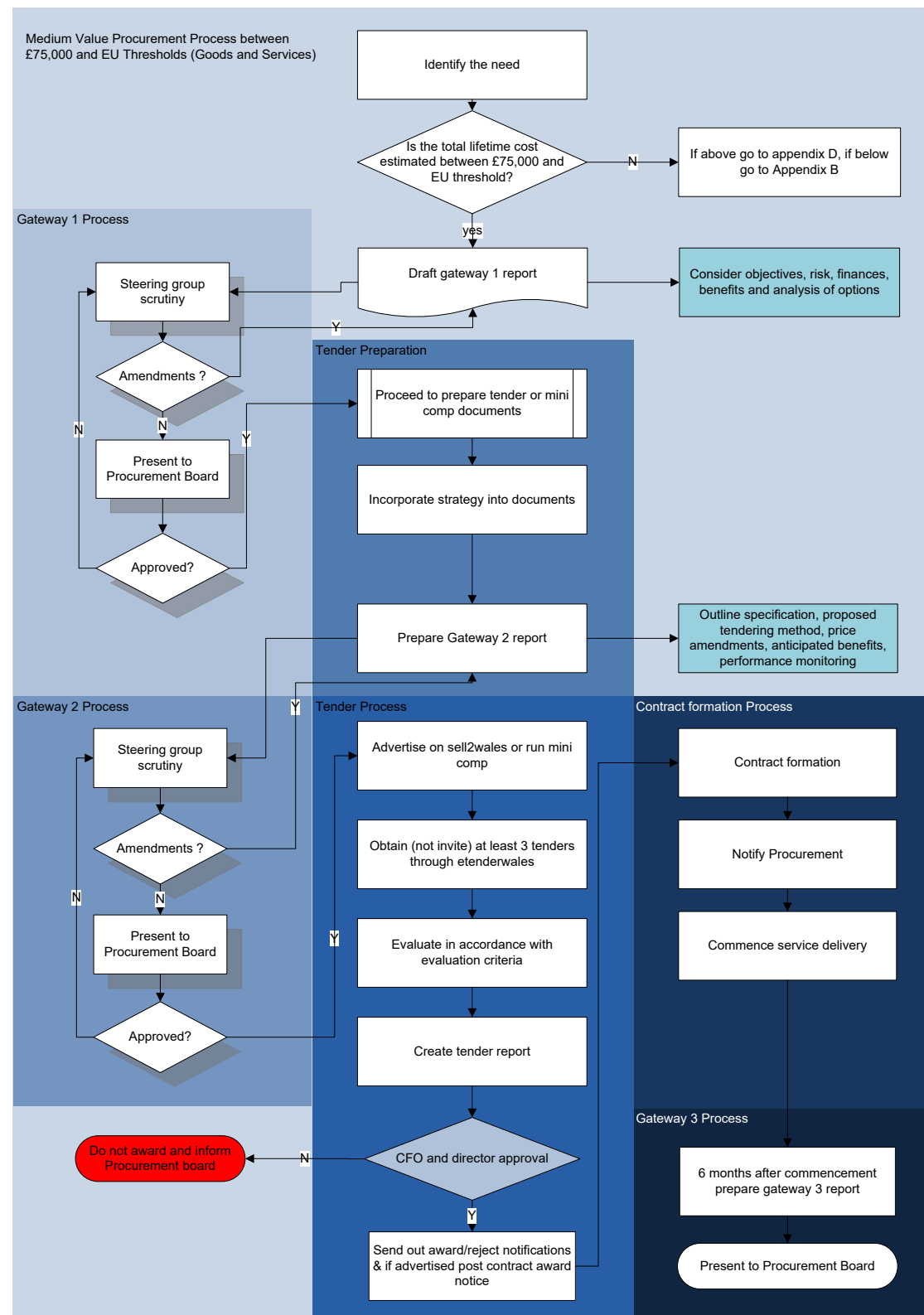
\*\*\* Where there are known budget issues with the award, the report should also be signed off by Chief Finance Officer.



## APPENDIX B – LOW VALUE PROCESS – LEVEL A



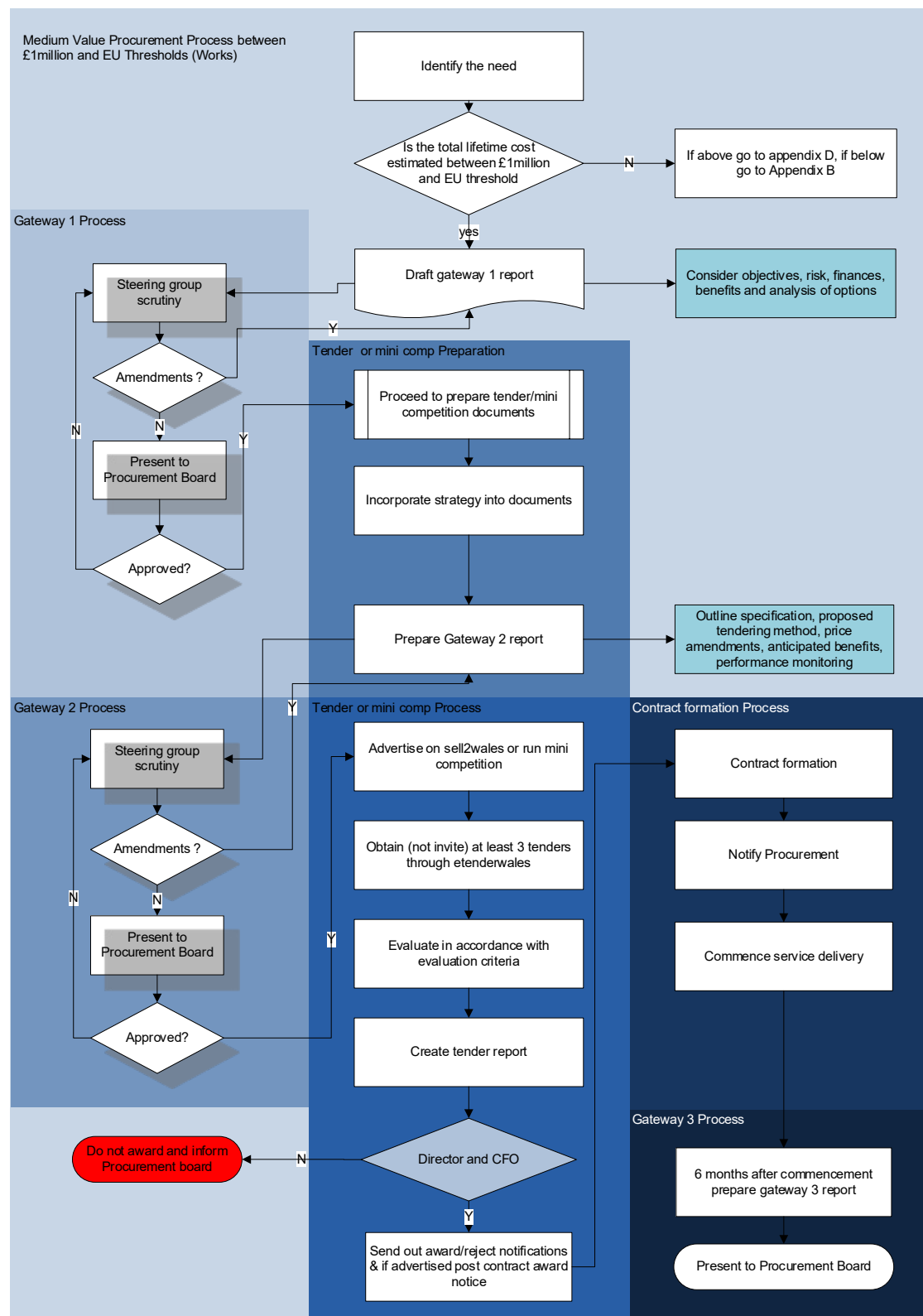
## APPENDIX C – MEDIUM VALUE PROCESS – LEVEL B



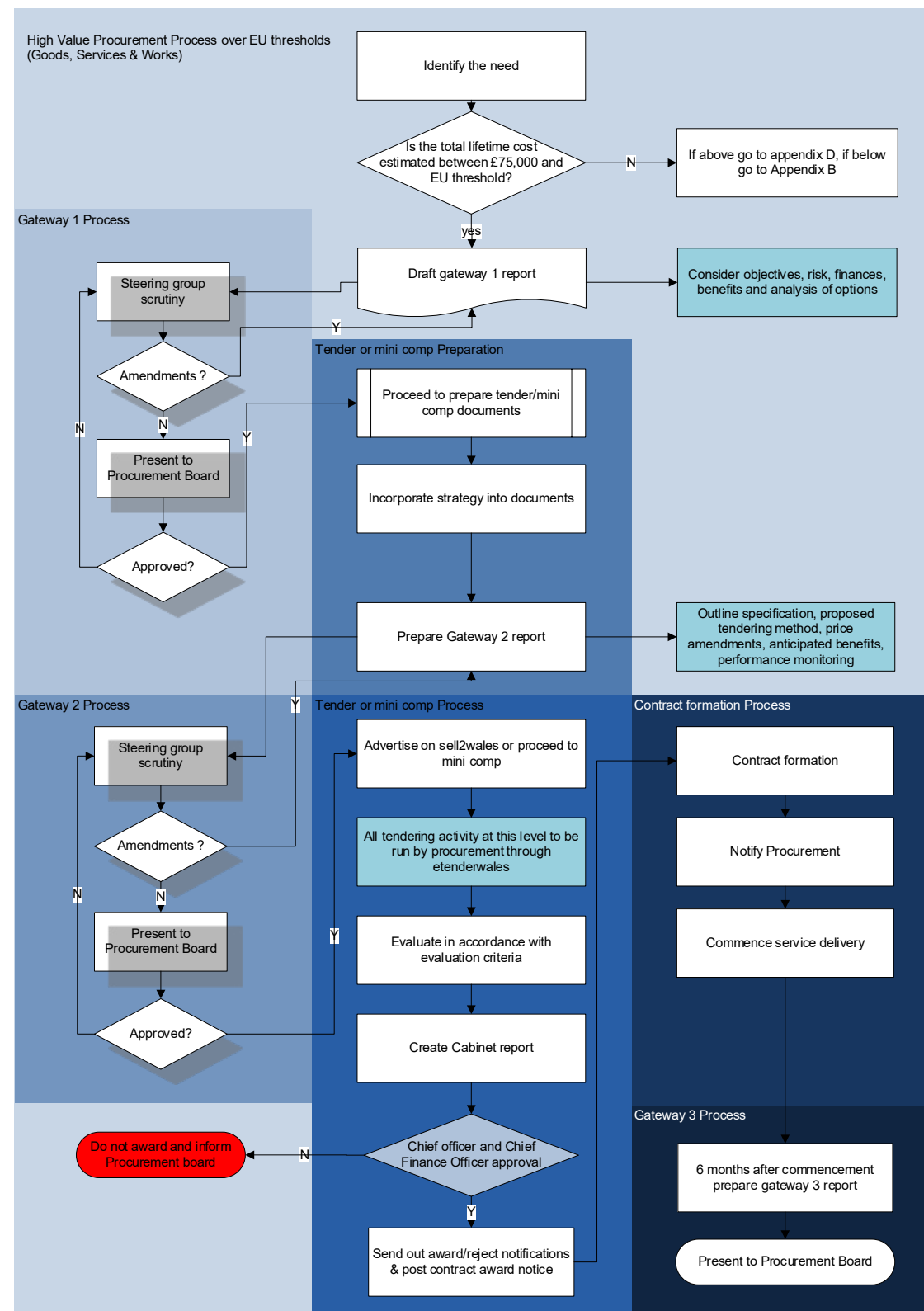
## APPENDIX D – MEDIUM VALUE PROCESS – LEVEL C



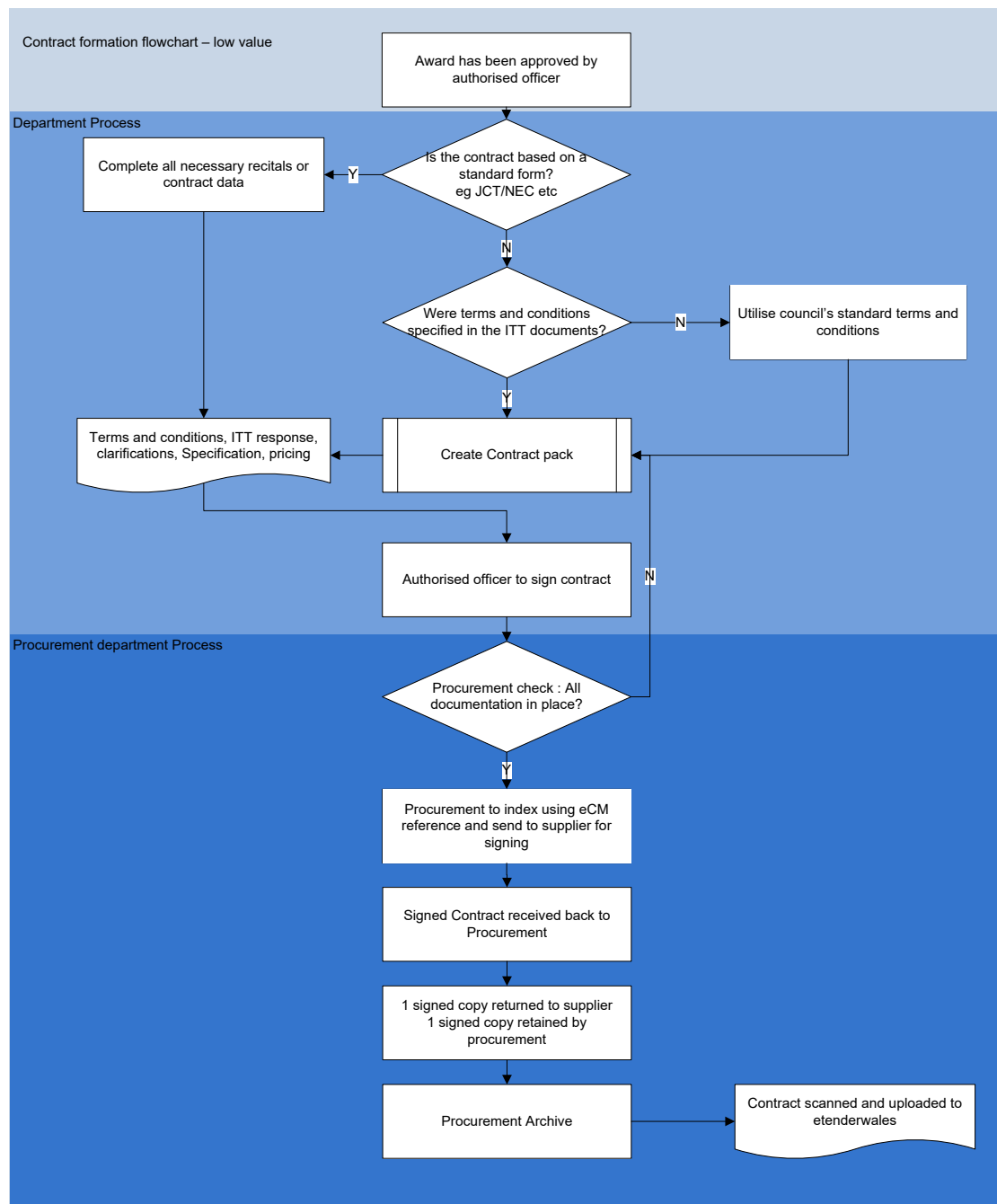
## APPENDIX E – MEDIUM VALUE PROCESS – LEVEL D



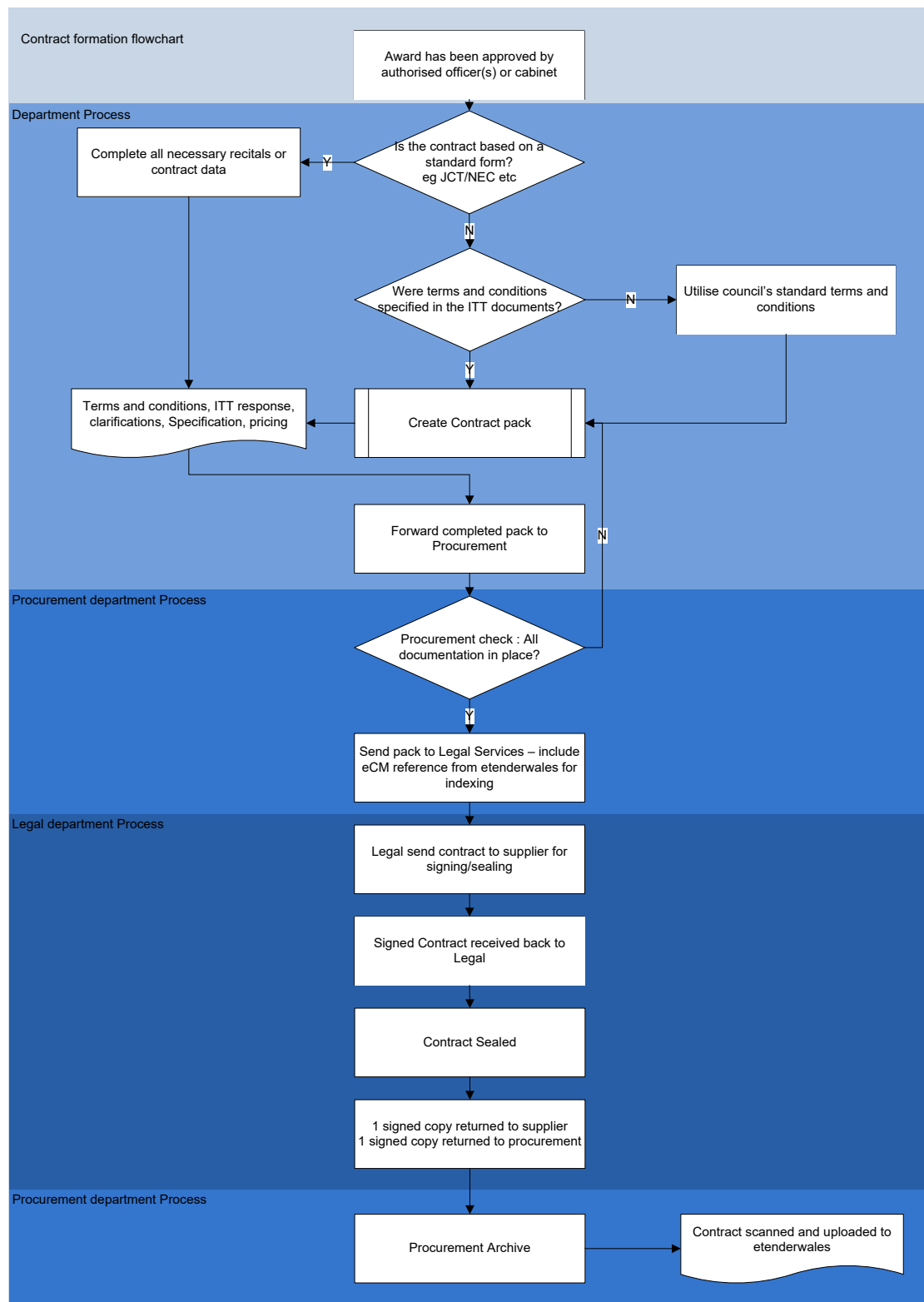
## APPENDIX F – HIGH VALUE PROCESS – LEVEL E



## APPENDIX G – CONTRACT FORMATION – LOW VALUE



## APPENDIX H – CONTRACT FORMATION – HIGH VALUE



## APPENDIX I – PRE-TENDER REPORT

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| <b>Procurement of Works over £75,000 but below £1million - Officer Report and Decision Form</b> |
|-------------------------------------------------------------------------------------------------|

Please note that this report should only be used for decisions which are not specifically reserved for Full Council, a Committee of the Council, the Executive or a Statutory Officer.

The decisions made in this report are compliant with the protocol for Executive Decision making.

|                                                                                                                                                                                                                                                                                                        |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| Department                                                                                                                                                                                                                                                                                             |   |
| Directorate                                                                                                                                                                                                                                                                                            |   |
| Contract Manager Name                                                                                                                                                                                                                                                                                  |   |
| Title of Contract                                                                                                                                                                                                                                                                                      |   |
| Description of Proposed Contract                                                                                                                                                                                                                                                                       |   |
| Contract/ITT Ref<br>(Provided by Procurement)                                                                                                                                                                                                                                                          |   |
| Estimated Value                                                                                                                                                                                                                                                                                        | £ |
| Financed from                                                                                                                                                                                                                                                                                          |   |
| Estimated Start Date                                                                                                                                                                                                                                                                                   |   |
| Estimated Contract Period                                                                                                                                                                                                                                                                              |   |
| Specific Companies you wish to invite to Tender                                                                                                                                                                                                                                                        |   |
| 1                                                                                                                                                                                                                                                                                                      |   |
| 2                                                                                                                                                                                                                                                                                                      |   |
| 3                                                                                                                                                                                                                                                                                                      |   |
| 4                                                                                                                                                                                                                                                                                                      |   |
| 5                                                                                                                                                                                                                                                                                                      |   |
| 6                                                                                                                                                                                                                                                                                                      |   |
| 7                                                                                                                                                                                                                                                                                                      |   |
| 8                                                                                                                                                                                                                                                                                                      |   |
| 9                                                                                                                                                                                                                                                                                                      |   |
| 10                                                                                                                                                                                                                                                                                                     |   |
| <b>I have been consulted and grant authorisation to the Contract Manager as the Nominated Officer on the proposed List of Tenderers and I hereby grant approval to invite tenders (including less than the required numbers of Tenderers), in accordance with the Councils' Scheme of Delegations.</b> |   |
| Commercial Unit Manager                                                                                                                                                                                                                                                                                |   |
| Date                                                                                                                                                                                                                                                                                                   |   |



## **APPENDIX J – FORM OF TENDER**

Merthyr Tydfil County Borough Council

[Insert Department Name]

**TENDER for [Insert Contract Title]**

**Amount of Tender £** \_\_\_\_\_

### **FORM OF TENDER**

I/We having read the Tender Documents and Standard Conditions of Contract, do hereby tender and undertake to execute and complete the Goods, Services and/or Works in accordance with the Contract Documents for the sum as set out in the pricing schedule.

- Agree that the insertion of any conditions qualifying this tender or any unauthorised alteration to any of the tender documents shall not affect the Standard Conditions of Contract and that such action may cause the tender to be rejected.
- Agree that this tender shall remain open to be accepted or not by the Council for a period of [six months] from the closing date for the receipt of tenders stated in the Instructions to Tenderers.
- Unless and until a formal agreement is prepared and executed to which I/We undertake to execute, this tender together with your acceptance thereof in writing, shall constitute a binding Contract between us.
- Understand that you are not bound to accept the lowest or any tender you may receive.
- Certify that this is a bona fide tender.

### **CANVASSING STATEMENT**

I/We certify that no canvassing or soliciting of any member, officer or employee of the council and/or any other companies in the group of which the council forms part, in connection with the award of the tender or any other tender or proposed award of the Tender for the services, goods and/or works and that to the best of our knowledge and belief no person employed by me/us or acting on my/our behalf has done such an act.

Further hereby undertake that no in the future canvassing or soliciting of any member officer or employee of the council in connection with this Tender or any other Tender or proposed Tender for the services, goods and/or works and that no person employed or acting on my behalf will do any such act.

### **COLLUSIVE TENDERING STATEMENT**

In recognition of the principle that the essence of selective tendering is that the council shall receive bona fide competitive tenders from all those tendering. The tender submitted herewith is a bona fide tender intended to be competitive.

We have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. We have not done, and we undertake that we will not do at any time, any of the following acts: -

- Communicate to any person other than the council (as part of formal tender document) the amount or approximate amount of the proposed tender (except where the disclosure, in confidence, of the approximate amount of the tenders was essential to obtain insurance premium quotations required for the preparation of the tender)
- Enter into any agreement with any other person/organisation that may take part in the tendering process
- Offer, pay, give or agree to give any sum of money or valuable consideration to any member, officer or employee of the council or any person/organisation that may take part in the tendering process

#### **DECLARATION**

I/We .....

Of .....

Hereby confirm that I/We have read and understood the content of this Schedule, that is

1. Form of Tender
2. Canvassing Statement
3. Collusive Tendering Statement

and agree to be bound by the terms herein. I/We hereby submit an offer in respect of this Tender, and offer to perform, fulfil and keep all the obligations of the Contractor in accordance with the Conditions and Specification, all for the sums properly due under the Contract as calculated in accordance with the prices submitted. I/We confirm that I/We are fully conversant with all Tender Documents, and that this tender is submitted strictly in accordance with such Documents and the Instructions to Tenderers and is without any conditions or qualifications whatsoever. I/We certify that the information supplied by myself/us is accurate to the best of my knowledge.

Signature.....

Date .....

## APPENDIX K – EXCEPTED CONTRACTS

|                                                                                                                                                                                                  |                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Department                                                                                                                                                                                       |                   |
| Directorate                                                                                                                                                                                      |                   |
| Contract                                                                                                                                                                                         |                   |
| Description of goods/services/works/process required                                                                                                                                             |                   |
| Estimated Value of Requirement                                                                                                                                                                   |                   |
| Expected duration of exception                                                                                                                                                                   |                   |
| Reason for Exception                                                                                                                                                                             |                   |
| Requested By                                                                                                                                                                                     |                   |
| Date                                                                                                                                                                                             |                   |
| Exceptions for Contracts valued up to £75,000 (Level A)                                                                                                                                          | Agreed/not agreed |
| Authorised Officer                                                                                                                                                                               |                   |
| Exceptions for Goods and Services Contracts valued between £75,000 and PCR Thresholds (Level B).<br><i>And</i><br>Exceptions for Works Contracts valued between £75,000 and £1million (Level C). | Agreed/not agreed |
| Authorised Officer                                                                                                                                                                               |                   |
| Chief Officer                                                                                                                                                                                    |                   |
| Corporate Procurement                                                                                                                                                                            |                   |
| Exceptions for Works Contracts valued between £1million and PCR thresholds (Level D)                                                                                                             | Agreed/not agreed |
| Chief Officer                                                                                                                                                                                    |                   |
| Chief Finance Officer                                                                                                                                                                            |                   |
| Corporate Procurement                                                                                                                                                                            |                   |
| Exceptions for Contracts valued above PCR thresholds (Level E)                                                                                                                                   | Agreed/not agreed |
| Chief Officer                                                                                                                                                                                    |                   |
| Chief Finance Officer                                                                                                                                                                            |                   |
| Corporate Procurement                                                                                                                                                                            |                   |

|                                                |                   |
|------------------------------------------------|-------------------|
| Exceptions for specific non contract processes | Agreed/not agreed |
| Corporate Procurement                          |                   |

**INSURANCES MUST BE CONFIRMED BY INSURANCE OFFICER PRIOR TO ORDER AND COMMENCEMENT OF CONTRACT**

|                                                               |                                                                                                               |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Insurance Company                                             |                                                                                                               |
| Date insurance expires                                        |                                                                                                               |
| Date for completion of Contract                               |                                                                                                               |
| Is the required public liability indemnity limit >£10million? | Yes/No*<br><br><i>*If no, the limit must be signed off by the insurance officer and Chief Finance Officer</i> |
| Indemnity complies with requirements of the Contract          | Yes/No                                                                                                        |
|                                                               | Authorised By                                                                                                 |
| Insurance Officer                                             |                                                                                                               |
| Chief Finance Officer                                         |                                                                                                               |
| Date                                                          |                                                                                                               |

**SUB CONTRACTORS TAX CERTIFICATES MUST BE PASSED TO THE PAYMENTS OFFICER PRIOR TO ORDER AND COMMENCEMENT OF WORKS CONTRACTS**

|                                        |  |
|----------------------------------------|--|
| Sub Contractors tax certificate number |  |
| Expiry Date                            |  |
| Received By<br>(payments officer)      |  |

## APPENDIX L – CONTRACT AWARD REPORT

|                                                                             |  |
|-----------------------------------------------------------------------------|--|
| Reference Number                                                            |  |
| Project Title                                                               |  |
| Project reported to Procurement Board?                                      |  |
| Directorate                                                                 |  |
| Service Department                                                          |  |
| Lead Officer                                                                |  |
| Contract Duration                                                           |  |
| Estimated Contract Value<br>(full term of contract including any extension) |  |
| 1 <sup>st</sup> year cost (if applicable)                                   |  |
| Budget                                                                      |  |
| Funding Source<br>(Capital, Grant, Revenue)                                 |  |
| Anticipated Savings                                                         |  |
| Contract Go Live date                                                       |  |
| Process used<br>(Open, restricted etc)                                      |  |
| Number of Tenderers                                                         |  |
| Number of Tenders Returned                                                  |  |
| Date/Time of closing                                                        |  |
| Tenders received From                                                       |  |
| Tenders not received                                                        |  |

### Summary of Tender evaluation

|                                     |   |
|-------------------------------------|---|
| Quality/Price Ratio                 |   |
| Evaluation Criteria and weightings  |   |
| Summary of Evaluation Findings      |   |
| Summary of Tendered Values          |   |
| Final Rankings and scores           |   |
| Recommendation to award Contract to |   |
| For the sum of                      | £ |

|                                                                                                                                                       |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Report completed by                                                                                                                                   |  |
| Contract Award Authorised<br>By<br>(authorised officer/chief officer)<br><i>See appendix A procurement rules for<br/>award guidance</i>               |  |
| Contract Award Authorised<br>By<br>(Chief Finance Officer)<br><i>For Contracts where a budget risk is<br/>identified and Level D and E Contracts.</i> |  |
| Contract Award Authorised<br>By<br>(portfolio member)<br><i>Level E Contracts</i>                                                                     |  |

## APPENDIX M – CONTRACTS BELOW £75,000

### Award Notification – to be sent to Procurement on completion

|                                     |   |
|-------------------------------------|---|
| Department                          |   |
| Directorate                         |   |
| Contract                            |   |
| Description of goods/services/works |   |
| Finance from the Scheme from        |   |
| Contractor/Supplier                 |   |
| Address                             |   |
| For the sum of                      | £ |
| Contract start date                 |   |
| Duration of Contract                |   |
| Report completed by                 |   |
| Date                                |   |



## APPENDIX N – VARIATIONS AND EXTENSIONS

### Goods & Services Contracts

| <b>Contract Value</b>     | <b>First/Cumulative value of variation up to 5% of original Contract value</b> | <b>First/Cumulative value of variation between 5% and 25% of original Contract value</b> | <b>First/Cumulative value of variation over 25% of original Contract value</b> |
|---------------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Up to £75,000             | Authorised Officer                                                             | Authorised Officer                                                                       | Head of Service                                                                |
| £75,001 to PCR Thresholds | Head of Service                                                                | Head of Service, Chief Finance Officer                                                   | Head of Service and Chief Finance Officer                                      |
| Above PCR Thresholds      | Chief Officer                                                                  | Chief Officer, Chief Finance Officer                                                     | Cabinet                                                                        |

### Works Contracts

| <b>Contract Value</b> | <b>First/Cumulative value of variation up to 5% of original Contract value</b> | <b>First/Cumulative value of variation between 5% and 25% of original Contract value</b> | <b>First/Cumulative value of variation over 25% of original Contract value</b> |
|-----------------------|--------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Up to £75,000         | Authorised Officer                                                             | Authorised Officer                                                                       | Head of Service                                                                |
| £75,001 to £1M        | Head of Service                                                                | Head of Service                                                                          | Head of Service and Chief Finance Officer                                      |
| £1M to PCR Thresholds | Chief Officer                                                                  | Head of Service, Chief Finance Officer                                                   | Chief Officer, Chief Finance Officer                                           |
| Above PCR Thresholds  | Chief Officer                                                                  | Chief Officer, Chief Finance Officer                                                     | Cabinet                                                                        |

### Contract terms and conditions revisions

|                                                                   |                          |
|-------------------------------------------------------------------|--------------------------|
| Any changes to terms and conditions                               | Legal                    |
| Changes to terms and conditions that impact on the contract value | Legal and as above table |

For Schools, where it states Authorised Officer or Head of Service, Headteacher is the equivalent. Where it says Chief Officer or Cabinet, Governing Body is the equivalent.

## APPENDIX O – REGISTER OF VARIATIONS AND EXTENSIONS TO CONTRACTS

Variations must be requested prior to stage payments being made  
(This applies to both MTCBC staff and Consultants)

Please use the Variations & Extensions table at appendix N to ascertain approval requirements.

|                                                                                                                                            |            |
|--------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Department                                                                                                                                 |            |
| Directorate                                                                                                                                |            |
| Contractor                                                                                                                                 |            |
| Description of Contract                                                                                                                    |            |
| Variation Number                                                                                                                           |            |
| Variation to Contract Terms and Conditions:                                                                                                |            |
| Brief description of changes to Contract Terms<br><small>(include attachments if necessary, e.g. of additional or changed clauses)</small> |            |
| Variation to Contract Value:                                                                                                               |            |
| Previous Cumulative Value of Variations/Extensions                                                                                         | <b>A</b> £ |
| Value of this Variation/Extension                                                                                                          | <b>B</b> £ |
| Total Value of Variation/Extension (A+B)                                                                                                   | <b>C</b> £ |
| Original Contract Value                                                                                                                    | <b>D</b> £ |
| Revised Contract Value (C+D)                                                                                                               | £          |

|                                                          |  |
|----------------------------------------------------------|--|
| Percentage Increase on Original Contract Price (C/D)/100 |  |
| Reason for this Variation/Extension                      |  |
| How will this Variation/Extension be funded              |  |
| Variation/Extension requested by                         |  |
| Date                                                     |  |
| Variation/Extension Authorised by:                       |  |
| Authorised Officer                                       |  |
| Head of Service                                          |  |
| Chief Officer                                            |  |
| Chief Finance Officer                                    |  |
| Legal                                                    |  |
| Cabinet (enter minute number)                            |  |
| Date                                                     |  |

## APPENDIX P – PROCUREMENT FORWARD PLAN NOTICE

[illegible]

## **SECTION 19**

### **19 CODE OF CONDUCT FOR MEMBERS**

Set out below is the Model Code of Conduct from the [Local Authorities \(Model Code of Conduct\) \(Wales\) Order 2008](#) (as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016).

#### **19.1 Interpretation**

In this code:

“co-opted Member”  
 (“aelod cyfetholedig”)

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 sub-committee;

“meeting” (“cyfarfod”)

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(1),

and includes circumstances in which a Member of an executive or board or an

|                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                       | Officer acting alone exercises a function of an authority;                                                                                                                                                                                                                                                                                                                                                                                   |
| “Member” (“aelod”)                                                    | includes, unless the context requires otherwise, a co-opted Member;                                                                                                                                                                                                                                                                                                                                                                          |
| “register of members’ interests” (“cofrestr o fuddiannau’r aelodau ”) | means the register established and maintained under section 81 of the <a href="#">Local Government Act 2000</a> ;                                                                                                                                                                                                                                                                                                                            |
| “registered society”                                                  | means a society, other than a society registered as a credit union, which is— <ul style="list-style-type: none"> <li>(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or</li> <li>(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;</li> </ul>                                    |
| “relevant authority” (“awdurdod perthnasol”)                          | means: <ul style="list-style-type: none"> <li>(a) a county council;</li> <li>(b) a county borough council;</li> <li>(c) a community council;</li> <li>(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies;</li> <li>(e) a National Park authority established under section 63 of the Environment Act 1995(3);</li> </ul> |
| “you” (“chi”)                                                         | means you as a Member or co-opted Member of a relevant authority; and                                                                                                                                                                                                                                                                                                                                                                        |
| “your authority” (“eich awdurdod”)                                    | means the relevant authority of which you are a Member or co-opted Member.                                                                                                                                                                                                                                                                                                                                                                   |

In relation to a community council:-

“proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the [Local Government Act 1972](#); and

“standards committee” (“pwyllgor safonau”) 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](#).

## **19.2 General Provisions**

19.2.1 Save where paragraph 19.2.3(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 19.2.6 (a) and 19.2.8.

19.2.2 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.

19.2.3. 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.

19.2.4. 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.

19.2.5. 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.

19.2.6 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.

19.2.7 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.

19.2.8. 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.

19.2.9. 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 Chief Executive;
  - (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.

19.2.10. 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.



## **INTERESTS**

### **19.3. Personal Interests**

(A) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(B) 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) anybody to which you have been elected, appointed or nominated by your authority;
- (ix) any —
  - public authority or body exercising functions of a public nature;
  - company, registered society, charity, or body directed to charitable purposes;
  - body whose principal purposes include the influence of public opinion or policy;
  - trade union or professional association; or
  - 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 19.13(2)(c)(i);
- (iii) any person who employs or has appointed such persons described in 19.13(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 19.13(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 19.13(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—

- in the case of an authority with electoral divisions or wards, other council taxpayers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- in all other cases, other council taxpayers, ratepayers or inhabitants of the authority's area.

#### **19.4 Disclosure of Personal Interests**

19.4.1 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.

19.4.2 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.

19.4.3 Subject to paragraph 19.6.1(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.

19.4.4 You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 19.14(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.

19.4.5 Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 19.19(1), your obligations under this paragraph 19 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.

19.4.6 For the purposes of sub-paragraph 19.14(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.

19.4.7 For the purposes of sub-paragraph 19.14(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.

## **19.5 Prejudicial Interests**

19.5.1 Subject to sub-paragraph 19.5.2 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.

19.5.2 Subject to sub-paragraph 19.5.3, 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 [contents 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.

19.5.3 The exemptions in subparagraph 19.5.2(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

19.5.4 You also have a prejudicial interest in any business before a 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.

## **19.6 Participation in Relation to Disclosed Interests**

19.6.1 Subject to sub-paragraphs 19.6.2, 19.6.2A, 19.6.3 and 19.6.4, 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 19.6.2 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.
- 19.6.2 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.
- 19.6.(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.
- 19.6.(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.
- 19.6.3 Sub-paragraph 19.6.1 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 —
      - details of the prejudicial interest;
      - details of the business to which the prejudicial interest relates;
      - details of, and the date on which, the dispensation was granted;
      - your signature.
- 19.6.4 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.

## **THE REGISTER OF MEMBERS' INTERESTS**

### **Registration of Financial and Other Interests and Memberships and Management Positions**

#### **19.7 Registration of Personal Interests**

19.7.1 Subject to sub-paragraph (4) below 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 19.3.B(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

19.7.2 Subject to sub-paragraph 19.7.4 below, you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 19.3.B(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

19.7.3 Subject to sub-paragraph 19.7.4) below, you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 19.3.B(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.

19.7.4 Sub-paragraphs 19.7.1, 19.7.2 and 19.7.3 do not apply to sensitive information determined in accordance with paragraph 19.8.

19.7.5 Sub-paragraphs 19.7.1 and 19.7.2 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.

19.7.6 You must, when disclosing a personal interest in accordance with paragraph 19.4 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.

#### **19.8 Sensitive information**

19.8.1 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 19.7.

19.8.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph 19.8.1 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.

19.8.3 In this code, "sensitive information" ("gwybodaeth sensitif") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **19.9 Registration of Gifts and Hospitality**

19.9.1 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.

(\* NB the Council has by resolution set its value for gifts, hospitality, material benefit or advantage at nil)

## **APPENDIX 1 TO SECTION 19**

### **Conduct of Members – The Principles**

#### **SELFLESSNESS**

Members must act solely in the public interest. They must never use their position as Members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

#### **HONESTY**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

#### **INTEGRITY AND PROPRIETY**

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

#### **DUTY TO UPHOLD THE LAW**

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

#### **STEWARDSHIP**

In discharging their duties and responsibilities Members must ensure that their authority's resources are used both lawfully and prudently.

#### **OBJECTIVITY IN DECISION-MAKING**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

#### **EQUALITY AND RESPECT**

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sex, sexual orientation, marital status, age or religion, and show respect and consideration for others.

#### **OPENNESS**

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.



## **ACCOUNTABILITY**

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

## **LEADERSHIP**

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

## **APPENDIX 2 TO SECTION 19**

### **Protocol - Standard of Conduct Expected by Members**

This protocol sets out the standards of conduct expected from Members within Merthyr Tydfil County Borough Council in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Member-Officer Protocol. 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 their 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 they are not the local Member;
  - 4.2.2 inform the local Member, unless it would lead to a breach of confidentiality.

## **APPENDIX 3 TO SECTION 19**

### **Procedure for Dealing with Allegations made against Councillors and referred to the Standards Committee**

#### **1. INTRODUCTION**

This document sets out the procedure that the Council's Standards Committee will follow where it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council's Monitoring Officer under Part III of the [Local Government Act 2000](#) and related regulations. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

#### **2. INTERPRETATION**

In this procedure:

- 2.1 the "Act" means the [Local Government Act 2000](#);
- 2.2 the "Council" means Merthyr Tydfil County Borough Council;
- 2.3 the "Code of Conduct" means the code of conduct for members adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions;
- 2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;
- 2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;
- 2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;
- 2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;
- 2.8 the "Monitoring Officer" means the officer for the time being appointed by the Council under section 5 of the [Local Government and Housing Act 1989](#) ;
- 2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;
- 2.10 the "Regulations" means the [Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) Regulations 2001](#) as amended;
- 2.11 the "Standards Officer" means the officer for the time being appointed by the Council to support the work of the Standards Committee.

### 3. **SUMMARY OF THE PROCEDURE**

- 3.1 Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by Members or Co-Opted Members (or former Members or co-opted Members) of the Council or a community council in the Council's area.
- 3.2 Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, they may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Standards Committee.
- 3.3 Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, they will produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Standards Committee. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Standards Committee.
- 3.4 The Standards Committee will then make an initial determination either:
  - 3.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or
  - 3.4.2 that the Member should be given the opportunity to make representations, either orally or in writing.
- 3.5 Where the Member is given an opportunity to make representations, the Standards Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:
  - 3.5.1 there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
  - 3.5.2 the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
  - 3.5.3 the Member has failed to comply with the Code of Conduct and should be censured; or
  - 3.5.4 the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted Member of their authority for a period not exceeding six months

and take any such action accordingly.

### 4. **INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)**

- 4.1 Where the Ombudsman ceases their investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:
  - 4.1.1 conduct and investigation; and

- 4.1.2 report, and if appropriate, make recommendations to the Council's Standards Committee.
- 4.2 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.
- 4.3 After concluding an investigation, the Monitoring Officer must:
  - 4.3.1 produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee;
  - 4.3.2 send a copy of the report to the Member; and
  - 4.3.3 take reasonable steps to send a copy of the report to the Complainant.
- 4.4 The Standards Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.
- 5. **INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)**
  - 5.1 Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the Council's Standards Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the Council's Standards Committee.
  - 5.2 The Standards Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.
- 6. **THE FIRST MEETING OF THE STANDARDS COMMITTEE - INITIAL DETERMINATION**
  - 6.1 After the Monitoring Officer has:
    - 6.1.1 produced an investigation report in accordance with paragraph 4.3; or
    - 6.1.2 considered the Ombudsman's investigation report in accordance with paragraph 5.1

he/she will arrange for a meeting of the Standards Committee to be convened as soon as possible and for a copy of the investigation report, together with the Monitoring Officer's recommendations (if any), to be sent to each of the members of the Standards Committee.
  - 6.2 Notice of the time and place of the meeting will be given in accordance with Part VA of the [Local Government Act 1972](#) as amended by the Standards Committees (Wales) Regulations 2001.
  - 6.3 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Committee.

- 6.4 The business of the Standards Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:

6.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or

6.4.2 that the Member should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

## **7. AFTER THE FIRST MEETING OF THE STANDARDS COMMITTEE**

7.1 Where the Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.

7.2 Where the Standards Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

## **8. PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS**

8.1 The Standards Officer, in consultation with the Chair of the Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and to ask the Member to respond in writing within 14 days to confirm whether they:

8.1.1 are able to attend the hearing;

8.1.2 wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;

8.1.3 disagrees with any of the findings of fact in the investigation report, and if so, which matters they disagree with and the reasons for any disagreements;

8.1.4 want to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with their right under the Regulations;

8.1.5 want to give evidence to the Standards Committee, either orally or in writing;

8.1.6 want to call relevant witnesses to give evidence to the Standards Committee;

8.1.7 want any part of the meeting to be held in private;

8.1.8 want any part of the investigation report or other relevant documents to be withheld from the public

- 8.2 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether they will be attending the hearing.
- 8.3 The Standards Officer will send a copy of the Member's response under paragraph 8.1 to the Investigating Officer and will ask them to confirm in writing within seven days whether they:
  - 8.3.1 have any comments on the Member's response;
  - 8.3.2 want to be represented at the hearing;
  - 8.3.3 want to call relevant witnesses to give evidence to the Standards Committee;
  - 8.3.4 want any part of the meeting to be held in private; and
  - 8.3.5 want any part of the investigation report or other relevant documents to be withheld from the public.
- 8.4 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
  - 8.4.1 confirm the date, time and place for the hearing;
  - 8.4.2 summarise the allegation;
  - 8.4.3 outline the main facts of the case that are agreed;
  - 8.4.4 outline the main facts which are not agreed;
  - 8.4.5 note whether the Member or the Investigating Officer will attend or be represented at the hearing;
  - 8.4.6 list those witnesses, if any, who will be asked to give evidence;
  - 8.4.7 enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
  - 8.4.8 outline the proposed procedure for the meeting.

## **9. POWERS OF THE STANDARDS COMMITTEE**

- 9.1 The Standards Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. It must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings. The Standards Committee will decide factual evidence on the balance of probabilities.
- 9.2 The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
- 9.3 The Standards Committee may take legal advice from a Council officer appointed for this purpose at any time during the meeting or while they are considering the

outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.

- 9.4 Where appropriate, and in accordance with the Regulations, the Standards Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

## **10. PROCEDURE AT THE HEARING**

- 10.1 The hearing will be held in public unless the Standards Committee is persuaded that there is a good reason to exclude the public.

- 10.2 The procedure at the meeting shall be as set out below, subject to the Chair making such changes as they think fit in order to ensure a fair and efficient hearing.

### **10.3 Introduction**

The Chair of the Standards Committee will introduce those persons present and will explain the manner and order of proceedings

### **10.4 First Stage - Preliminary Procedural Issues**

The Standards Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

### **10.5 Second Stage - Making Findings of Fact**

The Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

- 10.5.1 If there is a disagreement as to the facts:

- (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
- (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
- (c) the Member will then be invited to make representations to support his or her version of the facts;
- (d) the Member may call any necessary witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.

- 10.5.2 At any time, the Standards Committee may question any of the people involved or any of the witnesses.

- 10.5.3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, they must give good



reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Committee will consider whether or not it would be in the public interest to continue in their absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigation report;
- (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.

10.5.4 At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.

10.6 **Third Stage - Deciding whether the Member has failed to comply with the Code**

10.6.1 The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.

10.6.2 The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.

10.6.3 The Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, he or she has failed to comply with the Code of Conduct.

10.6.4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.

10.6.5 The Member will be invited to make any final relevant points.

10.6.6 The Standards Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Committee will announce their findings.

10.7 **Fourth Stage - Action to be Taken**

10.7.1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.

10.7.2 If the Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:

- (a) whether or not the Committee should apply a sanction; and
- (b) what form any sanction should take.

10.7.3 The Standards Committee will retire to deliberate in private on the representations and decide either that:

- (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;
- (b) the Member should be censured; or
- (c) the Member should be suspended or partially suspended from being a member or Co-Opted Member of his or her authority for a period not exceeding six months,

after which the Chair of the Standards Committee will announce their decision.

10.7.4 After making a decision the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.

## **11. FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING**

11.1 If the Member fails to make representations, the Standards Committee may:

- 11.1.1 unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
- 11.1.2 give the Member a further opportunity to make representations.

11.2 If a party fails to be present or represented at a hearing, the Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:

- 11.2.1 hear and decide the matter in the party's absence; or
- 11.2.2 adjourn the hearing.

## **12. ILLNESS OR INCAPACITY**

If the Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

### 13. **SUSPENSION**

A period of suspension or partial suspension will commence on the day after:

- 13.1 the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (ie within 21 days of receiving notification of the Standards Committee's determination);
- 13.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- 13.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

### 14. **REFERRAL BY AN APPEALS TRIBUNAL**

- 14.1 Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.
- 14.2 An appeals tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.

14.3 If:

- 14.3.1 the Standards Committee determines that the Member failed to comply with the Code of Conduct;
- 14.3.2 the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and
- 14.3.3 the said tribunal refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

the Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether or not it should uphold its original determination or accept the recommendation.

- 14.4 After making its determination the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the Adjudication Panel for Wales as soon as reasonably practicable.

### 15. **PUBLICATION OF THE STANDARDS COMMITTEE'S REPORT**

15.1 The Standards Committee will cause to be produced within 14 days after:

- 15.1.1 the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
- 15.1.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations, or

15.1.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant.

15.2 Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:

15.2.1 for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;

15.2.2 supply a copy of the report to any person on request if they pay such charge as the Council may reasonably require, and

15.2.3 not later than seven days after the report is received from the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to them to be appropriate, that copies of the report will be available as provided by paragraphs 15.2.1 and 15.2.2 above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

## 16. **COSTS**

The Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

## **Appendix 4 to Section 19**

### **Local Resolution procedure for dealing with allegations that a Councillor has breached the Local Protocol for Merthyr Tydfil County Borough Council**

#### **1. Introduction**

- 1.1 The Local Protocol for Merthyr Tydfil County Borough Council aims to promote good co-operation between Councillors and Officers and exemplary standards of behaviour thus allowing the Council to carry out its duties efficiently and professionally.
- 1.2 Legislation sets out a statutory regime whereby complaints for breaches of the Councillors' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).
- 1.3 The Ombudsman has the discretion to decide whether allegations of breaches of the Councillors' Code of Conduct will be investigated. Therefore, if there are reasonable grounds which indicate a possible breach of the Code, the matter should be referred to the Ombudsman. This Protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
- 1.4 It is important that any allegations made under this protocol are dealt with quickly and effectively.
- 1.5 The purpose of this procedure is to introduce a simple and clear method of dealing with such allegations.

#### **2. Complaints involving officers**

- 2.1 The Chief Executive will deal with all complaints by officers against Councillors and complaints by Councillors against officers under this Protocol as set out in paragraphs 8.1 and 8.2 of the Protocol. The Chief Executive retains the discretion to refer the matter to the Ombudsman or with the consent of the Chair, to the Standards Committee under Stage Three of the Procedure below.
- 2.2 If any complaint by an officer against a Councillor is referred to the Standards Committee (the Committee), the procedure as set out in Stage Three below will be followed.

#### **3. Complaints against Councillors by other Councillors**

- 3.1 Complaints against Councillors by other Councillor/s will be dealt with under the following three stage procedure.

#### **4. Procedure**

##### **4.1 Stage One of the Procedure: Making the complaint.**

- (i) Any Councillor who wishes to submit an allegation should send the complaint in writing to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within this Protocol or whether the complainant should consider referral to the Ombudsman as an allegation of breach of the Councillors' Code of Conduct. The Monitoring Officer may choose not to deal with the allegation at this stage in order to be able to advise the Committee later in

the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the complainant.

- (ii) If a local resolution is sought under this Protocol then all parties concerned must agree not to refer the matter to the Public Services Ombudsman for Wales, failing which this Protocol cannot be used. If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Standards Committee so that the Committee may determine that complaint.
- (iii) If following the first stage the Councillor wishes to proceed with the allegation under this Protocol, the matter may be referred either to an informal resolution under Stage Two or to a hearing by the Committee under Stage Three.

#### 4.2 Stage Two of the Procedure: Informal resolution

At Stage Two, the complaint (if both parties agree) will be referred to the current Leaders of the Political Groups and the Mayor to contact the Member against whom the complaint is made and, if appropriate, to try and resolve the matter informally.

- (i) The Leaders of the Political Groups and the Mayor may decline to undertake Stage Two and with the consent of the Chair of the Committee refer it immediately to Stage Three.
- (ii) If necessary, the Leaders of the Political Groups and the Mayor can call on the Monitoring Officer, the Deputy Monitoring Officer or Legal Officer for advice and assistance. On occasions, it may be appropriate for the Monitoring Officer not to be involved in order to be able to advise on the matter at a later stage.

#### 4.3 Stage Three of the Procedure: Hearing before the Standards Committee

- (i) If either party remains dissatisfied after Stage 2, then with the consent of the Chair of the Committee, the third stage of the hearing is before the Standards Committee. The Councillor making the complaint will be asked to submit the substance of the complaint in writing, and the Councillor who is the subject of that complaint will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
- (ii) Both the Councillor making the complaint and the Councillor complained against have the right to appear before the Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the cost of representations.
- (iii) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
- (iv) After the evidence has been heard, both sides and their representatives will be asked to leave the Chamber and the Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.
- (v) The Committee can come to one of three conclusions, namely:-
  - (a) That there is no basis to the complaint.
  - (b) That there is a basis to the complaint but that no further action is required.

(c) That there is a basis to the Complaint and that the Councillor should be censured.

4.4 The Conclusion by the Standards Committee will be reported to Council for information.

5. **Other Matters**

- (i) Publicity will not be given to the names of the Councillors involved unless it is decided to uphold the complaint and that the Councillor should be censured. The hearing before the Committee will be exempt.
- (ii) Stages Two and Three do not have to be followed sequentially. Although it is possible for a Councillor who remains dissatisfied after the intervention of the Leaders of the Political Groups and the Mayor to ask for the matter to be referred to a hearing before the Committee, it is also possible for a matter to proceed directly to the Committee without being first submitted to the Stage 2 process, provided the Chair of the Standards Committee agrees.
- (iii) The aim of this Procedure is to try and resolve complaints regarding Councillors quickly and effectively. Nothing in this procedure prevents an officer or Councillor from submitting a complaint to the Ombudsman that a Councillor has breached the Councillors' Code of Conduct at any time before Stages Two (in the case of a Councillor) or Three (in the case of either an officer or a Councillor) of the Procedure is engaged.
- (iv) This Protocol is not designed for use by members of the Public. If there is a complaint by a member of the public against officer conduct or Councillor conduct, then that should follow normal processes, either through a complaint to the Chief Executive or relevant Chief Officer in respect of an officer or to the Monitoring Officer and/or the Ombudsman in respect of a Councillor.

## **Appendix 5 to Section 19**

### **DISPENSATIONS: REGULATION EXTRACT**

***‘The Standards Committee of a relevant authority may grant dispensations under Section 81(4) of the Act where-***

- (a) No fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) No fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) In the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- (d) The nature of the member’s interest is such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business;
- (e) The interest is common to the member and a significant proportion of the general public;
- (f) The participation of the member in the business to which the interest relates is justified by the member’s particular role or expertise;
- (g) The business to which the interest relates is to be considered by a scrutiny committee of the relevant authority and the member’s interest is not a pecuniary interest;
- (h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the Welsh Government within seven days in such manner as it may specify



## **Appendix 6 to Section 19**

### **REGISTER OF COUNCILLORS INTERESTS (HOSPITALITY / GIFTS / MEMBERSHIPS / OTHER RELEVANT INTERESTS)**

**NAME OF COUNCILLOR:** \_\_\_\_\_

| DATE OF ENTRY IN REGISTER | NATURE OF INTEREST OR OFFER OF GIFT / HOSPITALITY<br><br>** See Note Below** | HOW THIS RELATES TO COUNCIL | WAS GIFT / HOSPITALITY ACCEPTED | SIGNATURE OF CHIEF EXECUTIVE OR DEPUTY CHIEF EXECUTIVE | SIGNED BY COUNCILLOR |
|---------------------------|------------------------------------------------------------------------------|-----------------------------|---------------------------------|--------------------------------------------------------|----------------------|
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**\*\* NOTE \*\***

This column would include interests in organisations, clubs, societies having dealings with the Council or its Officers and Councillors. Membership of "secret societies", relationships with people / organisations who have close dealings with the Council which may lead to a potential conflict of interest, and offers of gifts or hospitality whether accepted or otherwise.

## **Appendix 7 to Section 19**

### **MERTHYR TYDFIL COUNTY BOROUGH COUNCIL**



#### **DECLARATION OF ACCEPTANCE OF OFFICE**

I \_\_\_\_\_ having been elected to the office of Councillor of Merthyr Tydfil County Borough Council declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.

I undertake to observe the code for the time being as to the conduct which is expected of Members of Merthyr Tydfil County Borough Council and which may be revised from time to time.

(Signed) \_\_\_\_\_

Date \_\_\_\_\_

This declaration was made and signed before me

(Signed) \_\_\_\_\_

Proper Officer of the Council of the County Borough of Merthyr Tydfil

## **SECTION 20**

# **PLANNING CODE OF CONDUCT**

## **20. CODE OF CONDUCT FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice sets out principles to guide Members and Officers in determining Planning Applications. Although of particular relevance to Members of Planning Committee it applies to all Members of the Council who may become involved in planning and development matters.

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **20.1 Introduction**

20.1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.

20.1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.

20.1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:

- a) Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- b) Members should not place themselves in situations where their honesty or integrity may be questioned.
- c) Members should make decisions on merit.
- d) Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.
- e) Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- f) Members should respect the impartiality and integrity of Officers.

- 20.1.4 The Council is committed to open, fair and transparent decision making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 20.1.5 This Code of Practice sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of Planning Applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 20.1.6 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Members and Officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a Member or Officer should seek the advice of the Council's Monitoring Officer.

## **20.2 The Role and Conduct of Members and Officers**

- 20.2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 20.2.2 The role of a Member of the Planning Regulatory & Licensing Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 20.2.3 Whilst Members have a special duty to their residents in their electoral division, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 20.2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 20.2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 20.2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 20.2.7 Officers in their role of advising Members shall provide:
- a) impartial and professional advice;
  - b) consistency of interpretation of planning policy; and
  - c) complete written reports covering all necessary information for a decision to be made.

- 20.2.8 The Council endorses the statement in the RTPI code that, “RTPI Members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions” and extends it to apply to all Officers in the authority advising on planning matters.
- 20.2.9 That the Council may not always follow the advice of their professional planning Officers is perfectly proper. The professional Officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is. If the Planning Regulatory & Licensing Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence. Where members resolve to refuse an application against officer advice they will be responsible for defending that decision at appeal.
- 20.2.10 The Council shall have a designated head of the planning service, who is qualified for election to Membership of the RTPI and who has direct access to elected Members as their professional adviser on planning matters. A superior Officer shall not have the power to overrule the professional advice of the head of the planning service.
- 20.2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council’s Constitution and any National Code of Conduct for Local Government Officers issued by Senedd Cymru under section 82 [Local Government Act 2000](#).
- 20.2.12 Members shall follow the advice in the Members’ Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, Officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.
- 20.2.13 Members shall also follow the statutory guidance on the code of conduct for elected, co-opted and appointed members of county and county borough councils in Wales issued by the Public Services Ombudsman for Wales under section 68 of the [Local Government Act 2000](#).

### **20.3 Interests of Members**

- 20.3.1 Where Members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 20.3.2 Where the interest is such that members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.

20.3.3 These principles apply equally to Members who are not Members of the Planning Regulatory and Licensing Committee. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.

20.3.4 Members should seek guidance from Officers.

20.3.5 Members of the Planning Regulatory and Licensing Committee and Officers who attend the Planning Regulatory and Licensing Committee regularly should complete the Annual Return required for this purpose.

20.3.6 The Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a Member's ability to take part in the decision-making process. However, Members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, Members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:

- from electoral division concerns;
- from Membership of other Committees of the Council;
- from Membership of other public or community bodies;
- from Membership of voluntary associations and trusts (including where appointed by the Council);
- from a connection with a particular policy initiative of the Council;
- from Membership of clubs, societies and groups; and
- from hobbies and other leisure interests.

Such interests may mean that a Member is involved with a Planning Application before the matter comes before the Planning Regulatory and Licensing Committee. Such involvement need not on its own debar a Member from participating in making the planning decision when the matter is considered by the Planning Regulatory and Licensing Committee providing that the Member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

20.3.7 As a minimum, the integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

## **20.4 Development Proposed by the Council or a Council Owned Company**

20.4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.

20.4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

20.4.3 Members of the Planning Regulatory & Licensing Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.

20.4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, Planning Applications in respect of such proposals.

## **20.5 Statutory Duties**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

### **A) [Equality Act 2010](#)**

Section 149 provides that:

(1) A council must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a protected characteristic and persons who do not share it.

(6) The above powers relate to the following protected characteristics:

- ages;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race (including colour, nationality and ethnic or national origins);
- religion or belief;
- sex; or
- sexual orientation.

B) Human Rights

Section 6(1) of the [Human Rights Act 1998](#) provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

C) Best Value

Section 3(1) of the [Local Government Act 1999](#) and Part 1 of the [Local Government \(Wales\) Measure 2009](#) provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

D) Crime and Order

Section 17(1) of the [Crime and Disorder Act 1998](#) provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

E) Well-being of Future Generations

Section 2(2) of the [Planning \(Wales\) Act 2015](#) provides that:

“[A local authority’s planning functions] must be exercised, as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales”.

F) Biodiversity

Sections 6(1) and 6(2) of the [Environment \(Wales\) Act 2016](#) provides that:

“A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.”

“In complying with [this duty], a public authority must take account of the resilience of ecosystems, in particular the following aspects

- (i) diversity between and within ecosystems;
- (ii) the connections between and within ecosystems;
- (iii) the scale of ecosystems;
- (iv) the condition of ecosystems (including their structure and functioning);
- (v) the adaptability of ecosystems.”



## G) Welsh Language

Section 61 of the [Planning and Compulsory Purchase Act 2004](#) provides that:

“The local planning authority must keep under review the matters which are expected to affect the development of their area or the planning of its development.

These matters include the principal physical, economic, social and environmental characteristics of the area of the authority (including the extent to which the Welsh language is used in the area)”;

Section 62 of the [Planning and Compulsory Purchase Act 2004](#) provides that:

Local planning authorities must carry out an appraisal of the sustainability of their local development plan.

“The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh Language in the area of the authority.”

### **20.6 Lobbying of and by Members**

20.6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or Members of a Planning Regulatory and Licensing Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.

20.6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning Officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide Officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

20.6.3 The time for individual Members of the Planning Regulatory and Licensing Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.

20.6.4 A Planning Regulatory and Licensing Committee Member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, Planning Regulatory and Licensing Committee Members should take care about expressing an opinion indicating they have made up their mind before the decision making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to persuasion at the decision making meeting. Members who are lobbied should:

- make clear that they reserve their final decision on a proposal until the committee meeting;
- only give procedural advice;

- consider referring those lobbying to the relevant Officer who can provide further advice; and
- not seek to meet an applicant or potential applicant alone.

20.6.5 Members of the Planning Regulatory and Licensing Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Planning Regulatory and Licensing Committee). Members shall not put improper pressure on Officers for a particular recommendation.

20.6.6 The local Member who is not a Member of the Planning Regulatory and Licensing Committee will be allowed to attend and speak at the decision-making meeting (either presenting their own views if they are an affected party or representing the views of their residents of their electoral division) but not vote. The Member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the Planning Regulatory and Licensing Committee, be allowed to attend and speak but not vote. A local Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.

20.6.7 If a Member of the Planning Regulatory and Licensing Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, that Member shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.

20.6.8 Members of the Planning Regulatory and Licensing Committee must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.

20.6.9 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

## **20.7 Pre and Post Application Discussions and Negotiations**

20.7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

20.7.2 Where an applicant proposes to make an application for planning permission of a description specified in a local development order, that applicant may wish to discuss the actions that they will need to take to comply with any pre-application consultation requirements with the planning authority. This is entirely appropriate, but such discussions should take place in accordance with the guidelines set out below.

20.7.3 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.

- 20.7.4 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning Officers.
- 20.7.5 A written note should be made of all potentially contentious meetings. Two or more Officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 20.7.6 Members need to preserve their role as impartial decision makers and should not take part in pre or post submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning Officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 20.7.7 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the Officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

## **20.8 Officer Reports to Committee**

- 20.8.1 The Director of Neighbourhood Services will submit written reports to the appropriate Planning Regulatory and Licensing Committee on Planning Applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a Planning Application requires an environmental impact assessment the Director of Neighbourhood Services shall include in their report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with their own comments. The reports will include a summary of representations made about the application. The Director of Neighbourhood Services in their report will give a reasoned assessment of the proposals and a justified recommendation.
- 20.8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 20.8.3 The Director of Neighbourhood Services will have available for inspection by Members the full Planning Application, environmental statement (where required) and representations from bodies consulted and members of the public.

## **20.9 Planning Considerations**

- 20.9.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 20.9.2 Members of the Planning Regulatory and Licensing Committee should attend training sessions which may be organised from time to time. All other Members are encouraged to attend.

20.9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.

20.9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:

- the National Development Framework (Future Wales – the National Plan 2040);
- any Strategic Development Plans;
- the Local Development Plan;
- any post-examination draft neighbourhood development plans;
- Planning Guidance (contained in such documents as Planning Policy Wales, the Development Plans Manual, the Development Management Manual, Welsh Government Circulars, Technical Advice Notes and Policy Clarification Letters);
- Supplementary Planning Documents adopted by any related committee;
- non-statutory planning policies adopted by the Council;
- the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
- the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
- representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
- planning obligations (given unilaterally or by way of agreement) under section 106 of the [Town and Country Planning Act 1990](#); and
- the impact of the proposed development on the use of the Welsh Language in the area of the Council.

20.9.5 It should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.

20.9.6 It is the responsibility of Officers in preparing reports and recommendations to Members to identify the material planning considerations and warn Members about those matters which are immaterial planning decisions.

20.9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

- 20.9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 20.9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 20.9.10 It will be inevitable that all the considerations will not point wither to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **20.10 The Decision-Making Process**

- 20.10.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 20.10.2 Where an environmental impact assessment is required, the Planning Regulatory and Licensing Committee shall take the information provided in the report into consideration when determining the application.
- 20.10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 20.10.4 Where the Planning Regulatory and Licensing Committee decide to adopt the recommendation of the Director of Neighbourhood Services, the reasons contained in their report will be minuted, together with any additional reasons determined by the Committee.
- 20.10.5 Where the Planning Regulatory and Licensing Committee is minded to approve or to refuse a Planning Application, contrary to the recommendation of the Director of Neighbourhood Services, or the Development Plan, agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the clerk to the Planning Regulatory and Licensing Committee.
- 20.10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

## **20.11 Site Visits by the Committee**

- 20.11.1 A site visit may be held if the Director of Neighbourhood Services in consultation with the Chair of the relevant committee considers it will assist Members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Members should attend site visits organised by the Council where possible.
- 20.11.2 Site visits will be organised in accordance with the following procedures:

- a) The Head of Democratic Services will invite the local Member to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the Planning Regulatory and Licensing Committee, the local Member for the adjacent division will also be invited.
- b) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
- c) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
- d) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact-finding exercise only and that no decision will be taken until the committee meeting. The officer will explain the application as it relates to the site and relevant viewpoints. Following any questions, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- e) When a site visit is held prior to the meeting of the Planning Regulatory and Licensing Committee it is desirable that all Members attending the Planning Regulatory and Licensing Committee should also attend the site visit. Members voting on a Planning Application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all Members have the same information.

20.11.3 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless they feel it is essential for them to visit the site other than through attending the official site visit and they have first spoken to the Legal Officer about their intention to do so and why (which will be recorded on file) and they can ensure they will comply with these good practice rules on site visits.

## **20.12 Representations on Planning Applications**

- 20.12.1 Wherever possible, objections or representations to Planning Applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Regulatory and Licensing Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.
- 20.12.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Planning Regulatory and Licensing Committee. In such circumstances the following procedure will apply:
  - a) The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. Both the applicant and the objectors will also be informed that they have the right to attend the

Committee and make representations in person if a written objection has been made to the application within the 21 day publicity period. Members of the public may appoint representatives to speak on their behalf.

- b) The number of objector's making representations will be limited to 2 per application. They must register to speak at the meeting by contacting Democratic Services by phone on 01685 725000 or email [registertospeak@merthyr.gov.uk](mailto:registertospeak@merthyr.gov.uk) by 12.00 noon on the Friday immediately prior to the meeting and include a copy of the representations they intend to make, if they fail to do so they will not be allowed to speak unless the Chair exercises his discretion to permit them to do so. People wishing to speak at the Planning Regulatory and Licensing Committee cannot hand out documentation to Members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting.
- c) Each speaker (objectors and supporters) will be allowed a maximum of five minutes to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
- d) At the meeting the Planning Officer will present their report first.
- e) The objectors will make their representations, subject to a time limit of five minutes and may be asked questions by the Committee. Comments should be limited to matters raised in their original representations and be relevant planning issues.
- f) The applicant will then make his or her representations, subject to a time limit of five minutes and may be asked questions by the Committee.
- g) Officers may comment on the representations and the merits of the application
- h) The Committee will proceed to debate the application and make a decision. The minutes will include the reasons for the decision.

Public speaking will be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred (e.g. for a FFSV) and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not be permitted other than in exceptional circumstances with the agreement of the Chair.

Parties are welcome to address the Planning Committee in any language, however if speakers wish to use a language other than English, they are requested to make this clear when registering to speak, and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

## **20.13 Review of Decisions**

- 20.13.1 The Audit Commission's Report, "Building in Quality", recommended that elected Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy.

20.13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.

20.13.3 Attendance at the review site visits shall be restricted to Members of the committee and the local Member.

#### **20.14 Training**

20.14.1 Members should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

20.14.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.



## SECTION 21

### CODE OF CONDUCT FOR EMPLOYEES

#### 21.1 General Principles

The public is entitled to expect the highest standards of conduct from all qualifying employees<sup>1</sup> of relevant authorities<sup>2</sup>. 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.

#### 21.2 Accountability

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.

#### 21.3 Stewardship

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.

#### 21.4 Whistleblowing

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.

#### 21.5 Investigations by Monitoring Officers

Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the [Local Government Act 2000](#)<sup>3</sup> a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

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<sup>1</sup> Employees of relevant authorities in Wales who do not fall within any description of employee specified in the Code of Conduct (Non-Qualifying Local Government Employees) (Wales) Regulations 2001 (SI 2001/(W )) are qualifying employees.

<sup>2</sup> A relevant authority, in relation to Wales, means a county, county borough or community council, a fire authority constituted by a combination scheme under the Fire Services Act 1947 or a National Park authority established under section 63 of the Environment Act 1995.

<sup>3</sup> The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (SI 2001/2281 (W171)).

## **21.6 Standards and Attitude**

- (a) All employees of the Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- (b) Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous.
- (c) All employees are expected to report, in the first instance, to their manager or supervisor any illegality, impropriety, breach of procedure or policy of the Council.
- (d) There are a number of mechanisms available to employees to do this including the Council's complaints procedure or by reporting to the Council's Monitoring Officer.
- (e) In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

## **21.7 Confidentiality and Disclosure of Information**

- (a) The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public. Different rules apply in different situations. If you are in any doubt as to whether you can release any particular information, always check with your manager or supervisor first.
- (b) The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.
- (c) You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance with the requirements of the Data Protection Legislation, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings.
- (d) Information given in the course of your duties should be accurate and fair and never designed to mislead.
- (e) Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

## **21.8 Political Neutrality**

- (a) Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.
- (b) From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.

- (c) Whether you hold a politically restricted post <sup>(3)</sup> or not, you must not allow your own personal or political opinions to interfere with your work.

## **21.9 Relationships**

### **(a) Councillors**

Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

### **(b) The Local Community and Service Users**

Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

### **(c) Contractors and Suppliers**

- (i) All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on Form CCE 1 at the earliest opportunity.
- (ii) Orders and contracts must be awarded in accordance with the Council's Contract Procedure Rules and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

## **21.10 Appointment and Other Employment Matters**

- (a) It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments, you should do everything possible to ensure that these are made on the basis of merit and in accordance with any recruitment policy or procedure.
- (b) In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant or have a close personal relationship with them.
- (c) Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.
- (d) Senior Officers (ie Head of Service and above) must disclose to the Head of Human Resources on Form CCE 2 any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.
- (e) If you apply for promotion or are seeking another job in the Council, you must not approach any councillor for a reference. Issues relating to your conditions of service,

working arrangements or grading should be raised with your manager or supervisor and not with councillors.

### **21.11 Outside Commitments**

- (a) Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations or are detrimental to the interests or reputation of the Council.
- (b) Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete *Form CCE 3* and submit it to your Director. The Council will not unreasonably stop Officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.
- (c) Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the Council's interests.
- (d) If you write a book or article for payment on subjects relating to your work for the Council, you must seek the permission of the Council through your manager or supervisor using *Form CCE 3*. The general presumption would be that any fee or royalty payable would be passed over to the Council.
- (e) You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your manager or supervisor.
- (f) Private use of Council facilities and equipment, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Also, you should not arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.

### **21.12 Personal Interests**

- (a) You must declare to your manager or supervisor on *Form CCE 4* any financial or non-financial interests which could bring about conflict with the Council's interests.
- (b) If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.
- (c) You must not make or become involved with any official or professional decisions about matters in which you have a personal interest.
- (d) Section 117 of the [Local Government Act 1972](#) requires you to make a formal declaration about *contracts or personal contracts* with the Council in which you have a pecuniary interest. Such declarations should be made on *Form CCE 5* and sent to the Chief Finance Officer. It is a criminal offence to fail to comply with this provision which is set out in full at Appendix 1.

- (e) You must declare to the Head of Legal Services Membership of any organisation not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or Membership or conduct, for example, the freemasons. A definition of such an organisation appears at Appendix 2 of this section. Such declarations should be made on *Form CCE 6* and sent to the Head of Legal Services.

### **21.13 Equality**

All Members of the local community, customers and other Council employees have a right to be treated fairly and equally. You should become familiar with and observe all Council policies relating to equality issues, eg the Council's Equal Opportunities Policy, in addition to the requirements of the law.

### **21.14 Tendering Procedures**

- (a) Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (b) If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your manager or supervisor using *Form CCE 4*.
- (c) If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- (d) All employees must ensure that no special 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 any capacity.

### **21.15 Corruption**

- (a) Employees must be aware that it is a serious criminal offence under the [Bribery Act 2010](#) for them to receive or give any gift, loan or reward or advantage in their official capacity "for doing, or not doing, anything", or "showing favour, or disfavour to any person". If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules appear at Appendix 3 of this section.
- (b) For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Director.

### **21.16 Possible Inducements**

- (a) Introduction

A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this Section.

(b) Gifts Generally

- (i) Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the [Bribery Act 2010](#). Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a Member of your family, by any person or organisation having dealings with the Council.
- (ii) Any such offer should be reported to your manager or supervisor or to the Head of Legal Services if you are a Chief Officer on *Form CCE 7*.
- (iii) When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your manager or supervisor or the Head of Legal Services as appropriate.

(c) Gifts to Employees with a Caring Role

- (i) There are sometimes special problems encountered by employees who have a “caring” role or provide a direct personal service to vulnerable people.
- (ii) It is not unusual for residents of residential care homes, or for people receiving support at home from Council employees, or their relatives to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will.
- (iii) It is most important in such situations that employees and the Council are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, Members of staff and their families are not allowed to accept gifts or legacies from clients.
- (iv) If you are made aware that a client is considering making a gift to you or including you in their Will, or has actually done so, then you should immediately report the matter to your manager who will take it up with the client.
- (v) Similarly, you should never become involved with making Wills for clients nor act as an Executor in a client’s Will.
- (vi) For the purposes of this Section of the Code “client” means any current or former client.

(d) Exceptions

- (i) Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices, but only if it bears the company’s name or insignia.
- (ii) Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

(e) Hospitality

- (i) Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.
- (ii) Hospitality is sometimes offered to representatives of the Council in an official or formal capacity. Normally the only Officers who would attend would be Directors and appropriate heads of service.
- (iii) If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the Council.
- (iv) You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.
- (v) In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common-sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.
- (vi) All offers of hospitality should be reported to your Director, or to the Head of Legal Services if you are a Director, on *Form CCE 8*.

(f) Checklist

The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- (i) Is the donor, or event, significant in the community or area? If so, is the refusal likely to cause offence?
- (ii) Are you expected to attend because of your position in the community or area?
- (iii) Will the event be attended by others of a similar standing in the community or in other communities?
- (iv) What do you think is the motivation behind the invitation?
- (v) Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- (vi) Could you justify the decision to the Council, press and public?
- (vii) Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?
- (viii) Are you likely to be expected to respond to the hospitality, and if so, how?
- (ix) Are you comfortable about the decision?

#### **21.17 Sponsorship - Giving and Receiving**

- (a) Where an outside organisation wishes to sponsor or is seeking to sponsor a local government 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.
- (b) Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Chief Officer of any such interest. Similarly, where the Council 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.

#### **21.18 Financial Procedure Rules**

- (a) All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.
- (b) They 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.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO DISCIPLINARY ACTION AND COULD LEAD TO DISMISSAL**



## **CCE FORMS**

**PLEASE NOTE THAT SUPPLIES OF CCE FORMS ARE AVAILABLE FROM YOUR HUMAN RESOURCES DEPARTMENT THEY ARE ALSO SET OUT IN APPENDIX 4**

|              |                                                                                |
|--------------|--------------------------------------------------------------------------------|
| <b>CCE 1</b> | <b>Business or Personal Relationships with External Contractor or Supplier</b> |
| <b>CCE 2</b> | <b>Relationship with a Candidate for Appointment with the Council</b>          |
| <b>CCE 3</b> | <b>Application for Approval of Outside Interests or Employment</b>             |
| <b>CCE 4</b> | <b>Personal Interests</b>                                                      |
| <b>CCE 5</b> | <b>Pecuniary Interests</b>                                                     |
| <b>CCE 6</b> | <b>Membership of Secret Societies/Organisations</b>                            |
| <b>CCE 7</b> | <b>Declaration of Offer of Gifts</b>                                           |
| <b>CPE 8</b> | <b>Declaration of Offer of Hospitality</b>                                     |

## **APPENDIX 1 TO SECTION 21**

### **Local Government Act 1972, Section 117**

1. If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein. For the purposes of this Section, an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of Section 95 had he been a Member of the authority.
2. An Officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
3. Any person who contravenes the provisions of paragraphs 1 or 2 above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
4. References in this Section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

## **APPENDIX 2 TO SECTION 21**

### **Organisations not open to the Public**

(See paragraph 21.18 of the Code)

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:

1. is not open to members of the public who are not Members of that lodge, chapter, society or trust; or
2. includes in the grant of Membership an obligation on the part of the Member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or
3. includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, Membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

## **APPENDIX 3 TO SECTION 21**

### **Bribery Act 2010**

The Bribery Act 2010 creates offences making it unlawful to give or receive financial or other advantages in return for the improper performance of a relevant function or activity. The Act applies to functions and activities of a public nature which an individual is expected to perform in good faith, impartially or in a position of trust.

**APPENDIX 4 TO SECTION 21**

**CCE Forms**

CCE.1

**Relationship with external contractor or supplier**

Employee's Full Name.....

Job Title .....Grade .....

Directorate and Section .....

As required in paragraph 21.15(c) of the Council's Code of Conduct\*, I give below details of my relationship with an external contractor or supplier

Name and Address of Contractor/Supplier .....

.....

.....

Nature of Relationship .....

.....

.....

Signature ..... Date .....

**Please send the completed form to your Director**

Received by Director ..... Date.....

\*Paragraph 21.15(c) of the Code (Contractors and Suppliers) says that:

"All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on Form CCE 1 at the earliest opportunity. Orders and contracts must be awarded in accordance with the Council's Contract Procedure Rules and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against."

CCE.2

**Relationship with candidate for appointment with Council**

Employee's Full Name.....

Job Title .....Grade .....

Directorate and Section .....

As required in paragraph 21.16(d) of the Council's Code of Conduct\*, I give below details of my relationship with a candidate for appointment to a post with the Council

Name and Address of Candidate .....

.....

.....

Post Applied for .....

Nature of Relationship .....

Signature ..... Date .....

**Please send the completed form to the Head of Human Resources**

Received by Head of Human Resources..... Date.....

\*Paragraph 21.16(d) of the Code (Appointment and other employment matters) says that:

“Senior Officers (ie Head of Service and above) must disclose to the Head of Legal Services on Form CCE 2 any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.”

CCE.3

**Approval for outside interests or employment**

Employee's Full Name .....

Job Title .....Grade .....

Directorate and Section .....

Description of Outside Interest/Employment/Directorships:

.....

Does it involve any Remuneration, Fee or Reward? (If so, give details)

.....

What is the commitments attached to these interests/employment?

.....

Geographical Location of Activities: .....

Details of Personal Involvement: .....

.....

Do the activities involve any contact with this or any other Local Authority? (If so, give details):

.....

In accordance with paragraph 21.17 of the Code of Conduct\*, I wish to seek approval for my involvement in the activity outlined above and have discussed the above detail with my line manager.

Signed .....Date .....

**Please send the completed form to your Director**

Received by Director.....Date .....

\*Paragraph 21.17 (Outside Commitments) says that:

"Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete Form CCE 3 and submit it to your Chief Officer. The Council will not unreasonably stop Officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business."

**Declaration of Personal Interests**

Employee's Full Name .....

Job Title .....Grade.....

Directorate and Section .....

As required in paragraph 21.18(a) of the Council's Code of Conduct\*, I give below details of my personal interests which may conflict with the Council's interests:

Details of Personal Interests: .....

.....

.....

.....

.....

.....

.....

The interests are financial/non-financial (Delete as appropriate)

Signed .....Date .....

**Please send the completed form to your Director**

Received by Director ..... Date .....

\*Paragraph 21.18(a) (Personal interests) says that:

"You must declare to your manager or supervisor on Form CCE 4 any financial or non-financial interests which could bring about conflict with the Council's interests."



**Financial Interest in Council Contract**

Employee's Full Name .....

Job Title .....Grade.....

Directorate and Section .....

As required in section 117 of the Local Government Act 1972 and paragraph 21.18(d) of the Council's Code of Conduct\*, I give below details of my interest in a contract involving the Council:

Details of Financial Interest:.....

.....

.....

Details of Contract Involved: .....

.....

.....

Signed .....Date .....

**Please send the completed form to the Chief Finance Officer**

Received by the Chief Finance Officer..... Date.....

\*Paragraph 21.18(d) (Personal interests) says that:

Section 117 of the Local Government Act 1972 requires you to make a formal declaration about contracts or personal contracts with the Council in which you have a pecuniary interest. Such declarations should be made on Form CCE 5 and sent to the Chief Finance Officer.

CCE.6

**Membership of Secret Societies of Organisations**

Employee's Full Name.....

Job Title .....Grade .....

Directorate and Section .....

As required in paragraph 21.18(e) of the Council's Code of Conduct\*, I declare that I am a Member of the following society/organisation/s

Name of Society/Organisation/s .....  
.....  
.....

Date of Becoming a Member: .....

Signature ..... Date .....

**Please send the completed form to the Head of Legal Services**

Received by the Head of Legal Services.....Date.....

\*Paragraph 21.18(e) (Personal interests) says that:

"You must declare to the Head of Legal Services Membership of any organisation not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or Membership or conduct, for example, the freemasons. A definition of such an organisation appears at Appendix 2. Such declarations should be made on Form CCE 6 and sent to the Head of Legal Services."

CCE.7

**Offers of Gifts**

Employee's Full Name.....

Job Title .....Grade .....

Directorate and Section .....

As required in paragraph 21.22(b)(ii) of the Council's Code of Conduct\*, I give details of an offer of a gift/other benefit

Details of Gifts Offered .....

.....

.....

Date Offer Made: ..... I have accepted the offer (YES or NO?) .....

Name and Address of Person Making Offer:

.....

.....

Signature ..... Date .....

**Please send the completed form to your Director (or in the case of Directors, to the Head of Legal Services)**

Received by Director/Head of Legal Services.....Date.....

\*Paragraph 21.22(b)(ii) (Gifts generally) says that:

"Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a Member of your family, by any person or organisation having dealings with the Council. Any such offer should be reported to your Director (or to the Head of Legal Services if you are a Director) on Form CCE 7."

**CCE.8**

**Offers of Hospitality**

Employee's Full Name .....

Job Title .....Grade .....

Directorate and Section .....

As required in paragraphs 21.22(e)(vi) of the Council's Code of Conduct\* I give details of an offer of a gift, other benefit or hospitality:

Details of Hospitality Offered .....

.....

Date Offer Made: .....

Name and Address of Person Making Offer:.....

.....

Reasons for proposing to accept the offer:

.....

Signature ..... Date .....

**Please send the completed form to your Director (or in the case of the Deputy/Chief Executive or Directors, to the Head of Legal Services)**

\*Director's/Head of Legal Service's Authorisation.....

Date.....

- Approval required prior to acceptance for all employees except the Deputy/Chief Executive or Directors

Paragraph 21.22(e)(vi) (Hospitality) says that:

"All offers of hospitality should be reported to your Director (or to the Head of Services if you are a Director or Deputy/ Chief Executive) on Form CCE 8."

## **SECTION 22**

### **22. PROTOCOL ON MEMBER / OFFICER RELATIONS**

#### **22.1 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.

#### **22.2 Roles of Members**

Members undertake many different roles. Broadly these are:

- a) Members express political values and support the policies of the party or group to which they belong (if any).
- b) Members represent their electoral division and are advocates for the citizens who live in the area.
- c) Members are involved in active partnerships with other organisations as community leaders.
- d) 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.
- e) Members help develop and review policy and strategy.
- f) Members monitor and review policy implementation and service quality.
- g) Members are involved in quasi-judicial work through their Membership of regulatory committees.

#### **22.3 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.

#### **22.4 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.

#### **22.5 Undue Pressure**

- a) It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- b) 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.
- c) A Member should not apply undue pressure on an Employee either to do anything that they are 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.
- d) Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in their 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.)*

#### **22.6 Familiarity**

- a) 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.
- b) Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- c) For these reasons close personal familiarity should be avoided.

#### **22.7 Breach of Protocol**

- a) If a Member considers that they have not been treated with proper respect or courtesy, they 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 Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

- b) If an employee considers that a Member has contravened the protocol, they should consult their line manager who will if necessary involve the Head of Service or Director. 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.

## **22.8 Provision of Advice and Information to Members**

- a) 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.
- b) 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 ie 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.
- c) The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- d) The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Member body.
- e) 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.
- f) 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.
- g) 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).
- h) 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.
- i) 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.

- j) 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 Freedom of Information Act request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s Information Governance Team 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.

## **22.9 Confidentiality**

- a. In accordance with the Code of Conduct for Members, a Member must not disclose information given to them in confidence by anyone, or information acquired which they believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) They have the consent of a person authorised to give it;
  - (ii) They are required by law to do so;
  - (iii) 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
  - (iv) the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority.
- a. 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.
- b. Information and correspondence about an individual’s private or business affairs will normally be confidential.
- c. Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, they should ask the relevant Officer, but treat the information as confidential in the meantime.
- d. 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.



- e. 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 they must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## **22.10 Provision of Support Services to Members**

- a) The only basis on which the Council can lawfully provide support services (eg 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.

- b) 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.

- c) 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 they should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

## **22.11 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.

## **22.12 Political Activity**

1. 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](#).
2. 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 their duties would be likely to require them to participate in the general management of the party or branch; or 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 they are 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.
3. 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, eg 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.
  4. Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
  5. Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.
  6. 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.

## **22.13      Sanctions**

- a) 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.
- b) Complaints about any breach of this protocol by an Officer may be referred to the relevant Director or the Chief Executive.

## **22.14      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.

## **APPENDIX 1 TO SECTION 22**

### **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. Directors 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. Directors 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 Directors 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 Member Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
6. Directors 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 Parish/Town Councils and the Local Government 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 MPs 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.
10. Directors 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.

## **SECTION 23**

### **CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE**

THIS POLICY REFLECTS THE AUTHORITY’S COMMITMENT TO GOOD PRACTICES, TO VALUING STAFF AND SEEKING CONTINUOUS IMPROVEMENT IN SERVICE DELIVERY AND WILL BE REVIEWED EVERY TWO YEARS OR EARLIER SHOULD RELEVANT LEGISLATION OR GUIDANCE BE ISSUED.

#### **23.1 Introduction**

- a) This is the Council’s Policy intended to encourage and enable employees to raise concerns within the Council without fear of victimisation, subsequent discrimination or embarrassment. It reflects the Council’s commitment to good practices, to valuing staff and setting continuous improvement in service delivery.
- b) Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- c) The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.
- d) This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.
- e) The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes. The Council will seek to ensure that as part of its procurement processes, this code is brought to the attention of such external contractors, suppliers and services providers (described in this code as “Contractors”).
- f) These procedures are in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.
- g) This Code has been discussed with the relevant trade unions and professional organisations and has their support.

#### **23.2 Aims and Scope of the Code**

- a) This Code aims to:

- (i) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
  - (ii) provide avenues for you to raise those concerns and receive feedback on any action taken.
  - (iii) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
  - (iv) reassure you that you will be protected from possible reprisals or victimisation.
- b) There are existing procedures in place to enable you to lodge a grievance relating to your own employment or you consider that you are being harassed due to your race, sex or age, or if you are concerned about health and safety risks. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.
- c) These include:
- (i) conduct which is an offence or a breach of law;
  - (ii) disclosures related to miscarriages of justice;
  - (iii) health and safety risks, including risks to the public as well as other employees;
  - (iv) damage to the environment;
  - (v) the unauthorised use of public funds;
  - (vi) possible fraud and corruption;
  - (vii) sexual or physical abuse of clients;
  - (viii) any attempt to prevent disclosure of any of the above;
  - (ix) other unethical conduct.
- d) Thus, any serious concerns that you have about any aspects of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.
- e) This may be about something that:
- (i) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
  - (ii) is against the Council's Constitution and policies;
  - (iii) falls below established standards of practice;
  - (iv) amounts to improper conduct.

### **23.3 Safeguards**

- a) The Council is committed to good practice and high standards and wants to be supportive of employees.
- b) The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- c) The Council will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.
- d) This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.
- e) Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

### **23.4 Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness. If you wish to be supported by a representative of your choice, then this would be available to you.

### **23.5 Anonymous Allegations**

- a) This Code encourages you to put your name to your allegation whenever possible, however even an anonymous report is considered by the Council to be better than failing to report a concern at all.
- b) Concerns expressed anonymously are much less powerful but will only be considered at the discretion of the Council and in exceptional circumstances if you consider that the disclosure of your identity will give rise to a risk of harm please provide supporting information and the Council will determine whether your identity should be withheld.
- c) In exercising this discretion, the facts to be taken into account would include:
  - (i) the seriousness of the issues raised;
  - (ii) the credibility of the concern; and
  - (iii) the likelihood of confirming the allegation from attributable sources.

### **23.6 Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

### **23.7    How to Raise a Concern**

This procedure applies to Council employees and contractors.

- a) As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should approach the Chief Executive, the Monitoring Officer or Chief Finance Officer.
- b) In the case of schools the head teacher and chairperson of the governing body would need to be informed. A decision would then need to be taken as to the investigative action required.
- c) In the case of a fraud or financial irregularity Internal Audit or the Chief Finance Officer must be contacted immediately.
- d) For councillors, concerns must be raised with the Chief Executive / Deputy Chief Executive / Director, the relevant Scrutiny Committee or the Standards Committee.
- e) For concerns in relation to child welfare the preferred route would be via the Director of Social Services.
- f) Alternatively, you can leave a message on the 24-hour Council “Anti-Fraud Line” on 01685 725111 or the Council on [fraudline@merthyr.gov.uk](mailto:fraudline@merthyr.gov.uk). This service is strictly confidential, and you will not be asked to give your name if you do not want to.
- g) Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:
  - (i) the background and history of the concern, giving relevant dates;
  - (ii) the reason why you are particularly concerned about the situation.
- h) Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- i) Alternatively, you may wish to seek advice from a person independent of the Council. In this case you should contact the Council’s External Auditors (Audit Wales). In addition, advice/guidance on how to pursue matters of concern may also be obtained from:
  - (i) The Public Interest Disclosure Act 1998 allows you to contact the National Audit Office on a special telephone line, the number is 0207 798 7999 or by emailing - [enquiries@nao.gsi.gov.uk](mailto:enquiries@nao.gsi.gov.uk)
  - (ii) For further advice you can contact the charity Protect that provides free and confidential advice for employees on 020 3117 2520 or via their website <https://protect-advice.org.uk/advice-line/>.
- j) You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.



- k) You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

### **23.8 How the Council will Respond**

- a) The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- b) Where appropriate, the matters raised may:
  - (i) be investigated by management, internal audit, or through the disciplinary process;
  - (ii) be referred to the police;
  - (iii) be referred to the external auditor (Wales Audit Office);
  - (iv) form the subject of an independent inquiry.
- c) In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- d) Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- e) Within 10 working days of a concern being raised, the person with whom you have raised your concerns will write to you:
  - (i) acknowledging that the concern has been received;
  - (ii) indicating how we propose to deal with the matter;
  - (iii) giving an estimate of how long it will take to provide a final response;
  - (iv) telling you whether any initial enquiries have been made;
  - (v) supplying you with information on staff support mechanisms; and
  - (vi) telling you whether further investigations will take place and if not, why not.
- f) The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- g) However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.
- h) Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the Monitoring Officer, for a decision to be made as to whether such a course of action is both necessary and proportionate.

**Important:**

- i) Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- j) Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- k) The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- l) The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

**23.9 The Responsible Officer**

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the Monitoring Officer, and keep that Officer informed of the progress and outcome of the investigation. The Monitoring Officer has overall responsibility for the maintenance and operation of the Code. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

**23.10 How the Matter Can be Taken Further**

- a) This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:
  - (i) the Council's external auditors (Audit Wales);
  - (ii) Protect charity
  - (iii) The National Audit Office
  - (iv) your local Citizens' Advice Bureau;
  - (v) relevant professional bodies or regulatory organisations;
  - (vi) a relevant voluntary organisation;
  - (vii) the police.
- b) If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

**23.11 Confidential Reporting Code Form**

| PRIVATE AND CONFIDENTIAL                                |  |
|---------------------------------------------------------|--|
| CONFIDENTIAL REPORTING CODE                             |  |
| To be completed by person to whom the concern is raised |  |
| To be forwarded to Monitoring Officer                   |  |
| Name of person                                          |  |
| Post Held                                               |  |
| raising concern (may be anonymous)                      |  |
| Brief outline of nature of concern and dates            |  |
| Names of others involved                                |  |
| Brief description of outcome, with dates                |  |
| Signature                                               |  |
| (of person to whom complaint is raised)                 |  |
| Please Print Name                                       |  |
| Date                                                    |  |

## **Appendix 1 to the WHILSTLEBLOWING CODE**

### **Extract from the PUBLIC INTEREST DISCLOSURE ACT (PIDA) 1998**

#### **Protected disclosures**

##### Meaning of “protected disclosure”

Section 43A a “protected disclosure” means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H.

Section 43B (1) In this Part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and tends to show one or more of the following—

- (a) that a criminal offence 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 he is subject,
- (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
- (d) that the health or safety of any 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, or
- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

#### **INFORMATION PROVIDED BY:**

PROTECT  
The Green House  
244-254 Cambridge Heath Road  
London E2 9DA  
Telephone: 020 3117 2520  
Email - <https://protect-advice.org.uk/contact-us/>

#### **Summary of PIDA**

The Act came into force on 2<sup>nd</sup> July 1999. It encourages people to raise concerns about malpractice in the workplace and helps ensure that organisations respond by:

- addressing the message rather than the messenger; and
- resisting the temptation to cover up serious malpractice.

Through protecting whistle-blowers from dismissal and victimisation the Act promotes the public interest.

#### **Malpractice**

The Act applies to people at work raising genuine concerns about crime, civil offences (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment and the cover up of any of these. It applies whether or not the information is confidential and extends to malpractice occurring overseas.

### **Individuals Covered**

In addition to employees, it covers trainees, agency staff, contractors, home workers, trainees, school governors, councillors and co-opted members. The usual employment law restrictions on minimum length of service and age do not apply.

### **Legal Advice**

The Act confirms that workers may safely seek legal advice on any concerns they have about malpractice. This includes seeking advice from Protect.

### **Internal Disclosures**

A disclosure to a manager or the employer will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur and that the disclosure would be made in the public interest. Where a third party is responsible for the matter, this same test applies to disclosures made to it.

### **Disclosures to Ministers**

Where someone in the NHS or a public body blows the whistle direct to the sponsoring Department, the disclosure is protected in the same way as an internal one.

### **Regulatory Disclosures**

The Act protects "protected disclosures" made to prescribed bodies such as the Health and Safety Executive, the Inland Revenue and the Financial Services Authority, where the whistleblower reasonably believes that the information and any allegation in it are substantially true.

### **Wider Disclosures**

Wider disclosures (e.g. to the police, the media, MPs and non-prescribed regulators) are protected if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they meet one of the three preconditions.

Provided they are not made for personal gain, these preconditions are that the whistleblower:

- Reasonably believed they would be victimised if they raised the matter internally or with a prescribed regulator;
- Reasonably believed a cover-up was likely and there was no prescribed regulator; or
- Had already raised the matter internally or with a prescribed regulator.

In deciding the reasonableness of the disclosure, the tribunal will consider the identity of the person to whom it was made, the seriousness of the concern, whether the risk or danger remains, and whether it breached a duty of confidence the employer owed a third party. Where the concern had been raised with the employer or a prescribed regulator, the reasonableness of its response will be particularly relevant. Finally, if the concern has first been raised with the employer, it is relevant whether any whistleblowing policy in the organisation was or should have been used.

### **Exceptionally Serious Matters**

Where the concern is exceptionally serious, a disclosure will be protected if it meets the test for regulatory disclosures and is not made for personal gain. The disclosure must also be reasonable; having particular regard to the identity of the person it was made to.

### **Full Protection**

Where the whistleblower is victimised in breach of the Act they can bring a claim to an employment tribunal for compensation. Awards will be uncapped and based on the losses suffered. Additionally, where an employee is sacked, they may apply for an interim order to keep their job. It should however be noted that an employment tribunal now has the power to reduce any compensation awarded to an employee for detriment or dismissal relating to a protected disclosure by up to 25% where the disclosure was not made in good faith.

### **Gagging Clauses**

Gagging clauses in employment contracts and severance agreements are void insofar as they conflict with the Act's protection.

## **Appendix 2 to the WHILSTLEBLOWING CODE**

### **GUIDANCE NOTE FOR EMPLOYEES**

The following guidance should be followed if you suspect fraud or corruption in any area of the Council's activities.

#### **Do**

1. Make an immediate note of your concerns.

Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

2. Convey your suspicions to someone with the appropriate authority and experience.

This is usually your line manager or the internal audit service. Alternatively, the Chief Finance Officer or the Head of Human Resources should be contacted.

3. Deal with the matter promptly if you feel your concerns are warranted.

Any delay may cause the Authority to suffer further financial loss.

#### **Don't**

1. Do nothing.

2. Be afraid of raising your concerns.

You must not suffer any recrimination as a result of voicing a reasonably held suspicion. The Authority will treat any matter you raise sensitively and confidentially.

3. Approach or accuse any individuals directly.

4. Try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case.

5. Convey your suspicions to anyone other than those with the proper authority.

**Remember the Public Interest Disclosure Act 1998 has the following rules for making a protected disclosure.**

- You must believe it to be substantially true.
- Disclosure must be in the public interest.
- You must not seek any personal gain.
- You must **not** commit a criminal offence by making the disclosure

## SECTION 24

### **MEMBER ROLE DESCRIPTIONS**

#### **24.1 Elected Member Role Description**

a) Accountabilities

- (i) To Full Council.
- (ii) To the electorate of their ward.

b) Role Purpose and Activity

(i) *Representing and Supporting Communities*

- To represent ward interests.
- To be an advocate for the Council in the ward and communities they serve.
- To be a channel of communication to the community on council strategies, policies, services and procedures.
- To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally.
- To liaise with executive members, other council members, council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported.
- To promote tolerance and cohesion in local communities.

(ii) *Making Decisions and Overseeing Council Performance*

- To participate in Full Council meetings, reaching and making informed and balanced decisions, and overseeing performance.
- To participate in informed and balanced decision making on committees and panels to which they might be appointed.
- To adhere to the principles of democracy and collective responsibility in decision making.
- To promote and ensure efficiency and effectiveness in the provision of council and other public services.

(iii) *Representing the Council (Subject to Appointment)*

- To represent the Council on local outside bodies as an appointee of the Council.
- To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain.
- To represent and be an advocate for the Council on national bodies and at national events.



(iv) Internal Governance, Ethical Standards and Relationships

- To promote and support good governance of the Council and its affairs To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Member's Code of Conduct, the Member/Officer Protocol and the highest standards of behaviour in public office.

(v) Personal and Role Development

To participate in opportunities for development provided for members by the authority.

(vi) Values

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.2 Leader (and Deputy) Role Description**

**a) Accountabilities**

- (i) To Full Council.
- (ii) The Public.

**b) Role Purpose and Activity**

(i) Providing Political Leadership to the Council

- To be a political figurehead for the Council; to be the principal political spokesperson for the Council.
- To provide leadership in building a political consensus around council policies.
- To form a vision for the Council and community.
- To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery.

(ii) Appointing the Cabinet<sup>1</sup>

- To designate the appropriate portfolios.
- To appoint appropriate elected members to each portfolio.
- To allocate cabinet members to roles with regard to their abilities.
- To designate the Deputy Leader.

(iii) Representing and Acting as Ambassador for the Authority

- To represent the Authority to a high standard. Provide a strong, competent and eloquent figure to represent the Authority both within the County and at external bodies.
- To represent the Authority on relevant coordinating committees, partnership boards and corporate joint committees.
- To provide leadership and support local partnerships and organisations.
- To represent the Authority in regional and national bodies as appropriate.

(iv) Providing Leadership within the Portfolio

Where appropriate to fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of an executive member.

(v) Managing and Leading the Work of the Cabinet and Chairing Meetings

- Participate and lead in the collective decision making of the Executive Board
- To ensure the effective running of the Cabinet by managing the Forward Work Programme and ensuring its continuing development.
- To ensure the work of the Cabinet meets national policy objectives.
- To advise and mentor other cabinet members in their work.
- To chair meetings of the Cabinet in line with the Constitution.

(vi) Participating in the Collective Decision Making of the Cabinet

- To work closely with other cabinet members to ensure the development of effective council policies and the budgetary framework for the Council, and the delivery of high-quality services to local people.
- To accept collective responsibility and support decisions made by the Cabinet once they have been made.

(vii) Working with Officers to Lead the Organisation

- To liaise with the Chief Executive, and other appropriate officers, on a regular basis.

- To work with employees of the Council in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues.

(viii) Leading Partnerships and Community Leadership

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

(ix) Internal Governance, Ethical Standards and Relationships

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.
- To take reasonable steps to promote and maintain high standards of conduct by the members of their Political Group.

c) Values

To be committed to and demonstrate the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability;
- inclusive leadership;
- consensus building.

**24.3 Deputy Leader**

- a) To fulfil the duties of the Leader in his or her absence.
- b) To assist the Leader in specific duties as required.

## **24.4 Cabinet Member Role Description**

### **a) Accountabilities**

- (i) To the Leader[s].
- (ii) To the Cabinet (through collective responsibility).
- (iii) To Full Council.

### **b) Role Purpose and Activities**

#### ***(i) Providing Portfolio Leadership***

- To give political direction to officers working within the portfolio.
- To gain the respect of officers within the portfolio; provide support to officers in the implementation of portfolio programmes.
- To provide leadership in the portfolio.
- To liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- To be accountable for choices and performance in the portfolio.
- To have an overview of the performance management, efficiency and effectiveness of the portfolio.
- To make Executive Decisions within the Portfolio.

#### ***(ii) Contributing to the Setting of the Strategic Agenda and Work Programme for the Portfolio***

- To work with officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through the Cabinet.
- To provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the portfolio's Forward Work Programme is kept up to date and accurate.

#### ***(iii) Providing Representation for the Portfolio***

To provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

#### ***(iv) Reporting and Accounting***

- To report as appropriate to the Leader, Full Council, Cabinet, appropriate chair of scrutiny, regulatory bodies and the media.
- To be the principal political spokesperson for the portfolio.
- To appear before scrutiny committees in respect of matters within the portfolio.

#### ***(v) Taking an Active Part in Cabinet Meetings and Decision Making***

- To show an interest in and support for the portfolios of others.

- To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

(vi) Leading Partnerships and Community Leadership

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

(vii) Internal Governance, Ethical Standards and Relationships

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

**c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability;
- inclusive leadership.

**24.5 Mayor in their role as Chair of the Council**

**a) Accountabilities**

Full Council.

**b) Role Purpose and Activity**

(i) Acting as a symbol of the Council's democratic authority

- As the ceremonial head of the Council, to be non-political and uphold the democratic values of the Council.

- To represent the Council at civic and ceremonial functions.

(ii) Chairing Council Meetings

- To preside over meetings of the Council, so that its business can be carried out efficiently.
- To ensure the Council conducts its meetings in line with the Council's Standing Orders.

(iii) Upholding and Promoting the Council's Constitution

To ensure the Constitution is adhered to and, if necessary, to rule on the interpretation of the Constitution.

(iv) Internal Governance, Ethical Standards and Relationships

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

c) Values

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.6 Deputy Mayor**

- To fulfil the duties of the Mayor in his or her absence.
- To assist the Mayor in specific duties as required.

**24.7 Chair of Democratic Services Committee Role Description**

**a) Accountabilities**

To Full Council.

## **b) Role Purpose and Activity**

### ***(i) Providing Leadership and Direction***

- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- To lead the committee in its role in:
  - aa. designating the Head of Democratic Services;
  - bb. keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
  - cc. make annual reports to the full council in relation to the above;
  - dd. appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;
  - ee. considering reports prepared by the Head of Democratic Services;
  - ff. developing the Authority's member support and development strategy;
  - gg. ensuring that members have access to a reasonable level of training and development as described in the Authority's member development strategy and the Wales Charter for Member Support and Development;
  - hh. ensuring that the budget for member development is sufficient;
  - ii. ensuring that members have access to personal development planning and annual personal development reviews;
  - jj. work with the member support and development champion where relevant to promote the role of members and necessary support and development.
  - kk. To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.

### ***(ii) Promoting the Role of the Democratic Services Committee***

- To act as an ambassador for the DS committee, facilitating understanding of the role.
- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings.

### ***(iii) Internal Governance, Ethical Standards and Relationships***

- To develop the standing and integrity of the committee and its decision making.
- To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.
- To promote and support good governance by the Council.

## **c) Values**

To be committed to the values of the council and the following values in public office:

- openness and transparency;
- honesty and integrity;

- tolerance and respect;
- equality and fairness;
- appreciation of cultural differences;
- sustainability.

## **24.8 Member of a Democratic Services Committee Role Description**

### **a) Accountabilities**

- (i) To Full Council.
- (ii) To the Chair of the Democratic Services Committee.

### **b) Role Purpose and Activity**

#### *(i) Understanding the Nature of the Committee:*

To be aware of and effectively undertake the role of the committee in:

- designating the Head of Democratic Services;
- keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
- make annual reports to the full council in relation to the above;
- appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;
- considering reports prepared by the Head of Democratic Services;
- developing the Authority's member support and development strategy;
- ensuring that members have access to a reasonable level of training and development as described in the member development strategy and the Wales Charter for Member Support and Development;
- ensuring that the budget for member development is sufficient;
- ensuring that members have access to personal development planning and annual personal development reviews.
- To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.

#### *(ii) Participating in Meetings and Making Decisions*

- To participate effectively in meetings of the Democratic Services Committee.



- To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.

(iii) *Internal Governance, Ethical Standards and Relationships*

- To ensure the integrity of the committee's decision making and of their own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
- To promote and support good governance by the Council.
- To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.

**c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.9 Chair of the Council's Regulatory Committees Role Description**

**a) Accountabilities**

- (i) To Full Council.
- (ii) To the members of the regulatory committee.

**b) Role Purpose and Activity**

(i) *Providing Leadership and Direction*

- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
- To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- To delegate actions to sub committees as appropriate

(ii) *Promoting the Role of the Regulatory Committee and Quasi-Judicial Decision Making*

- To act as an ambassador for the regulatory committee, facilitating understanding of the role.

- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in individual cases/applications before formal committee meetings.

(iii) Internal Governance, Ethical Standards and Relationships

- To develop the standing and integrity of the committee and its decision making.
- To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.
- To promote and support good governance by the Council.

c) Values

To be committed to the values of the council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural differences;
- sustainability.

**24.10 Member of a Regulatory Committee Role Description**

a) Accountabilities

- (i) To Full Council.
- (ii) To the Chair of the regulatory committee.

b) Role Purpose and Activity

(i) Understanding the Nature of the Regulatory Committee and Quasi-Judicial Decision Making

- To be aware of the quasi-judicial nature of regulatory committee decision making.
- To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and individual cases/applications before the committee.

(ii) Participating in Meetings and Making Decisions

- To participate effectively in meetings of the regulatory committee, ensuring that both local considerations and policy recommendations are balanced to contribute to effective decision making.
- To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.

(iii) Internal Governance, Ethical Standards and Relationships

- To ensure the integrity of the committee's decision making and of their own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
- To promote and support good governance by the Council.
- To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.

c) Values

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.11 Chair of Standards Committee Role Description – Lay member only**

a) Accountabilities

To Full Council.

b) Role Purpose and Activity

(i) Providing Leadership and Direction

- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice on the Code of Conduct.
- To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.

- To lead the committee in its role in:
  - (aa) promoting and maintaining high standards of conduct by Councillors and co-opted members;
  - (bb) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
  - (cc) advising the Council on the adoption or revision of the Members' Code of Conduct;
  - (dd) monitoring the operation of the Members' Code of Conduct;
  - (ee) advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
  - (ff) granting dispensations to Councillors and co-opted members on 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;
  - (gg) the exercise of these functions in relation to community councils and the members of those community councils.

**c) Values**

To be committed to the values of the council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural differences;
- sustainability.

**24.12 Member of a Standards Committee Role Description**

**a) Accountabilities**

- (i) To Full Council.
- (ii) To the Chair of the Standards Committee.

**b) Role Purpose and Activity**

- (i) Understanding the nature of the Standards committee and effectively fulfilling its functions by:
  - promoting and maintaining high standards of conduct by Councillors and co-opted members;
  - assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
  - advising the Council on the adoption or revision of the Members' Code of Conduct;

- monitoring the operation of the Members' Code of Conduct;
  - advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
  - granting dispensations to Councillors and co-opted members on 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.
- (ii) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (iii) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (iv) *Participating in Meetings and Making Decisions*
- To participate effectively in meetings of the Standards committee.
  - To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (v) *Internal Governance, Ethical Standards and Relationships*
- To ensure the integrity of the committee's decision making and of their own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
  - To promote and support good governance by the Council.
  - To understand the respective roles of members, officers and external parties operating within the Standards committee's area of responsibility.

#### **c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

### **24.13 Chair of Governance and Audit Committee Role Description**

#### **a) Accountabilities**

To Full Council.

## **b) Role Purpose and Activity**

### **(i) Providing Leadership and Direction**

- To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- To agree the agendas for Governance and Audit Committee meetings .
- To lead the committee in its role in:
  - (aa) reviewing and scrutinising the authority's financial affairs;
  - (bb) making reports and recommendations in relation to the authority's financial affairs;
  - (cc) reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;
  - (dd) making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
  - (ee) overseeing the authority's internal and external audit arrangements;
  - (ff) reviewing the financial statements prepared by the authority and approving them when powers are delegated;
  - (gg) developing relationships with internal and external auditors and the Authority's Monitoring Officer;
  - (hh) developing a Forward Work Programme designed to deliver the governance and audit committees functions;
  - (ii) reviewing and self-assessing the performance of the Committee and its members; and
  - (jj) reviewing and making recommendations in relation to the self-assessment report pursuant to section 91 of the Local Government and Elections (Wales) Act 2021.

### **(ii) Promoting the Role of the Governance and Audit Committee**

- To act as an ambassador for the governance and audit committee, facilitating understanding of the role.
- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in the audit process.

### **(iii) Internal Governance, Ethical Standards and Relationships**

- Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
- To develop the standing and integrity of the committee and its decision making.

- To understand the respective roles of members, officers and external parties operating within the governance and audit committee's area of responsibility.
- To promote and support good governance by the Council.

**c) Values**

To be committed to the values of the council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural differences;
- sustainability.

**24.14 Member of a Governance and Audit Committee Role Description**

**a) Accountabilities**

- (i) To Full Council.
- (ii) To the Chair of the Governance and Audit Committee.

**b) Role Purpose and Activity**

- (i) Understanding the role of the Governance and Audit Committee and undertaking its functions:
  - reviewing and scrutinising the authority's financial affairs;
  - making reports and recommendations in relation to the authority's financial affairs;
  - reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;
  - making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
  - overseeing the authority's internal and external audit arrangements;
  - reviewing the financial statements prepared by the authority.
- (ii) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (iii) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.

(iv) Participating in Meetings and Making Decisions

- To participate effectively in meetings of the governance and audit committee; questioning and seeking clarification on matters falling within the committee's remit.
- To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.

(v) Internal Governance, Ethical Standards and Relationships

- Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
- To ensure the integrity of the committee's decision making and of their own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
- To promote and support good governance by the Council.
- To understand the respective roles of members, officers and external parties operating within the governance and audit committee's area of responsibility.

**c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.15 Scrutiny Chair Role Description**

**a) Accountabilities**

- (i) Full Council.
- (ii) The Public.

**b) Role Purpose and Activity**

(i) Providing Leadership and Direction

- To provide confident and effective management of the member team.



- To promote the role of overview and scrutiny within and outside the council, liaising effectively both internally within the council and externally with the Council's partners.
- To demonstrate an objective and evidence based approach to overview and scrutiny.
- To evaluate the impact and added value of overview and scrutiny activity and identify areas for improvement.

(ii) Managing the Work Programme

- To develop a balanced work programme of the committee which includes pre decision scrutiny, policy development and review, investigative scrutiny, and holding the executive to account including performance monitoring.
- To ensure the programme takes account of relevant factors such as: the work programmes of the executive and other committees, strategic priorities and risks, and relevant community issues.
- To ensure that the work programme is delivered.
- To report on progress against the work programme to Council, and others as appropriate.
- To liaise with officers, other members and community representatives to resource and deliver the work programme.

(iii) Effective Meeting Management

- To set agendas containing clear objectives and outcomes for the meeting.
- To manage the progress of business at meetings, ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to.
- To ensure that the necessary preparation is done beforehand
- To ensure that all participants have an opportunity to make an appropriate contribution.

(iv) Community Leadership

- To act as a focus for liaison between the council, community and external bodies in relation to the scrutiny function.
- To build understanding and ownership of the overview and scrutiny function within the community.
- To identify relevant community based issues for scrutiny.
- To promote the full involvement of external stakeholders for example, service users expert witnesses and partners in scrutiny activity.

(v) *Involvement and Development of Committee Members*

- To encourage effective contributions from all committee members in both committee and task and finish groups.
- To assess individual and collective performance within the committee and facilitate appropriate development.
- To champion the importance of learning and development.

c) **Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.16 Scrutiny Member Role Description**

a) **Accountabilities**

- (i) Chair of the Scrutiny Committee.
- (ii) Full Council.
- (iii) The public.

b) **Role Purpose and Activity**

To participate fully in the activities of the Scrutiny Committee, the development and delivery of its work programme and any associated task and finish groups.

(i) *Reviewing and Developing Policy*

- To assist in the creation, development, improvement and refinement of council policy.
- To challenge policies on a sound basis of evidence for example against legislation or local political priority.
- To assess impact of existing policy.

(ii) *Holding the Executive to Account, Monitoring Performance and Service Delivery*

- To monitor the performance of internal and external providers against standards and targets including questioning of executive and senior officers over time.

- To contribute to the identification and mitigation of risk.
- To investigate and address the causes of poor performance.
- To evaluate the validity of Executive Decisions and challenging decisions through call in where appropriate.

(iii) Promoting the Work of Scrutiny

- To promote the role of scrutiny within and outside the council, developing effective internal and external relationships.
- To demonstrate an objective and evidence-based approach to scrutiny.
- To add value to the decision making and service provision of the authority through effective scrutiny.

(iv) Community Leadership

- To use scrutiny as a means to address community issues and engage the public.
- To encourage stakeholders to participate in the work of the authority, to develop locally viable and acceptable policy solutions.
- To build a dialogue around priorities, objectives and performance, among communities and stakeholders.

(v) Meeting Participation

- To make adequate and appropriate preparation for meetings through research and briefings.
- To participate in a proactive, informed and effective manner taking account of the Code of Conduct, Standing Orders and other constitutional requirements.

**c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability.

**24.17 Leader of the Opposition Role Description**

**a) Accountabilities**

To the nominating group within the constitution.

## **b) Role Purpose and Activity**

### ***(i) Providing Political Leadership for an Opposition Group***

- To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition.
- To provide leadership in the constructive challenge of the Council's policies.
- To constructively challenge the vision for the Council and community where appropriate.
- To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery.

### ***(ii) Representing the Authority's Opposition***

- To represent the Opposition Group to a high standard; providing a strong, competent and eloquent figure to represent the opposition within the Authority.
- To represent the Council on external bodies.

### ***(iii) Internal Governance, Ethical Standards and Relationships***

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To promote, support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To promote, support and adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

## **c) Values**

To be committed to and demonstrate the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability;
- inclusive leadership;
- consensus building.

#### **24.18 Role of the Deputy Leader of the Opposition**

- (i) To fulfil the duties of the Leader in his or her absence.
- (ii) To assist the Leader in specific duties as required.

#### **24.19 Member Role personal specifications**

Person specifications for all member roles will be retained by the Head of Democratic Services and will be made available to members/officers and the public on request.

#### **24.20 Member Champion Purpose and Role**

##### **a) What are Member Champions?**

- (i) Member Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of council business although they may not be the responsibility of any individual or committee.
- (ii) Member Champions are elected members who in addition to their other council responsibilities make sure that the issue or group that they are championing are taken into account when council policy is being developed and decisions are made. There is a statutory role for a lead member of children's and young people's services with a responsibility for over-seeing the arrangements made under sections 25 and 26 of the 2004 Children Act.
- (iii) Appointment to Member Champions' roles are approved at the Council's Annual General Meeting each year.

##### **b) Member Champion Responsibilities**

Typically, the lead member will:

- (i) make sure that their area of interest is taken into account when developing policy or making decisions;
- (ii) ask questions about performance and resourcing for the area;
- (iii) raise the profile of the area and make the authority aware of good practice;
- (iv) engage with external bodies who work in the area;
- (v) engage with other officers and members in relation to the role;
- (vi) engage with community groups with an interest/stake in the area;
- (vii) report action to the council.

#### **24.21 Member Champion Description**

Guidance on undertaking the role with regard to the subject knowledge that members need is sometimes available from the outside bodies associated with the issue being championed for example the toolkit for older peoples' champions from the LGA. Otherwise they will be reliant

on their authority for guidance in the subject they lead on and also their role as lead member in this area.

**a) Accountabilities**

To Full Council.

**b) Role Purpose and Activities**

*(i) Within the Council*

- To promote the interest being championed within the Council's corporate and service priorities.
- To promote the needs of the client group represented in the interest to the decision makers within the council.
- To work with the decision makers in the Council to establish strategies/ policies/work plans connected with the interest.
- To maintain an awareness of all matters connected with the interest.
- To contribute to good practice and the continuous improvement of services and functions related to the interest.
- To engage with members in matters related to the interest such as attending Overview and Scrutiny/Cabinet /Full Council meetings etc.
- Raising awareness of and taking a lead role in the development of all members and officers in relation to the interest.

*(ii) In the Community*

- To raise the profile of the interest in the community.
- To engage with citizens and community groups in matters related to the interest.
- To lead and support local initiatives related to the interest.

**c) Values**

To be committed to the values of the Council and the following values in public office:

- openness and transparency;
- honesty and integrity;
- tolerance and respect;
- equality and fairness;
- appreciation of cultural difference;
- sustainability;
- inclusive leadership.

| SECTION 14<br>APPENDIX 1         | SECTION 14<br>APPENDIX 2  | SECTION 14<br>APPENDIX 3                                | SECTION 14<br>APPENDIX 4                                                             |                                                                                          |
|----------------------------------|---------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| <u>Non - Executive</u> Functions | Delegations to Committees | Responsibility for <u>Executive</u> Functions           | Delegations to Officers                                                              |                                                                                          |
|                                  |                           | ↓                                                       | ↓                                                                                    |                                                                                          |
|                                  |                           | <b>SCHEME A</b>                                         | <b>SCHEME B</b>                                                                      | <b>SCHEME C</b>                                                                          |
|                                  |                           | <u>Executive</u> Functions delegated to Cabinet Members | <u>Executive</u> functions delegated to Council Officers                             | <u>Non-Executive</u> functions delegated to Council Officers                             |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART I</b>                                                                        | <b>PART I</b>                                                                            |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Senior Council Officers with consultation    | <u>Non-Executive</u> functions delegated to Senior Council Officers with consultation    |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART II</b>                                                                       | <b>PART II</b>                                                                           |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Senior Council Officers without consultation | <u>Non-Executive</u> functions delegated to Senior Council Officers without consultation |
|                                  |                           |                                                         | ↓                                                                                    | ↓                                                                                        |
|                                  |                           |                                                         | <b>PART III</b>                                                                      | <b>PART III</b>                                                                          |
|                                  |                           |                                                         | <u>Executive</u> functions delegated to Council Officers without consultation        | <u>Non-Executive</u> functions delegated to Council Officers without consultation        |

## **SECTION 14**

### **APPENDIX 1**

#### **NON-EXECUTIVE FUNCTIONS**

- 1.01 The Council will have the responsibility for approving or adopting the Policy Framework and the Budget.

#### **POLICY FRAMEWORK**

- 1.02 The Policy Framework means the plans, schemes and strategies not to be the sole responsibility of the Authority's Executive in accordance with current legislation

#### **BUDGET**

- 1.03 The Budget includes the allocation of financial resources to different services or 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 provisions of the 'Prudential Code' will also impact upon the process.

#### **FUNCTIONS OF THE COUNCIL**

##### **1.04.01 Only the Council will exercise the following functions:**

1. Adopting and changing the Constitution;
2. Approving or adopting the policy framework and the budget.
3. Subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 15 and Budget and Policy Framework Procedure Rules in Section 16 of this Constitution, making decisions about any matter in the discharge of a Cabinet 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 the budget;
4. Appointing the Chairperson of the Cabinet (The Chairperson of the Cabinet shall be the Leader of the Council) and removing the Leader. The Leader can remove from office other members of the Cabinet;
5. Appointing the Chairperson, Vice Chairperson and Members of the Scrutiny Committees;
6. Appointing the Vice Chairperson and members of the Governance & Audit Committee. The Governance & Audit Committee is to appoint the person who is to chair the committee;



7. Appointing Chairperson, Vice Chairperson and Members of the Democratic Services Committee. The functions of the Democratic Services Committee are to be performed by the Corporate Support & Resources Committee;
8. Appointing the Chairperson, Vice Chairperson and Members of the Planning Regulatory and Licensing Committee;
9. Appointing the Chairperson, Vice Chairperson and Members of the Statutory Licensing Committee
10. Appointing Members of the Appeals Committee and the Councillor Members to the Standards Committee
11. Appointing Councillor Members to the Cwm Taf Public Services Board; and to the Cwm Taf Public Services Board Joint Scrutiny Committee
12. Agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
13. Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
14. Adopting an allowances scheme;
15. Changing the name of the area, conferring the freedom of the County Borough;
16. Making the appointment of the Chief Executive, the Deputy Chief Executive, the Chief Finance Officer, the Monitoring Officer and Directors in accordance with the Officer Employment Rules in Part 12 of the Constitution;
17. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
18. Power to determine applications for planning permission.
19. Power to determine applications to develop land without compliance with conditions previously attached.
20. Power to grant planning permission for development already carried out.
21. Power to decline to determine application for planning permission.
22. Duties relating to the making of determinations of planning applications.
23. Power to determine applications for planning permission made by a local authority, alone or jointly with another person

24. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
25. Power to enter into planning obligation, regulating development or use of land.
26. Power to issue a certificate of existing or proposed lawful use or development.
27. Power to serve a completion notice.
28. Power to grant consent for the display of advertisements.
29. Power to authorise entry onto land.
30. Power to require the discontinuance of a use of land.
31. Power to serve a planning contravention notice, breach of condition notice, warning notice, stop notice or temporary stop notice.
32. Power to issue an enforcement notice.
33. Power to apply for an injunction restraining a breach of planning control.
34. Power to determine applications for hazardous substances consent, and related powers.
35. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
36. Power to require proper maintenance of land.
37. Power to determine applications for listed building consent, and related powers.
38. Power to determine applications for conservation area consent.
39. Duties relating to applications for listed building consent and conservation area consent.
40. Power to serve a building preservation notice, and related powers.
41. Power to issue a listed building enforcement notice.

42. Powers to acquire a listed building in need of repair and to serve a repairs notice.
43. Power to apply for an injunction in relation to a listed building.
44. Power to execute urgent works.
45. Power to determine applications for discharge of conditions.
46. Power related to mineral working.
47. Power to determine applications for prior notification.
48. Power related to footpaths and bridleways.
49. Power as to certification of appropriate alternative development.
50. Duties in relation to purchase notices
51. Powers related to blight notices
52. Power to issue licences authorising the use of land as a caravan site ("site licences").
53. Power to license the use of moveable dwellings and camping sites.
54. Power to license hackney carriages and private hire vehicles.
55. Power to license drivers of hackney carriages and private hire vehicles.
56. Power to exercise licensing functions pursuant to the Licensing Act 2003
57. Power to exercise licensing functions pursuant to the Gambling Act 2005
58. Power to license operators of hackney carriages and private hire vehicles.
59. Power to register pool promoters.
60. Power to grant track betting licences.
61. Power to license inter-track betting schemes.
62. Power to grant permits in respect of premises with amusement machines.
63. Power to register societies wishing to promote lotteries.
64. Power to grant permits in respect of premises where amusements with prizes are provided.
65. Power to issue entertainments licences.
66. Power to license sex shops and sex cinemas.
67. Power to license performances of hypnotism.

68. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.
69. Power to license pleasure boats and pleasure vessels.
70. Power to license market and street trading.
71. Duty to keep list of persons entitled to sell non-medicinal poisons.
72. Power to license dealers in game and the killing and selling of game.
73. Power of register and license premises for the preparation of food.
74. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.
75. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.
76. Duty to promote fire safety
77. Power to license premises for the breeding of dogs.
78. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
79. Power to register animal trainers and exhibitors.
80. Power to license zoos.
81. Power to license dangerous wild animals.
82. Power to enforce regulations in relation to animal by-products
83. Power to license the employment of children.
84. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.
85. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—
  - 33(a)an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or
  - 3(b)an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).
86. Power to register variation of rights of common.

87. Power to issue a permit to conduct charitable collections.
88. Power to grant consent for the operation of a loudspeaker.
89. Power to grant a street works licence.
90. Duty to register the movement of pigs.
91. Power to enforce regulations in relation to the movement of pigs.
92. Power to issue a licence to move cattle from a market.
93. Power to sanction use of parts of buildings for storage of celluloid.
94. Duty to enforce and execute UK legislation pursuant to the European Union (Withdrawal Agreement) Act 2000 formerly contained in Regulations (EC) No. 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene)(Wales) Regulations 2006.
95. Functions in respect of establishing a Licensing Committee.
96. Duty to appoint an electoral registration officer.
97. Power to assign officers in relation to requisitions of the registration officer.
98. Power to dissolve community councils.
99. Power to make orders for grouping communities.
100. Power to make orders for dissolving groups and separating community councils from groups.
101. Duty to appoint returning officer for local government elections.
102. Duty to divide constituency into polling districts.
103. Power to divide electoral divisions into polling districts at local government elections.
104. Powers in respect of holding of elections.
105. Power to pay expenses properly incurred by electoral registration officers.
106. Power to fill vacancies in the event of insufficient nominations.
107. Duty to declare vacancy in office in certain cases.
108. Duty to give public notice of a casual vacancy.

109. Power to make temporary appointments to community councils.
110. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.
111. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
112. Power to change the name of a county or county borough.
113. Power to change the name of a community.
114. Power to confer title of honorary alderman or to admit to be an honorary freeman.
115. Power to petition for a charter to confer county borough status.
116. Functions relating to local government pensions, etc.
117. Functions relating to pensions, allowances and gratuities.
118. Functions under existing pension schemes as respects persons employed by the fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004.
119. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).
120. Functions relating to sea fisheries.
121. Powers relating to the preservation of trees.
122. Powers relating to the protection of important hedgerows.
123. Power to make standing orders.
124. Appointment and dismissal of Council staff
125. Power to make standing orders as to contracts.
126. Power to consider reports from the Public Services Ombudsman for Wales.
127. Powers in respect of registration of motor salvage operators.

128. Power to appoint officers for particular purposes (appointment of “proper officers”).
129. Duty to designate an officer as the head of the authority's paid service, and to provide staff, etc.
130. Duty to designate an officer as the Monitoring Officer and to provide staff, etc.
131. Duty to determine affordable borrowing limit.
132. Approval of annual investment strategy in accordance with guidance.
133. Duty to make arrangements for proper administration of financial affairs.
134. To determine the level and any change in the level of remuneration to be paid to a Chief Officer/Director (excluding the Head of Democratic Services).
135. All other matters which, by law, must be reserved to Council.

## **SECTION 14**

### **APPENDIX 2**

#### **DELEGATIONS TO REGULATORY AND OTHER MEETINGS**

The Council has determined to establish the following Regulatory and other Committees to carry out its functions under delegated powers made by the Council.

Appointments, or reconfirmation of appointments of Members and the Chairperson and Vice Chairperson to each Committee will be made by the Council at the Annual Meeting of the Council each year.

##### **1.01 PLANNING REGULATORY AND LICENSING COMMITTEE**

A Committee of 11 Members. This is to allow for one Councillor from each Electoral Division, unless agreed otherwise by Council. No Member appointed to the Planning Regulatory and Licensing Committee can sit without having undertaken a period of training in planning procedures as specified by the Authority.

Details of the planning licensing and regulatory functions of the Planning Regulatory and Licensing Committee that are delegated to the Director of Neighbourhood Services and other officers are contained in the Scheme of Delegation.

##### **Function**

- (a) To exercise those Planning and Conservation functions relating to town and country planning and development control as specified:
  - (i) in Part A paragraphs 1 – 32 and Part I paragraphs 3 and 4 of Schedule 1 of The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended).
  - (ii) in regulation 3(2), 3(3) or 3(4) of those Regulations which are not in paragraphs 2 – 9 below unless the responsibility for exercising any of those functions has been delegated by the Council to any other committee, sub committee or other body;
- (b) To exercise those Licensing and Regulatory functions as specified in Part B paragraphs 1 – 32, 35 & 36, 37 – 41 and 43 of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, as amended.
- (c) To make recommendations to the Council in respect of:
  - (i) Departure Applications being those that are required to be referred to the Welsh Government
  - (ii) Applications which do not accord with Council Policy which the Committee are minded to approve



- (d) To deal with all matters relating to or arising under the regulations for the time being in force governing:
  - (i) the control of advertisements
- (e) To discharge the functions of the Council and to authorise the service of notices and the making of orders pursuant to and in accordance with the powers conferred upon the Council as local planning authority by the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Historic Environment Wales (Wales) Act 2016.
- (f) To discharge the Council's functions pursuant to:
  - (i) the Planning (Hazardous Substances Act)1990;
  - (ii) the Building Control Regulations
- (g) To be responsible for:
  - (i) the making of Tree Preservation Orders (TPO's);
  - (ii) the confirmation of TPO's in respect of which there are no objections or representations;
  - (iii) the making of observations on tree felling licences proposed to be granted by Natural Resources Wales;
- (h) To approve design briefs and advice notes relating to development control
- (i) To accept tenders for the execution of work, the performance of services or the supply of goods or materials in connection with the exercise of the functions of the Committee
- (j) To determine from time to time any standard conditions applicable to and detailed policies governing the issue of licences, permits and consents in respect of which the Licensing Committee has delegated power to hear and determine applications and to deal with detailed matters relating thereto;
- (k) To prescribe guidelines, conditions, limitations of restrictions governing the grant of applications for Hackney Carriage and Private Hire Vehicle Driver's Licences by Council officers under the powers delegated to them;
- (l) To determine fees charged in respect of those licensing functions within the purview of the Planning Regulatory and Licensing Committee and to hear and determine objections in relation to proposed fee revisions;
- (m) To determine revisions of Hackney Carriage fares and hear and determine objections to proposed revisions;

#### Quorum

- (a) The Quorum for the Planning, Regulatory and Licensing Committee (and any Planning sub-committees) will be at least half of the total number of members of the committee, rounded up to the nearest whole number. Substitute members cannot attend in the absence of appointed members.

## 1.02 LICENSING SUB COMMITTEE

A Committee of 3 Members consisting of the Chairperson and/or Vice Chairperson of the Planning Regulatory and Licensing Committee together with 1 or 2 Members (as the case may be) drawn on a rota basis from the Members of the Planning Regulatory and Licensing Committee.

In the event that more than one Committee is required and needs to be convened then Chairperson of the Planning Regulatory and Licensing Committee together with 2 Members will sit as one Committee and the Vice Chairperson of the Planning Regulatory and Licensing Committee together with 2 members will sit as another Committee.

Details of the regulatory functions of the Licensing Committee that are delegated to the Deputy Chief Executive, the Head of Public Protection or other officers are contained in the Scheme of Delegation.

### Function

- (a) To hear and determine applications and to deal with all detailed matters applicable thereto (including the transfer, modification, variation, suspension and revocation of licences) relating to:
  - (i) Hackney Carriage and Private Hire Vehicle Licences, Drivers' Licences and Operators' Licences;
  - (ii) Street Trading Licences and Consents;
  - (iii) Sex Establishment;
  - (iv) Street Collections;
  - (v) House to House Collections
  - (vi) To discharge all licensing functions under the Zoo Licensing Act 1981
  - (vii) To discharge all licensing functions under the Animal Boarding Establishments Act 1963
  - (viii) To discharge all licensing functions under the Breeding of Dogs Act 1973 And 1991
  - (ix) To discharge all licensing functions under the Highways Act 1980
  - (x) To discharge all licensing functions under the House-to-House Collections Act 1939
  - (xi) To discharge all licensing functions under the Local Government (Miscellaneous) Provisions) Acts 1972, 1976 & 1982
  - (xii) To discharge all licensing functions under the Police, Factories etc (Miscellaneous) Provisions) Act 1916
  - (xiii) To discharge all licensing functions under the Riding Establishments Acts 1964 and 1970
- (b) To determine matters of detail of the Customer Care Course for Hackney Carriage and Private Hire Vehicle Drivers including the making of any charges deemed appropriate
- (c) To determine all applications received in respect of stands and grounds Safety of Sports Ground Act 1975 and the Fire Safety and Safety of Places of Sports Act 1987

- (d) To hear and determine applications for the grant or renewal of approvals of premises for the solemnisation of marriages in pursuance of section 26(1) (bb) of the Marriage Act 1949, or to revoke such approvals, in circumstances in which the Council Officer to whom the power to determine such applications, or to revoke such approvals, has declined to exercise the delegated power

#### Quorum

- (a) The Quorum for the Licensing Sub Committee will be all 3 committee members drawn on a rota basis from the Members of the Planning Regulatory and Licensing Committee.

### **1.03 STATUTORY LICENSING COMMITTEE**

A Committee of 11 Members. This is to allow for one Councillor from each Electoral Division, unless agreed otherwise by Council. Details of the Statutory Licensing Committee functions that are delegated to the Deputy Chief Executive and other officers are contained in the Scheme of Delegation. The Statutory Licensing Committee will be comprised of the Members of the Planning Regulatory & Licensing Committee.

#### Function

- (a) To discharge all Licensing functions pursuant to the Licensing Act 2003 and any associated regulations, in particular to review in line with guidance the Council's Licensing Policy prior to its submission to Full Council for approval.
- (b) To discharge all Licensing functions pursuant to the Gambling Act 2005 and any associated regulations, in particular to review in line with guidance the Council's Gambling Act Policy prior to its submission to Full Council for approval.

Any proceedings of this committee shall be governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.

### **1.04 STATUTORY LICENSING SUB COMMITTEE**

A Committee of 3 Members consisting of the Chairperson and/or Vice Chairperson of the Statutory Licensing Committee together with 1 or 2 Members (as the case may be) drawn on a rota basis from the Members of the Statutory Licensing Committee.

#### Function

- (a) To hear and determine applications and to deal with all detailed matters applicable thereto (including the transfer, modification, variation, suspension and revocation of licences) relating to the Licensing Act 2003,
- (b) To hear and determine applications and to deal with all detailed matters applicable thereto (including the transfer, modification, variation, suspension and revocation of licences) relating to the Gambling Act 2005

#### Quorum

The Quorum for the Statutory Licensing Sub Committee will be all 3 committee members drawn on a rota basis from the Members of the Planning Regulatory and Licensing Committee.

## **1.05 APPEALS COMMITTEE**

A Committee of 10 Members

### Function

- (a) To hear and determine an appeal by the Chief Executive and the Deputy Chief Executive in respect of the following employment decisions namely dismissal and grievance.
- (b) To hear and determine appeals by employees (except the Chief Executive and Deputy Chief Executive) in respect of any local employment decision e.g., conditions of service and grading of posts.
- (c) To hear and determine appeals against decisions of the Licensing Committee or the Statutory Licensing Committee (where appropriate).

## **1.06 OBJECTIONS AND APPEALS SUB COMMITTEE**

A Committee of 3 Members consisting of the Chairperson and/or Vice Chairperson of the Appeals Committee together with 1 or 2 Members (as the case may be) drawn on a rota basis from the Members of the Appeals Committee.

### Function

- (a) To determine whether or not proposed orders in pursuance of any provision contained in the enactments listed below (or any statutory modification, re-enactment or amendment thereof) in respect of which objections and/or representations have been received should be made as proposed; to refer (where necessary) any proposed order to a local public inquiry; to amend, vary or modify any proposed order; to uphold the objections and withdraw any proposed order:
  - (i) Road Traffic Regulation Act 1984
  - (ii) Road Traffic Regulation (Special Events) Act 1994
  - (iii) Town Police Clauses Act 1847
- (b) To determine whether or not Tree Preservation Orders in respect of which objections have received should be confirmed and, if so, whether with or without modifications.
- (c) To hear and determine objections to and representations regarding any proposed designation or re-designation of streets within the County Borough for purposes of street trading and to determine against refusal of street trading consents or licences.

- (d) To hear and determine appeals against the decision of any Council Officer to whom power to determine applications for the grant or renewal of premises for the solemnisation of marriages in pursuance of section 26(1) (bb) of the Marriage Act 1949, or to revoke such approvals, has been delegated to refuse to grant or renew such an approval or to revoke such an approval.

## **1.07 RIGHTS OF WAY COMMITTEE**

A Committee of 5 Members consisting of the Chairperson and/or Vice Chairperson of the Planning Regulatory and Licensing Committee together with 3 or 4 Members (as the case may be) drawn on a rota basis from the Members of the Council.

Details of the functions that are delegated to the Director of Neighbourhood Services and other officers are contained in the Scheme of Delegation.

### Function

- (a) To approve the making of applications for and the making, modification or variation of Orders relating to rights of way in pursuance of any provision contained in the following enactments (or any statutory modification, re-enactment or amendment thereof):
- (i) Highways Act 1980
  - (ii) Town and Country Planning Act 1990
  - (iii) Wildlife and Countryside Act 1981
  - (iv) Cycle Tracks Act 1984
- (b) To confirm, where the Council has power to do so, any proposed Order made in accordance with the above to which there are no objections or in respect of which any objections made are withdrawn.
- (c) Where the Council does not have power to determine any proposed Order to refer the proposed Order to such determining body (i.e. Welsh Government, the Magistrates' Court or County Court) as appropriate in the circumstances.
- (d) To dedicate rights of way over land in council ownership.

## **1.08 STANDARDS COMMITTEE (See section 8)**

A Committee of 3 Members, 5 Independent Persons and 1 Community Council representative.

### Function

The Standards Committee will have the following roles and functions:

- 1.08.01 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority (including church and parent governor representatives);

- 1.08.02 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct (including church and parent governor representatives);
- 1.08.03 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 1.08.04 to make an annual report to the Council;
- 1.08.05 monitoring and reviewing the operation of the Members' Code of Conduct;
- 1.08.06 developing for recommendation to the Council local protocols to supplement the Members' Code of Conduct;
- 1.08.07 enforcing local protocols and applying sanctions in respect of breaches as appropriate;
- 1.08.08 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct and local protocols (if any);
- 1.08.09 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 and associated local protocols;
- 1.08.10 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred to that officer by the Public Services Ombudsman for Wales.;
- 1.08.11 to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- 1.08.12 to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- 1.08.13 to keep under review, amend and make additional provisions to the Protocol on Member/Officer relations;
- 1.08.14 the exercise of (a) to (l) above in relation to the Community Council wholly or mainly in its area and the members of the Community Council.

## **1.09 THE GOVERNANCE & AUDIT COMMITTEE**

- 1.09.01 The Council will appoint a Governance and Audit Committee to discharge the functions detailed below and in accordance with sections 81-87 of The Measure.
- 1.09.02 The Committee shall comprise of two-thirds Councillor Members and one-third members who are not a Member of the Council (lay members). No more than one member of the Committee may be a member of the Cabinet (which Cabinet Member must not be the Leader) or an Assistant to the Executive, although the Committee may have no Cabinet Members or Assistants to the Executive among its membership.
- 1.09.03 The Council shall appoint Members to the Governance & Audit Committee in accordance with the political balance rules.

1.09.04 The Chair of the Governance & Audit Committee and Deputy Chair are appointed by it. The person appointed Chair of the Audit Committee must be a lay member. The person appointed as Deputy Chair cannot be a Member of the Cabinet or an Assistant to the Executive.

1.09.05 A meeting of the Governance & Audit Committee is to be chaired:

(a) by the Chair of the Governance & Audit Committee, or

(b) if the Chair of the Governance & Audit Committee is absent, by the Deputy Chair.

(c) If both the Chair of the Governance & Audit Committee and the Deputy Chair are absent, the Committee may appoint a member of the Committee who is not a member of the Council's Cabinet, or an Assistant to the Executive, to chair the meeting.

1.09.06 Members of the Governance & Audit Committee may vote on any matter from the Committee.

1.09.07 Functions

The Governance & Audit Committee will:

(a) review and scrutinise the authority's financial affairs,

(b) make reports and recommendations in relation to the authority's financial affairs,

(c) review and assess the risk management, internal control, performance assessment, corporate governance and complaints arrangements of the authority,

(d) make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,

(e) consider the external auditor's annual report and other relevant reports; and to make recommendations on their implementation to Cabinet and/or Council as appropriate.

(f) consider specific reports as agreed with the external auditor and to make recommendations on their implementation to Cabinet and/or Council as appropriate.

(g) consider the Council's draft Annual Performance Self-Assessment report and if deemed necessary may make recommendations for changes to the Council.

(h) receive the Council's finalised Annual Self-Assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.

(i) at least once during the period between two consecutive ordinary elections of Councillors to the Council, consider the independent Panel Performance Assessment report into which the Council is meeting its performance requirements.

(j) receive and review the Council's draft response to the report of the independent Panel Performance Assessment and if deemed necessary may make

recommendations for changes to the statements made in the draft response to the Council.

- (k) review and assess the authority's ability to handle complaints effectively,
- (l) make reports and recommendations in relation to the authority's ability to handle complaints effectively
- (m) oversee the authority's internal and external audit arrangements, and
- (n) review the financial statements prepared by the authority.
- (o) consider the effectiveness of the authority's control environment and associated counter fraud and corruption arrangements and support the Councils ethical framework.
- (p) seek assurances that action is being taken on recommendations and risk-related issues identified by auditors and inspectors.
- (q) be satisfied that the authority's assurance framework and statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it, including partnerships and collaboration arrangements
- (r) approve (but not direct) internal audit's strategy, plan and monitor performance.
- (s) receive summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
- (t) receive the annual report of the Head of Internal Audit.
- (u) consider the reports of external audit and relevant regulatory/inspection agencies as appropriate.
- (v) 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.
- (w) review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
- (x) monitor compliance with the Councils Financial Procedure Rules and Procurement and Contracting Procedure Rules.

1.09.08 It must be noted that nothing referred to above precludes neither Internal or External Audit from reporting to the Cabinet/Council or other relevant Committee as appropriate.

## **1.10 DEMOCRATIC SERVICES COMMITTEE**

1.10.01 The functions of the Democratic Services Committee will be performed by the Corporate Support and Resources Scrutiny Committee, excluding the Independent Lay Members (See also 9.3 – Democratic Services Committee)



#### Function

- (a) to designate an officer as the Head of Democratic Services,
- (b) to review the adequacy of provision of staff, accommodation and other resources to discharge democratic services functions, and
- (c) to make reports and recommendations to Council, at least annually, in relation to such provision.

### **1.11 JOINT NEGOTIATING AND CONSULTATIVE GROUP (COMMITTEE)**

A negotiation and consultative group with members of the Council and representatives of Trade Unions to promote joint participation in all matters of common interest and concern relating to employer/employee relations. The group shall act in accordance with the signed agreement between the Council, the GMB, Unison and Unite and the group's adopted constitution.

#### Group membership

- (a) The group will consist of 5 elected members, to include the Cabinet Member with Portfolio for Governance and Resources who will Chair the group, and 4 other elected members.
- (b) The group members must reflect the political balance of the authority.
- (c) The Unions' representation shall consist of one officer from GMB, one officer from UNISON and one officer from Unite.
- (d) The group shall have Council Officer representation which shall consist of the Human Resources Manager and one other Deputy Chief Executive/ Director/Head of Service to be nominated by the Chief Executive.

#### Function

- (a) The group shall engage, consult and negotiate on all matters pertaining to Council staff terms and conditions of service, staff policies and procedures and employment issues.
- (b) The group will have no decision-making powers. It will have the power to make recommendations in accordance with group's adopted constitution.

### **1.12 INFORMATION GOVERNANCE FORUM**

#### Purpose

- (a) To ensure that the Authority has effective policies and management arrangements in place to cover all aspects of information governance.

- (b) To report to the Corporate Management Team and Audit Committee all matters in relation to the strategic development, implementation, management and monitoring of the Council's information governance arrangements.

#### Group membership

The Forum is Chaired by the Council's Senior Information Risk Owner (Chief Executive), and has representation from the Information Governance Department, ICT, Legal Services, Human Resources & Development, Social Services, the Schools Department and Union representatives as required.

## **SECTION 14**

### **APPENDIX 3**

#### **RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

##### **1.0 THE CABINET**

###### **1.01 Apart from: -**

- decisions reserved for the full Council (Appendix 1 to Section 14)
- decisions to be taken by Regulatory and other Committees (see Appendix 2 to Section 14)
- decisions to be taken by Officers (see Appendix 4 to Section 14)

all other decisions in relation to the various functions of the Council will be taken by the Cabinet or by individual members of the Cabinet or Committees of the Cabinet.

1.02 The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) specify which local authority functions must not be, need not be, or are not solely to be executive functions. The Cabinet will discharge those functions and responsibilities which are reserved to it in the regulations together with all “local choice functions save as is mentioned in 4.06.10 & 14.03.03 above”.

1.03 The Leader is responsible for discharge of Executive Functions and may delegate those functions as set out in Section 5 of this Constitution.

1.04 The Leader has allocated portfolios (lead responsibilities) for particular Executive Functions among individual Members of the Cabinet. The main functional areas of Cabinet Portfolios will be determined by the Leader and will usually align with the functions of the Portfolio’s dedicated Scrutiny Committee as set out in Section 7.3. The Regeneration, Public Protection & Housing Scrutiny Committee covers the functions of the Housing & Regeneration Portfolio and the Public Protection, Crime & Disorder Portfolio. Normally, decisions will be taken collectively by the Cabinet, but individual Cabinet Members can make decisions within their portfolios which they consider to be urgent to protect the interest of the Council, subject to prior consultation with the appropriate Chief Officer(s) and, where necessary, other Cabinet Members. If there is uncertainty as to whether a matter falls within a particular portfolio, the Leader will make a determination as to which is the relevant Cabinet Member. The Leader can make urgent decisions in the absence of the appropriate portfolio holder.

The Cabinet Portfolios are -

Leader with Portfolio for Housing and Regeneration

Cabinet Member with Portfolio for Governance and Resources for Learning

Cabinet Member with Portfolio for Neighbourhood Services

Cabinet Member with Portfolio for Social Services

Cabinet Member with Portfolio for Education

Cabinet Member with Portfolio for Public Protection, Crime and Disorder

- 1.05 Individual members of the Cabinet may be allocated the responsibility for discharging specific functions. Details of these and the terms upon which they have been so allocated are contained in **Scheme A** of this Appendix (Allocation of Cabinet Functions to Individual Members of Cabinet).
- 1.06 The Cabinet has also entered into joint arrangements with the executives of other authorities to carry out the following arrangements for instance:
- Llwydcoed Crematorium Joint Committee
  - Central South Consortium Joint Education Service (CSCJES) Joint Committee
  - Glamorgan Archives Joint Committee
  - Capita Glamorgan Joint Committee

## SECTION 14

### APPENDIX 3

# SCHEME A

## SCHEME FOR THE ALLOCATION OF CABINET FUNCTIONS TO INDIVIDUAL MEMBERS OF CABINET

### GENERAL

1. In accordance with the duty to make executive arrangements placed upon it by Part II of the Local Government Act 2001 the Council has adopted the Executive Arrangements and established an Executive which it has resolved to be known as “the Cabinet” and has made provision by means of this Scheme for the allocation of functions which are the responsibility of the Cabinet to individual Members of Cabinet.
2. In this Scheme:
  - (a) “the Cabinet” means the Executive established by the Council;
  - (b) “Members of Cabinet” means the Chairman of the Cabinet and the Members of the Cabinet;
  - (c) “Cabinet functions” means the functions for which the Cabinet is responsible;
  - (d) “Chief Officer” means any of the following:
    - Chief Executive;
    - Deputy Chief Executive
    - Director of Education
    - Director of Social Services
    - Director of Neighbourhood Services
    - Director of Governance & Resources
    - Chief Finance Officer
    - Monitoring Officer
  - (e) Words importing the singular number only shall include the plural number and vice versa;
  - (f) References to any enactment shall include any statutory modification or re-enactment thereof for the time being in force and any subordinate legislation made thereunder.
3. The Cabinet functions described in the attached Scheme A are hereby allocated to the Member of the Cabinet who is specified in Scheme A in respect of each function or, if

the specified Member of the Cabinet is absent or otherwise unable to act, to the Member of the Cabinet who is designated in Scheme A to act in his or her place.

4. None of the Cabinet functions so allocated may be discharged by the specified Member of the Cabinet unless there has been prior consultation with the Council Member or Members and/or the Council Officer or Officers specified in Scheme A in respect of that function.
5. Member of the Cabinet with a personal interest in a matter in relation to which they are empowered to make a decision in accordance with the functions hereby allocated to them must notify the Council's Monitoring Officer of the existence and nature of the interest and, unless they have been granted a dispensation by the Council's Standards Committee entitling them to make the decision notwithstanding the existence of the personal interest, must withdraw from involvement in the decision and refer the matter for decision by another Member of the Cabinet empowered to make the decision or by the Cabinet.
6. Member of the Cabinet making decisions in accordance with the functions hereby allocated to them:
  - (a) must do so on the basis of the merits of the circumstances involved and the public interest;
  - (b) must have regard to any relevant advice provided by Council Officers, in particular by:
    - (i) the Council's Chief Finance Officer acting in pursuance of that Officer's duties under Section 114 of the Local Government Finance Act 1988;
    - (ii) the Council's Monitoring Officer acting in pursuance of that Officer's duties under Section 5 of the Local Government and Housing Act 1989;
    - (iii) the Solicitor to the Council (if not also the Monitoring Officer), who should be consulted when there is any doubt as to the Council's power to act, or as to whether the action proposed lies within the policy framework agreed by the Council; where the legal consequences of action or failure to act by the Council might have important repercussions;
  - (c) must comply with any conditions or restrictions on the exercise of their discretion which have been laid down either by the Council or the Cabinet; and
  - (d) must take account of any previous decision of the Council or the Cabinet on any relevant policies or procedures.
7. In discharging the Cabinet functions allocated to them Members of the Cabinet shall comply with the Council's Procurement and Contracting Procedure Rules in Section 18 and Financial Procedure Rules in Section 17 of the Council's Constitution, and shall not discharge any function if to do so would have the effect of:
  - (a) causing revenue expenditure to be incurred, unless it is incurred in accordance with the Council's approved revenue estimates or the provisions relating to virement contained in the Financial Procedure Rules; or

- (b) causing capital expenditure to be incurred, other than capital expenditure on the acquisition of land or on preliminary or design work or in connection with a scheme which appears in the Council's approved capital estimates.
- 8. The allocation of a Cabinet function to a Member of the Cabinet shall in each case include the power to utilise on the Cabinet's behalf any statutory power available to the Council as a local authority that will facilitate the discharge of the allocated function.
- 9. Any Member of the Cabinet to whom a Cabinet function is allocated may decline to make a decision in connection with the discharge of that function in relation to any particular matter and may instead refer the matter for decision to the Cabinet.
- 10. The Council's Chief Finance Officer and/or the Council's Monitoring Officer may require any Member of the Cabinet to cease to discharge all or any of the Cabinet functions allocated to that Member pending a report to the next meeting of the Cabinet.
- 11. Unless it is inappropriate to do so for reasons of urgency specified in the written statement referred to in paragraph 12 below, before making a decision in connection with the discharge of any of the functions described in the attached Schedule the Member of the Cabinet proposing to make the decision shall:
  - (a) instruct the proper officer for the time being appointed by the Council to prepare a written summary containing all the information required to be included in the written statement referred to in paragraph 12 below, other than the date of the proposed decision, and to make the statement available for inspection by Council Members generally;
  - (b) not make a final decision in discharge of the allocated Cabinet function until a period of five working days shall have elapsed from the date on which the written summary was first made available for inspection by Council Members generally, excluding the day on which it was first made so available;
  - (c) take into consideration, in addition to the views expressed by the Council Member(s) and/or Council Officer(s) specified as consultee(s) in the attached Schedule, any views expressed by any Council Member in relation to the proposed decision prior to making a final decision.
- 12. As soon as practicable after a Member of the Cabinet has made a decision in connection with the discharge of a Cabinet function allocated to him/her under this Scheme the Member of the Cabinet shall instruct the proper officer to produce a written statement of that decision which includes the following information:
  - (a) the date on which the statement is publicised in accordance with paragraph 15 below;
  - (b) a record of the decision including the date it was made;
  - (c) a record of the reasons for the decision;
  - (d) a record of any interest declared by any Member of the Cabinet who is consulted by the Member of the Cabinet discharging the allocated function in relation to the decision and of any interest declared by any Member of the Cabinet who would have been the decision-maker except for the declaration of such an interest;

- (e) in respect of any declared interest a note of any dispensation granted by the Council's Standards Committee;
  - (f) details of any consultation undertaken in accordance with the Council's Procedural Rules and Constitution and where such consultation has not taken place the reasons why that is the case;
  - (g) a record of any reasons for urgency which led to the implementation of the decision before the preparation of the written statement or after the preparation of the statement but before the expiry of 5 working days after the publication of the decision;
  - (h) a statement that the decision will take effect, and may then be implemented, on the expiry of 5 working days after the publication of the decision unless the proposed decision is called in.
13. The written statement of a decision made by a Member of the Cabinet in connection with the discharge of a Cabinet function allocated to him/her shall be signed by the Member of the Cabinet making the decision.
  14. The written statement of a decision made by a Member of the Cabinet in connection with the discharge of a Cabinet function allocated to him/her shall be retained by the proper officer for a period of six years from the date of the decision.
  15. As soon as reasonably practicable after a decision is made by a Member of the Cabinet in connection with the discharge of a Cabinet function allocated to him/her copies of the written statement of that decision shall be publicised by being:
    - (a) made available by the proper officer for inspection by Council Members generally;
    - (b) made available by the proper officer for public inspection provided the statement does not contain "exempt information" of any of the descriptions in Schedule 12A of the Local Government Act 1972 or "confidential information" as defined in Section 100A(3) of the said Act;
    - (c) sent by the proper officer to the Council Member(s) and/or Council Officer(s) who were required to be consulted before the decision was made;
    - (d) sent by the proper officer to the Chairperson of the relevant Scrutiny Committee.
  16. A decision made by a Member of the Cabinet in connection with the discharge of a Cabinet function allocated to him/her (other than an urgent decision to which the call-in procedure contained in the Scrutiny Procedure Rules in Section 7 of the Council's Constitution does not apply) shall not take effect until a period of 5 working days after the publication of the written statement of the decision has elapsed and unless the decision has not during that period been objected to and called in by a Scrutiny Committee. If a decision is so objected to and called in it shall take effect if at all in accordance with the Scrutiny Procedure Rules.
  17. The written statement of a decision made by a Member of the Cabinet in the discharge of a Cabinet function allocated to him/her which has taken effect shall be formally



reported by the proper officer to the Cabinet as soon as reasonably practicable after the decision takes effect.

18. In the event of a Member of the Cabinet to whom a Cabinet function is allocated by this Scheme being unable for whatever reason to discharge that function, and the Member of the Cabinet who is authorised by Scheme A to discharge that function in his/her place also being unable to discharge that function, the Member of the Cabinet to whom the function is allocated may arrange for its discharge by a Council Officer designated in writing by him or her.
19. In the event of any Council Member or Council Officer who is designated in the attached Schedule as a consultee being absent or for any other reason being unable to act as such the Council Member or Council Officer may nominate in writing another Council Member or Council Officer (as the case may be) to act as consultee in his/her place.
20. Each written designation made by a Member of the Cabinet in accordance with paragraph 18 above or written nomination made by a Council Member or Council Officer in accordance with paragraph 19 above shall be retained by the proper officer for a period of six years from the date of the decision in respect of which the designation or nomination was made.

# SCHEME A - Functions

## 1. Functions allocated to each member of the Cabinet (or if any of them is absent or otherwise unable to act to the Cabinet Member with Portfolio for Governance and Resources

| Allocated Functions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Consultee(s)                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1.1 The Member of the Cabinet may make decisions on any matters falling within the Member of the Cabinet's portfolio (other than decisions which are contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the approved Budget) which, if delayed, would seriously prejudice the Council's or the public's interests. The Member of the Cabinet may also make any decision on any matter referred to him by the Deputy Chief Executive or Director responsible for the function in respect of which the decision is required where that Director does not wish to exercise the delegated power granted to him.</p> | <p>Director responsible for the function in respect of which the decision is required.</p> <p>Chief Executive</p> <p>Chief Finance Officer</p> |
| <p>1.2 To authorise the submission of applications for grant aid to the Welsh Government and other appropriate bodies for purposes connected with matters falling within the Member of the Cabinet's portfolio provided that such application is in accordance and complies with the Council's External Funding Policy.</p>                                                                                                                                                                                                                                                                                                                                 | <p>Director responsible for the service in respect of which the application is proposed to be submitted;</p> <p>Chief Finance Officer</p>      |
| <p>1.3 To authorise the acceptance of grant aid from the Welsh Government or other appropriate bodies for purposes connected with matters falling within the Member of the Cabinet's portfolio.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>Director responsible for the service in respect of which the application is proposed to be submitted;</p> <p>Chief Finance Officer</p>      |
| <p>1.4 In respect any proposed contract relating to Council services falling within the Member of the Cabinet's portfolio having an estimated value exceeding Level 'C' but not exceeding Level 'D':</p> <p>(1) To authorise the invitation of tenders; and</p> <p>(2) To accept the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council.</p>                                                                                                                                                                                                                   | <p>Director responsible for the service in respect of which the contract is to be concluded;</p> <p>Chief Finance Officer,</p>                 |
| <p>1.5 In respect of any proposed contract relating to Council services falling within the Member of the Cabinet's</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p>Director responsible for the service in</p>                                                                                                 |

| Allocated Functions                                                                                                                                                                                                                                                                                                                                                                                                                         | Consultee(s)                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <p>portfolio having an estimated value exceeding Level 'C' but not exceeding Level 'D' to accept a tender other than the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council where there are special reasons approved by the Chief Finance Officer for not accepting the lowest tender or the highest tender as the case may be.</p>            | <p>respect of which the contract is to be submitted.</p> <p>Chief Finance Officer</p>                                                     |
| <p>1.6 In connection with services falling within the Member of the Cabinet's portfolio to authorise the submission of tenders for the supply of goods, works or services to another local authority or a public body in accordance with the powers conferred upon the Council by the Local Authorities (Goods and Services) Act 1970 where the estimated value of the proposed tender exceeds Level 'C' but does not exceed Level 'D'.</p> | <p>Director responsible for the service in respect of which the application is proposed to be submitted;</p> <p>Chief Finance Officer</p> |
| <p>1.7 To authorise the disposal of surplus goods acquired in connection with services falling within the Member of the Cabinet's portfolio having an estimated total value exceeding Level 'C' but not exceeding Level 'D'.</p>                                                                                                                                                                                                            | <p>Director responsible for the service in connection with which the goods were acquired;</p> <p>Chief Finance Officer</p>                |
| <p>1.8 To declare land or buildings utilised in connection with services falling within the Member of the Cabinet's portfolio surplus to the requirements.</p>                                                                                                                                                                                                                                                                              | <p>Director responsible for the service in connection with which the land or buildings were formerly utilised.</p>                        |
| <p>1.9 To approve:</p> <p>(1) Fees and charges for new services in accordance with any relevant charging policy approved by the Cabinet; and</p> <p>(2) Increases in existing fees and charges which are in accordance with any relevant charging policy approved by the Cabinet, and which are necessary to reflect either inflation or other increases in costs.</p>                                                                      | <p>Director responsible for the service in respect of which the fees and charges are payable;</p> <p>Chief Finance Officer</p>            |
| <p>1.10 To approve applications for grants to voluntary organisations in accordance with any policy approved from time to time by the Council or the Cabinet where the amount of the grant exceeds £10,000 provided that such application is in accordance and complies with the Council's External Funding Policy.</p>                                                                                                                     | <p>Director responsible for the service in respect of which the application is proposed to be submitted;</p> <p>Chief Finance Officer</p> |

## **2. Function allocated to member(s) of the Cabinet with portfolio for Governance and Resources**

| <b><u>Allocated Functions</u></b>                                             | <b><u>Consultee(s)</u></b> |
|-------------------------------------------------------------------------------|----------------------------|
| 2.1 To authorise the exercise of rights of pre-emption vested in the Council. | Chief Finance Officer      |

## **3. Functions allocated the Cabinet Member with Portfolio for Neighbourhood Services**

| <b><u>Allocated Functions</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b><u>Consultee(s)</u></b>                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|
| 3.1 (a) To approve the making of applications for orders in pursuance of Section 116 of the Highways Act 1980 and Sections 247, 248 and 249 of the Town and Country Planning Act 1990 and to approve the making, modification or variation of orders in pursuance of any provision contained in the following enactments (or any statutory modification, re-enactment or amendment thereof):<br><br>Road Traffic Regulation Act 1984;<br>Road Traffic Regulation (Special Events) Act 1994;<br>Town Police Clauses Act 1847; | Deputy Chief Executive or Director of Neighbourhood Services     |
| (b) To confirm, where the Council has power to do so, any proposed Order made in accordance with paragraph (a) above to which there are no objections or in respect of which any objections made are withdrawn;                                                                                                                                                                                                                                                                                                              |                                                                  |
| (c) Where the Council does not have power to determine any proposed Order to refer the proposed Order to such determining body (i.e., the Welsh Government, the Magistrate's Court or the County Court) as is appropriate in the circumstances.                                                                                                                                                                                                                                                                              |                                                                  |
| 3.2 To decide the name and/or numbering of a street, or to change or alter the name and/or numbering of a street, in accordance with the relevant provisions of the Town Improvement Clauses Act 1847 and the Public Health Act 1925, and to authorise any action considered appropriate as a result of making such a decision.                                                                                                                                                                                              | Deputy Chief Executive or the Director of Neighbourhood Services |
| 3.3 To determine requests for the use of Council car parks for purposes not authorised by the relevant Off-Street Parking Places Order and to suspend the use of any parking place or part thereof when considered appropriate.                                                                                                                                                                                                                                                                                              | Deputy Chief Executive or the Director of Neighbourhood Services |

## **4. Functions allocated to the Cabinet Member with Portfolio for Social Services**

| <b>Allocated Functions</b>                                                                                                                                                                                                     | <b>Consultee(s)</b>                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| 4.1 To approve increases in the Council's Standard Price Schedule relating to placements in Independent Sector Residential and Nursing Care Homes which are necessary to reflect either inflation or other increases in costs. | Chief Executive or the Director of Social Services |
| 4.2 To approve increases in the rates of grants and allowances for Children and Young People in Foster and Residential Care which are necessary to reflect either inflation or other increases in costs.                       | Chief Executive or the Director of Social Services |

## **SECTION 14**

### **APPENDIX 4**

#### **OFFICER SCHEMES OF DELEGATIONS**

The purpose of this Section of the Constitution is to bring together delegations to Officers and roles and responsibilities of Officers.

##### **1.01 GOVERNING PRINCIPLES**

- (a) Any Officer exercising delegated functions
  - (i) shall comply with
    - the Council's Constitution
    - all relevant resolutions, orders and directions of the Council and/or the Cabinet and/or any Committee or Sub-Committee, in so far as these comply with the Council's Constitution
    - the Budget and Policy Framework.
  - (ii) whenever appropriate shall consult
    - Officers in other Services before discharging any functions which affects services or activities for which the latter is responsible, and in particular shall consider and consult in relation to the legal, financial, property or personnel implications of discharging the functions
    - the Chief Executive where corporate issues are involved.
  - (iii) shall act only within the budgets approved by the Council, as amended by virement approved under the Constitution subject to any variation which is permitted by the Council's Constitution.
- (b) Each Officer exercising delegated powers shall maintain close liaison with the appropriate Member of the Cabinet or Regulatory Committee Chairperson or Vice-Chairperson or the Chief Executive, or Deputy Chief Executive in respect of any matter which in the opinion of the Officer might be regarded as sensitive or contentious.
- (c) The delegations under these arrangements shall in addition to and not in derogation from those contained elsewhere in the Council's Constitution.
- (d) The Cabinet or a Regulatory Committee to which functions are delegated may delegate any of such functions to an Officer on such terms as they think fit. However, such further delegation shall be subject to the same conditions as relate to the Cabinet or Regulatory Committees.
- (e) Any reference to any Act, Order, regulation rule or by-law shall be deemed to include a reference to any amendment, replacement, extension or re-enactment of it.

- (f) Subject to the previous provisions of these Governing Principles and to any other provisions which might have been or might in future be applied in respect of any particular matter Officers exercising delegated powers are expected to make such decisions to initiate such action as they deem necessary in the interests of the efficient running of their departments and the functions discharged by them within the objectives, policies, budgets and programmes of the Council.
- (g) Reference in the general principles to the Cabinet or Regulatory Committee shall be deemed to refer to any such Committees or Sub-Committees of the Cabinet or Regulatory Committees.

## **1.02 GENERAL DELEGATION: CHIEF EXECUTIVE**

- (a) Where an appointment is required (other than on an annual basis at the Annual Meeting of the Council) the Chief Executive, after agreement with the Chairperson of the Cabinet and Leaders of the Opposition Groups will have the authority to make and give effect to appointments to bodies to exercise advisory and other functions on the Council's behalf and to make appointments to outside bodies.

## **1.03 GENERAL DELEGATION: CHIEF EXECUTIVE, DEPUTY CHIEF EXECUTIVE, DIRECTORS, CHIEF FINANCE OFFICER, MONITORING OFFICER AND HEADS OF SERVICE**

- (a) The Chief Executive, Deputy Chief Executive, Directors, Chief Finance Officer, Monitoring Officer and Heads of Service shall as and when required (after agreement with the Chairperson of the Cabinet, Member of the Cabinet or the Chairperson of any relevant Committee) take all necessary steps for protecting the interests or advancing the business of the Council.
- (b) The Chief Executive, Deputy Chief Executive, Directors, Chief Finance Officer, Monitoring Officer and Heads of Service are authorised to act on behalf of the Council in relation to any matter within the service area for which he/she is responsible subject to the overriding provision in paragraph 1.03(c) of this Appendix.
- (c) Any action by the Chief Executive, Deputy Chief Executive, Directors, Chief Finance Officer, Monitoring Officer and Heads of Service under delegated powers shall be in accordance with:
  - (i) The overall policies approved by the Council or the Cabinet;
  - (ii) The Budget and Policy Framework;
  - (iii) The requirements of this Constitution including the Financial Procedure Rules and the Procurement and Contracting Procedure Rules
- (d) Each Head of Service shall have power to implement and arrange for the enforcement of legislation and other legal requirements relevant to their respective service area including the service of statutory notices and the authorisation and institution of legal proceedings in consultation with the Chief Executive or the Head of Legal or the Senior Solicitor.
- (e) Where the exercise of a delegated power is likely to affect more than one service area, consultation shall take place with the Chief Executive, Deputy or the Chief

Executive, or the Directors of the service area affected, or the Chief Finance Officer, or the Head of Service whose service area is likely to be affected.

- (f) The Chief Executive, Deputy Chief Executive, Directors, Chief Finance Officer and Heads of Service are expected in appropriate cases to:
- (i) Maintain a close liaison with the appropriate Member of the Cabinet;
  - (ii) Ensure that the Councillor(s) for the local electoral division is consulted on or advised of the exercise of delegated power;
  - (iii) Consult the Monitoring Officer and Chief Finance Officer where any matter has legal or financial implications;
  - (iv) Ensure that (where appropriate) the Chief Executive is consulted.

#### **1.04 DELEGATION TO SPECIFIC OFFICERS**

- Chief Executive
- Deputy Chief Executive
- Director of Education
- Director of Social Services
- Director of Neighbourhood Services
- Director of Governance & Resources
- Chief Finance Officer
- Monitoring Officer
- Heads of Service and other designated officers

As set out in the Scheme of Delegation in Section 14 and its appendices



## SECTION 14

### APPENDIX 4

# SCHEME B

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## SCHEME FOR THE ALLOCATION OF **CABINET FUNCTIONS** TO COUNCIL OFFICERS

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### GENERAL

- 1 In accordance with the duty to make executive arrangements placed upon it by Part II of the Local Government Act 2001 the Council has adopted Executive Arrangements and established an Executive which it has resolved to be known as “the Cabinet” and has made provision by means of this Scheme for the allocation of functions which are the responsibility of the Cabinet to Council Officers.
- 2 In this Scheme:
  - (a) “the Cabinet” means the Executive established by the Council;
  - (b) “Member of the Cabinet” means the Chairman of the Cabinet (the Leader) and the Members of the Cabinet;
  - (c) “Cabinet functions” means the functions for which the Cabinet is responsible;
  - (a) “Chief Officer” means any of the following:
    - Chief Executive;
    - Deputy Chief Executive
    - Director of Education
    - Director of Social Services
    - Director of Neighbourhood Services
    - Director of Governance & Resources
    - Chief Finance Officer
    - Monitoring Officer
  - (e) “JNC Officer” means an officer who has been designated by the Council as falling within the scope of the Joint Negotiating Committee for Chief Officers of Local Authorities;
  - (f) Words importing the singular number only shall include the plural number and vice versa;
  - (g) References to any enactment shall include any statutory modification or re-enactment thereof for the time being in force and any subordinate legislation for the time being made thereunder.

3. The Cabinet functions described in Scheme B are hereby allocated to the Council Officer(s) specified in Scheme B in respect of each Cabinet function or, if a Council Officer so specified is absent or otherwise unable to act, to the Council Officer (if any) designated in the Scheme to act in his place.
4. **Part I** of Scheme B describes the Cabinet functions so allocated to the Chief Executive, the Deputy Chief Executive, the Director of Education, the Director of Social Services, the Director of Neighbourhood Services, the Director of Governance & Resources, the Chief Finance Officer and Heads of Service which may not be discharged by the specified or designated Officer unless there has been prior consultation with the Members of the Cabinet or Members and/or the Council Officer or Officers specified in Part I of Scheme B as consultee(s) in respect of that function.
5. **Part II** of Scheme B describes the Cabinet functions so allocated to the Chief Executive, the Deputy Chief Executive, the Director of Education, the Director of Social Services, the Director of Neighbourhood Services, the Director of Governance & Resources, the Chief Finance Officer and the Heads of Service which may be discharged by the specified Officer without prior consultation.
6. **Part III** of Scheme B describes the Cabinet functions so allocated to Council Officers which may be discharged by the specified Council Officer without prior consultation.
7. Council Officers making decisions in connection with the discharge of the functions hereby allocated to them:
  - (a) must do so on the basis of the merits of the circumstances involved and the public interest;
  - (b) must have regard to any relevant advice provided by other Council Officers, in particular by:
    - (i) the Council's Chief Finance Officer acting in pursuance of that Officer's duties under Section 114 of the Local Government Finance Act 1988;
    - (ii) the Council's Monitoring Officer acting in pursuance of that Officer's duties under Section 5 of the Local Government and Housing Act 1989;
    - (iii) the Solicitor to the Council (if not also the Monitoring Officer), who should be consulted when there is any doubt as to the Council's power to act, or as to whether the action proposed lies within the policy framework agreed by the Council; where the legal consequences of action or failure to act by the Council might have important repercussions;
  - (c) must comply with any conditions or restrictions on the exercise of their discretion which have been laid down either by the Council or the Cabinet; and
  - (d) must take account of any previous decision by the Council or the Cabinet relating to any relevant policies or procedures.
8. In discharging the Cabinet functions allocated to them Council Officers shall comply with the Council's Procurement and Contracting Procedure Rules in Section 16 and Financial Procedure Rules in Section 17 of the Council's Constitution, and shall not discharge any function if to do so would have the effect of:

- (a) causing revenue expenditure to be incurred, unless it is incurred in accordance with the Council's approved revenue estimates or the provisions relating to virement contained in the Financial Procedure Rules in Section 17 of the Council's Constitution; or
  - (b) causing capital expenditure to be incurred, other than capital expenditure on the acquisition of land or on preliminary or design work or in connection with a scheme which appears in the Council's approved capital estimates.
- 9. The allocation of a Cabinet function to a Council Officer shall in each case include the power to utilise on the Cabinet's behalf any statutory power available to the Council as a local authority that will facilitate the discharge of the allocated function.
- 10. The Council Officer to whom a Cabinet function is allocated shall be appointed the Council's proper officer for the purpose of deciding whether the written record referred to in paragraph 14 below of a decision made in connection with the discharge of that function contains "exempt information" of any of the descriptions in Schedule 12A to the Local Government Act 1972 which the Cabinet is entitled to withhold from the public.
- 11. Any Council Officer to whom a function is allocated may decline to make a decision in connection with the discharge of that function in relation to any particular matter and may instead refer the matter to the Cabinet for decision.
- 12. The Council's Chief Finance Officer and/or the Council's Monitoring Officer may require any Council Officer to cease to discharge all or any of the functions allocated to that Officer pending the submission of a report to the next meeting of the Cabinet.
- 13. Before making a decision in connection with the discharge of any of the Cabinet functions listed in Part I of the Scheme B hereto (other than a proposed decision by the Chief Executive to settle civil proceedings on a consent basis or to withdraw civil or criminal proceedings) the Council Officer proposing to make the decision shall:
  - (a) prepare a written summary containing all the information required to be included in the written record referred to in paragraph 14 below, other than the date of the proposed decision, and shall send a copy of the summary to the Council's Chief Executive to enable him to make the summary available for inspection by Council Members generally;
  - (b) not make a final decision in connection with the discharge of the allocated Cabinet function until a period of five working days, excluding the day on which it was sent, shall have elapsed from the date on which the written summary was sent to the Chief Executive;
  - (c) take into consideration, in addition to the views expressed by the Council Members(s) and/or Council Officer(s) specified as consultee(s) in Part I of Scheme B hereto, any views expressed by any Council Members in relation to the proposed decision prior to making a final decision in connection with the discharge of the allocated Cabinet function.
- 14. Every Council Officer making a decision in connection with the discharge of a Cabinet function allocated to him/her under this Scheme (other than a decision involving the consideration of "personal data" as defined by Section 1(1) of the Data Protection Act

2018 held for the purposes of the Council's education, housing or social services functions) shall ensure that a written record is made:

- (a) specifying the allocated function in connection with which the decision was made and the date of the decision;
  - (b) summarising:
    - (i) the decision taken;
    - (ii) the factual information upon which it was based;
    - (iii) any advice received, whether from other officers or otherwise;
    - (iv) any persons or bodies consulted before the decision was made;
  - (c) stating whether the written record contains "exempt information" which the Cabinet is entitled to withhold from the public and, if so, specifying the relevant paragraph(s) of Part I of Schedule 12A to the Local Government Act 1972 which apply;
  - (d) stating whether the written record contains "confidential information" as defined in section 100A (3) of the Local Government Act 1972.
15. The written record of a decision made in connection with the discharge of a function allocated to a Council officer shall be signed by the Council Officer making the decision.
16. The written record of a decision made in connection with the discharge of a Cabinet function allocated to a Council Officer by virtue of this Scheme shall be retained for a period of six years from the date of the decision by the Chief Officer who made the decision or in whose directorate the Council Officer who made the decision was employed.
17. As soon as reasonably practicable after a decision is made in connection with the discharge of a Cabinet function allocated to him/her copies of the written record of the decision shall be sent by the Council Officer who made the decision to the Chief Executive for the purpose of enabling it to be made available for inspection and perusal by Council Members generally, unless it contains "exempt information" of any of the descriptions in Schedule 12A of the Local Government Act 1972 or "confidential information" as defined in Section 100A(3) of the said Act, to be made available for public inspection.
18. As soon as reasonably practicable after a decision is made in connection with the discharge of a Cabinet function described in Part I of Scheme B hereto copies of the written record of it shall be:
- (a) sent by the Council Officer making the decision to the Council Members(s) and/or Council Officer(s) who were required to be consulted before the decision was made;
  - (b) sent by the Council Officer making the decision to the Chairperson of each of the Scrutiny Committees responsible for scrutinising decisions made in connection with the discharge of the Cabinet function in respect of which the decision was made;
  - (c) formally reported to the Cabinet by the Council Officer making the decision or his/her Director.

19. In the event of any Council Members or Council Officer who is designated in Part I of the Scheme B hereto as a consultee being absent or for any other reason being unable to act as such the Council Members or Council Officer concerned may nominate in writing another Council Members or Council Officer to act as consultee in his/her place.
20. Each written nomination made by a Council Members or Council Officer in accordance with paragraph 19 above shall be retained for a period of six years from the date of the decision in respect of which the nomination was made by the Chief Officer who made the decision or in whose directorate the Council Officer who made the decision was employed.

## SECTION 14

### APPENDIX 4

# SCHEME B

## PART I

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**CABINET FUNCTIONS** ALLOCATED TO THE CHIEF EXECUTIVE, THE DEPUTY CHIEF EXECUTIVE, THE DIRECTOR OF EDUCATION, THE DIRECTOR OF SOCIAL SERVICES, THE DIRECTOR OF NEIGHBOURHOOD SERVICES, THE DIRECTOR OF GOVERNANCE AND RESOURCES, THE CHIEF FINANCE OFFICER AND HEADS OF SERVICE WHICH MAY NOT BE DISCHARGED UNLESS THERE HAS BEEN PRIOR CONSULTATION WITH SPECIFIED COUNCIL MEMBER(S) AND/OR COUNCIL OFFICER(S)

---

### CHIEF EXECUTIVE

1. Functions allocated to the Chief Executive (or if he/she is absent or otherwise unable to act) to the Head of Legal Services.

| Allocated Functions                                                                                                                                                | Consultee(s)                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| 1.1 To instruct counsel in relation to any legal matter which affects the Council where the cost of doing so is estimated to exceed £25,000.                       | Member of the Cabinet for Governance and Resources |
| 1.2 To engage external solicitors to act on behalf of the Council in connection with any matter where the estimated fees payable exceed £25,000.                   | Member of the Cabinet for Governance and Resources |
| 1.3 To authorise the settlement of civil proceedings on a consent basis where the amount payable by or to the Council exceeds £10,000 but does not exceed £50,000. | Member of the Cabinet for Governance and Resources |

2. Functions allocated to the Chief Executive (or if he/she is absent or otherwise unable to act) to the Director of Education or Head of Department in Education who is responsible for the aspect of the services provided by his/her department in respect of which the function is to be discharged).

|     | <b>Allocated Functions</b>                                                                                   | <b>Consultee(s)</b>                 |
|-----|--------------------------------------------------------------------------------------------------------------|-------------------------------------|
| 2.1 | To issue and serve public notice of proposals to open and to close schools and to consult on such proposals. | Member of the Cabinet for Education |
| 2.2 | To determine appeals against decisions to refuse applications for financial support by students.             | Member of the Cabinet for Education |
| 2.3 | To authorise emergency expenditure in respect of school buildings and associated services.                   | Member of the Cabinet for Education |
| 2.4 | To appoint and dismiss LA Governors                                                                          | Member of the Cabinet for Education |

## **DEPUTY CHIEF EXECUTIVE**

### **3. Functions allocated to the Deputy Chief Executive.**

|     | <b><u>Allocated Functions</u></b>                                                                                                                                                     | <b><u>Consultee(s)</u></b>                               |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 3.1 | To authorise the making of discretionary payments to applicants for Mandatory Disabled Facilities Grants, and Improvement Grants in excess of the prescribed maximum amount of grant. | Cabinet Member with Portfolio for Housing & Regeneration |
| 3.2 | To increase or decrease any of the rates payable by the Council in respect of Improvement Grant works.                                                                                | Cabinet Member with Portfolio for Housing & Regeneration |
| 3.3 | To increase the professional fees payable to agents engaged by the Council in connection with the administration of Improvement Grants.                                               | Cabinet Member with Portfolio for Housing & Regeneration |

### **4. Functions allocated to the Deputy Chief Executive (or if he/she is absent or otherwise unable to act) to the Corporate Property Group Manager**

|     | <b>Allocated Functions</b>                                                                                                                                                                                                                                                                        | <b>Consultee(s)</b>                                      |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 4.1 | To authorise the service of notices terminating leases and tenancies (including those relating to business premises covered by Part II of the Landlord and Tenant Act 1954 where it is not intended to oppose the grant of a new lease or tenancy) and of notices to remedy breaches of covenant. | Cabinet Member with Portfolio for Housing & Regeneration |
| 4.2 | To recommend the commencement of forfeiture or other legal proceedings against lessees / tenants to the Director of Governance & Resources.                                                                                                                                                       | Cabinet Member with Portfolio for Housing & Regeneration |
| 4.3 | To authorise the service of appropriate notices and counter notices and the taking of any other steps required to protect the Council's interests as lessor or lessee.                                                                                                                            | Cabinet Member with Portfolio for Housing & Regeneration |

| Allocated Functions                                                                                                                                                                                                                                                                                                                                                                                                                                  | Consultee(s)                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| <p>4.4 To authorise, and agree terms for, the disposal of land whether by way of a freehold sale or the grant of a lease in consideration of the payment of a premium:-</p> <p>(a) Having an estimated value exceeding £50,000 but not exceeding £250,000 by way of formal tender or auction; or</p> <p>(b) Having an estimated value exceeding £50,000 but not exceeding £250,000 in value otherwise than by way of a formal tender or auction.</p> | Cabinet Member with Portfolio for Housing & Regeneration |
| <p>4.5 To authorise, and approve the terms of, any lease to be granted to or by the Council in consideration of the payment of a rent, including any rent in excess of £50,000 per annum payable but not exceeding £250,000:-</p> <p>(a) by the Council; or</p> <p>(b) to the Council.</p>                                                                                                                                                           | Cabinet Member with Portfolio for Housing & Regeneration |
| <p>4.6 To authorise and agree the release of restrictive covenants in favour of or binding the Council for sums exceeding £50,000 but not exceeding £250,000.</p>                                                                                                                                                                                                                                                                                    | Cabinet Member with Portfolio for Housing & Regeneration |
| <p>4.7 To authorise and agree the terms of the surrender of leases by or to the Council including the payment or receipt of a premium exceeding £50,000 but not exceeding £250,000.</p>                                                                                                                                                                                                                                                              | Cabinet Member with Portfolio for Housing & Regeneration |
| <p><b>5. Functions allocated to the Director of Neighbourhood Services (or if he/she is absent or otherwise unable to act) to the Deputy Chief Executive</b></p>                                                                                                                                                                                                                                                                                     |                                                          |
| Allocated Functions                                                                                                                                                                                                                                                                                                                                                                                                                                  | Consultee(s)                                             |
| <p>5.1 To approve or amend programmes for the preparation of policy documents required by Part II of the Town and Country Planning Act 1990 estimated to exceed £25,000.</p>                                                                                                                                                                                                                                                                         | Cabinet Member with Portfolio for Neighbourhood Services |
| <p>5.2 To make arrangements for publicity and public consultation for all policy documents prepared under the requirements of Part II of the Town and Country Planning Act 1990.</p>                                                                                                                                                                                                                                                                 | Member of the Cabinet for Neighbourhood Services         |
| <p>5.3 To make arrangements for publicity and public consultation for all Council policy documents relating to Local Agenda 21, Biodiversity and Urban Renewal.</p>                                                                                                                                                                                                                                                                                  | Member of the Cabinet for Neighbourhood Services         |



| <b>Allocated Functions</b>                                                                                                                                                                                                                                                            | <b>Consultee(s)</b>                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 5.4 Upon consultation to provide formal observations, including, where appropriate, objections, to neighbouring planning authorities in respect of documents prepared by them to meet requirements of Part II of the Town and Country Planning Act 1990.                              | Member of the Cabinet for Neighbourhood Services |
| 5.5 To discuss and express views on behalf of the Council on the development of Strategic Planning Guidance for South-East Wales and Waste Planning Policy for South-West Wales with other persons and bodies involved in the formulation of national and regional planning policies. | Member of the Cabinet for Neighbourhood Services |
| 5.6 To provide observations on behalf of the Council to Welsh Government upon proposals to amend "Planning Guidance Wales" and related Technical Advice Notes.                                                                                                                        | Member of the Cabinet for Neighbourhood Services |
| 5.7 To provide observations on behalf of the Council to the appropriate Government Department upon proposals to amend national planning and environmental policy.                                                                                                                     | Member of the Cabinet for Neighbourhood Services |
| 5.8 In conjunction with the Deputy Chief Executive to approve service level agreements with Natural Resources Wales, Glamorgan Gwent Archaeological Trust, Groundwork Merthyr Tydfil and Rhondda Cynon Taf and Coed Cymru.                                                            | Member of the Cabinet for Neighbourhood Services |
| 5.9 To initiate projects for environmental education improvement and management within the County Borough.                                                                                                                                                                            | Member of the Cabinet for Neighbourhood Services |
| 5.10 To make arrangements for publicity and public consultation for all Council Policy Documents relating to countryside access and management and building conservation.                                                                                                             | Member of the Cabinet for Neighbourhood Services |
| 5.11 To authorise the service of Building Preservation Notices on the owners and occupiers of buildings pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 3 and 4.                                                                                | Member of the Cabinet for Neighbourhood Services |
| 5.12 To make arrangements for publicity and public consultation on projects for environmental education, improvement and management within the County Borough.                                                                                                                        | Member of the Cabinet for Neighbourhood Services |
| 5.13 To increase or decrease the fees chargeable under the Building Regulations by not more than 10%.                                                                                                                                                                                 | Member of the Cabinet for Neighbourhood Services |

**6. Functions allocated to the Director of Neighbourhood Services (or if he/she is absent or otherwise unable to act) to the Deputy Chief Executive.**

| <b>Allocated Functions</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>Consultee(s)</b>                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 6.1 To authorise the carrying out of Land Reclamation and Land Drainage schemes not exceeding an estimated value of £250,000.                                                                                                                                                                                                                                                                                                                                                                                                                        | Member of the Cabinet for Neighbourhood Services, |
| 6.2 To enter into agreements to enable highways to become maintainable at the public expense in accordance with Part IV of the Highways Act 1980.                                                                                                                                                                                                                                                                                                                                                                                                    | Member of the Cabinet for Neighbourhood Services, |
| 6.3 To authorise the making of Orders relating to highways (other than Orders relating to the creation, stopping up or diversion of public footpaths and bridleways) and the modification or variation thereof in accordance with the provisions contained in the following enactments:<br><br>Highways Act 1980;<br>Road Traffic Act 1991;<br>Road Traffic Regulation Act 1984;<br>Road Traffic Regulation (Special Events) Act 1994;<br>Town and Country Planning Act 1990;<br>Town Police Clauses Act 1847;<br>Wildlife and Countryside Act 1981. | Member of the Cabinet for Neighbourhood Services, |

**7. Functions allocated to the Deputy Chief Executive (or if he/she is absent or otherwise unable to act) to the Head of Local Resilience**

| <b><u>Allocated Functions</u></b>                                                                                                                                          | <b><u>Consultee(s)</u></b>                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| 7.1 To make a decision upon any matter relating to the Council's emergency planning functions which, for reasons of urgency, cannot await the next meeting of the Cabinet. | Member with Portfolio Public Protection & Crime and Disorder |

**8. Functions allocated to the Director of Neighbourhood Services (or if he/she is absent or otherwise unable to act) to the Deputy Chief Executive**

| <b>Allocated Functions</b>                                                                                                                     | <b>Consultee(s)</b>                              |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 8.1 To authorise the carrying out of civic amenity schemes.                                                                                    | Member of the Cabinet for Neighbourhood Services |
| 8.2 To discuss and express views on behalf of the Council on the development of strategic waste planning policies at inter-authority meetings. | Member of the Cabinet for                        |

| <b>Allocated Functions</b> |                                                                                                                                                            | <b>Consultee(s)</b>                              |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
|                            |                                                                                                                                                            | Neighbourhood Services                           |
| 8.3                        | To initiate projects of Sustainable Waste Management within the County Borough.                                                                            | Member of the Cabinet for Neighbourhood Services |
| 8.4                        | To make arrangements for publicity for and public consultation on all waste policy documents.                                                              | Member of the Cabinet for Neighbourhood Services |
| <b>9.</b>                  | <b>Functions allocated to the Deputy Chief Executive (or if he/she is absent or otherwise unable to act) to the Director of Governance &amp; Resources</b> |                                                  |
| <b>Allocated Functions</b> |                                                                                                                                                            | <b>Consultee(s)</b>                              |
| 9.1                        | To increase or decrease any of the fees and charges levied within Council leisure premises to positively promote recreation and sports facilities.         | Member with Portfolio for Housing & Regeneration |

#### **CHIEF FINANCE OFFICER**

##### **10. Function allocated to the Chief Finance Officer (or if he/she is absent or otherwise unable to act) to the Deputy Chief Executive**

| <b>Allocated Functions</b> |                                                                                                                                                               | <b>Consultee(s)</b>                                |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| 10.1                       | To review the prescribed limits of financial assistance provided under the grant schemes operated by the Council pursuant to its economic development powers. | Member of the Cabinet for Governance and Resources |

#### **CHIEF EXECUTIVE, THE DEPUTY CHIEF EXECUTIVE, THE DIRECTOR OF EDUCATION, THE DIRECTOR OF SOCIAL SERVICES, THE DIRECTOR OF NEIGHBOURHOOD SERVICES, THE DIRECTOR OF GOVERNANCE & RESOURCES AND THE CHIEF FINANCE OFFICER**

##### **11. Functions delegated to the Chief Executive, Deputy Chief Executive, Director of Education, Director of Social Services, Director of Neighbourhood Services, Director of Governance & Resources, Chief Finance Officer but if any of these chief officers is absent or otherwise unable to act:**

- (a) To the Deputy Chief Executive in consultation with the Chief Finance Officer if the Chief Officer who would normally discharge the function is the Chief Executive; or

- (b) To the Heads of Service responsible for the service in connection with which the function is to be discharged in the case of any other chief officer

| Allocated Functions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Consultee(s)                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 11.1 In respect of any proposed contract relating to services for which the Chief Officer concerned is responsible and which have an estimated value exceeding Level 'C' but not exceeding Level 'D':                                                                                                                                                                                                                                                                                                                                      | The Member/ss of the Cabinet responsible for the service in respect of which the contract is to be concluded;                            |
| (1) To authorise the invitation of tenders; and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                          |
| (2) To accept the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council.                                                                                                                                                                                                                                                                                                                                                                         | Chief Finance Officer                                                                                                                    |
| 11.2 In respect of any proposed contract relating to services for which the Chief Officer concerned is responsible and which have an estimated value exceeding Level 'C' but not exceeding Level 'D' to accept a tender other than the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council where there are special reasons approved by the Chief Finance Officer for not accepting the lowest tender or the highest tender as the case may be. | The Members of the Cabinet responsible for the service in respect of which the contract is to be concluded;<br><br>Chief Finance Officer |

## DEPUTY CHIEF EXECUTIVE AND THE HEAD OF PUBLIC PROTECTION

### 12. Functions allocated to the Deputy Chief Executive and the Head of Public Protection

| Allocated Functions                                                                                                                                                                                                                   | Consultee(s)                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 12.1 To amend any condition adopted by the Council in relation to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.                                                                                                     | Member of the Cabinet responsible for Licensing                                        |
| 12.2 To take all steps to facilitate an Enforced Sale under the Law of Property Act 1925 to include the serving of notices pursuant to s103 of the Law of Property Act 1925 and the issue of a sealed resolution to the Land Registry | Member of the Cabinet responsible for Public Protection and the Head of Legal Services |

SECTION 14

APPENDIX 4

# SCHEME B

PART II

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**CABINET FUNCTIONS** ALLOCATED TO THE CHIEF EXECUTIVE, THE DEPUTY CHIEF EXECUTIVE, THE DIRECTOR OF EDUCATION, THE DIRECTOR OF SOCIAL SERVICES, THE DIRECTOR OF NEIGHBOURHOOD SERVICES, THE DIRECTOR OF GOVERNANCE & RESOURCES AND THE CHIEF FINANCE OFFICER AND HEADS OF SERVICE WHICH MAY BE DISCHARGED WITHOUT PRIOR CONSULTATION

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1. **Functions allocated to each Director save for the Monitoring Officer (or if the Director is absent or otherwise unable to act):**
  - (a) To the Chief Executive in consultation with the Chief Finance Officer if the chief officer who would normally discharge the function is the Chief Executive; or
  - (b) To the Head of Service responsible for the service in connection with which the function is to be discharged in the case of any other Director.

**Allocated Functions**

- 1.1 To authorise the submission of applications for grant aid to the Welsh Government and other appropriate bodies for purposes connected with matters falling within the Member of the Cabinet's portfolio for which the Director is responsible where the amount of the grant to be applied for is not estimated to exceed £150,000 provided that such application is in accordance and complies with the Council's External Funding Policy.
- 1.2 To authorise the disposal of surplus goods acquired in connection with services for which the Director is responsible having an estimated total value not exceeding £150,000 in consultation with the Chief Finance Officer.
- 1.3 To exercise the powers conferred upon them under the Council's Disciplinary and Grievance Procedures.

## **Allocated Functions**

- 1.4 To invite tenders for any contract having an estimated value not exceeding Level 'C' and:
  - (a) to accept the lowest tender received where payment is to be made by the Council and the highest tender received where payment is to be received by the Council; or
  - (b) to accept a tender other than the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council where there are special reasons approved by the Chief Finance Officer for not accepting the lowest tender or the highest tender as the case may be.
- 1.5 To authorise the submission of tenders for the supply of goods, works or services to another local authority or a public body in accordance with the powers conferred upon the Council by the Local Authorities (Goods and Services) Act 1970 where the estimated value of the proposed tender does not exceed Level 'C'.
- 1.6 To respond to government papers and circulars relating to matters within their respective areas of responsibility.
- 1.7 To approve amendments to existing staffing structures (other than directorate, departmental or other divisional reviews of establishment) which can be funded within existing budgets and/or with the benefit of any additional funding receivable.
- 1.8 To determine applications by staff for special leave of absence.
- 1.9 To authorise surveillance in accordance with the requirements of the Regulation of Investigatory Powers Act 2000 in consultation with the relevant Manager (unless it has been delegated elsewhere in the scheme of delegation).and in accordance with the Councils Regulation of Investigatory Powers Act policy.
- 1.10 To approve honoraria and additional duties payments provided they can be funded within existing budgets and/or with the benefit of any additional funding receivable.

## **2.0 Functions allocated to the Chief Finance Officer and to the Deputy Chief Executive.**

### **Allocated Functions**

- 2.1 To approve applications by eligible businesses for financial assistance under the grant schemes operated by the Council pursuant to its economic development powers.
- 2.2 To authorise expenditure upon marketing and participation in appropriate economic development activities and events.
- 2.3 To determine applications for grant assistance under the Inner Urban Areas Act 1978 for improvements to properties in Industrial and Commercial Improvement Areas in accordance with the rules approved by or on behalf of the Council.

## **3.0 Functions allocated to the Chief Executive, Deputy Chief Executive, Director of Education, Director of Social Services, Director of Neighbourhood Services, Director of Governance & Resources, and to the Chief Finance Officer**

### **Allocated Functions**

- 3.1 To institute the commencement of criminal proceedings in respect of the Council Tax Reduction Scheme in consultation with the Chief Executive or the Head of Legal Services.
- 3.2 In consultation with the Chief Executive and Monitoring Officer to consider referring cases of financial impropriety by Council staff or elected Members to the Police for investigation.
- 3.3 To determine applications from persons or bodies for financial assistance which no other officer has been delegated the power to determine.
- 3.4 To authorise and approve agreed BIFFA schemes submitted in accordance with Council policy where all Electoral Divisional Councillors have agreed the allocation

## **4. Functions allocated to the Deputy Chief Executive and the Director of Governance & Resources.**

### **Allocated Functions**

- 4.1 To determine applications by tenants for the Council's consent as landlord for:
  - (a) the assignment of their leasehold or contractual interests;
  - (b) the subletting or parting with possession of the whole or part of the premises let;
  - (c) the change of use of the premises let provided the proposed use:
    - (i) falls within the same use class as defined in the Town and Country Planning (Use Classes) Order 1987 as the current use or
    - (ii) is a change of use for which planning permission has been granted either specifically or by the Town and Country Planning (General Permitted Development) Order 1995.subject to any arrears of rent being paid and any other breaches of covenant being remedied;
  - (d) the creation of a mortgage or charge over their leasehold interests;
  - (e) the making of internal and external alterations and the erection of additions and extensions subject to the tenant obtaining all necessary statutory consents and complying with such other conditions as may be considered appropriate.
- 4.2 To authorise the grant of a lease, tenancy or secure contract under the Renting Homes (Wales) Act 2016 or in circumstances in which the identity of the proposed tenant has changed since the terms of the transaction were approved by or on behalf of the Council.
- 4.3 To authorise and agree terms for the letting of all properties by or to the Council (including the rent payable) at a rent not exceeding £50,000 per annum.

## **Allocated Functions**

- 4.4 To approve the settlement of statutory compensation claims.
- 4.5 To appoint Estate Agents to market for sale Council land or property.
- 4.6 To authorise, and where appropriate accept terms for, the disposal of land or buildings having an estimated value not exceeding £150,000 by way of tender or auction.
- 4.7 To authorise, and agree terms for, the disposal of land or buildings having an estimated value not exceeding £150,000 otherwise than by way of tender or auction.
- 4.8 To authorise, and agree terms for, the acquisition of land or buildings in connection with a scheme which appears in the Council's approved capital estimates.
- 4.9 To agree the terms of all rent reviews relating to properties leased by and to the Council or subject to a secure contract where the Council is landlord pursuant to The Renting Homes (Wales) Act 2016.
- 4.10 To decide that the rent review provisions contained in a lease or secure contract of property in the Council's ownership should not be implemented when a rent review is deemed inappropriate due to special circumstances.
- 4.11 To agree terms for the renewal of all leases and secure contracts granted by or to the Council.
- 4.12 To authorise and agree terms for the grant of easements and wayleaves and of licences to occupy land by or to the Council.
- 4.13 To make planning applications in respect of land which the Council is proposing to dispose of.
- 4.14 To arrange for title indemnity insurance to be effected in suitable circumstances
- 4.15 To authorise the service of notices terminating leases, tenancies (including those of business premises covered by Part II of the Landlord and Tenant Act 1954) or secure contracts where the Council does not oppose the grant of a new lease, tenancy or secure contract.
- 4.16 To determine and approve applications for the transfer of Council mortgages and applications by mortgagors for the release of a part of a mortgaged property from the mortgage.
- 4.17 To grant consent for properties to be extended as a condition of sale under the Rights to Buy provisions of the Housing Act.
- 4.18 To authorise and agree terms for settling rating appeals submitted by or on behalf of the Council.
- 4.19 To authorise and agree the release of restrictive covenants in favour of or binding the Council for sums up to a limit of £50,000.
- 4.20 To authorise and agree terms for the surrender of leases or secure contracts by or to the Council, including the payment or receipt of a premium not exceeding £50,000.



### **Allocated Functions**

- 4.21 To authorise and agree terms for the resolution of dilapidation claims made by or against the Council.
- 4.22 To authorise and agree terms for the acquisition of land or buildings having an estimated capital or annual value not exceeding £50,000.
- 4.23 To approve the variation of existing lease terms.
- 4.24 To exercise the powers conferred upon the Council under the Commons Act 1899 or any other statutory provision in respect of regulated commons, other than the power to make, revoke or alter any byelaws.

## **5. Functions allocated to the Chief Executive and to the Head of Legal Services.**

### **Allocated Functions**

- 5.1 To institute and defend all civil and criminal proceedings (including appeals) on behalf of the Council, including proceedings in respect of which any other Council officer has been allocated a similar function, and to take any other steps in connection with the conduct of proceedings as he deems appropriate, including their withdrawal or discontinuance.
- 5.2 To authorise the settlement of proceedings on a consent basis where the amount payable by or to the Council does not exceed £10,000.
- 5.3 Without prejudice to the generality of the power delegated by paragraph 5.1 above to take any steps necessary to secure the removal of trespassers on land occupied by the Council and to issue directions in circumstances in which such a power is given to a local authority by the Criminal Justice and Public Order Act 1994.
- 5.4 To instruct Counsel or to engage external solicitors in connection with any legal matter affecting the Council where the estimated cost of so doing does not exceed £10,000.
- 5.5 To institute and conduct legal proceedings on behalf of any Council employee assaulted or threatened with assault during the course of his/her employment.
- 5.6 To authorise any member of staff to appear on behalf of the Council in county court or magistrates' court proceedings in accordance with Section 60 of the County Court Act 1984, Section 27 of the Courts and Legal Services Act 1990 and Section 223 of the Local Government Act 1972.
- 5.7 To authorise any member of staff to make statements of truth, to swear affidavits and to make statutory declarations on behalf of the Council.
- 5.8 To issue and serve Notices to Treat, Notices of Entry, Warrants for Possession and any other notices of whatever kind which may be necessary to give effect to a confirmed Compulsory Purchase Order made by the Council and to refer any dispute as to the compensation payable on compulsory acquisition to the Lands Tribunal.

### **Allocated Functions**

- 5.9 To give any certificate or notice required for the purpose of registering any statutory or other charge at H. M. Land Registry on behalf of the Council.
- 5.10 To take appropriate action to enforce any statutory charge over premises existing in the Council's favour.
- 5.11 To issue and serve notices terminating leases, tenancies (including those of business premises covered by Part II of the Landlord and Tenant Act 1954), secure contracts made under the Renting Homes (Wales) Act 2016 and notices to remedy breaches of covenant.
- 5.12 To issue and serve appropriate notices and counter notices to protect the Council's interests as either lessor or lessee or as landlord in a secure contract.
- 5.13 To approve requests for consent to the transfer of mortgage interests when satisfied that the transferee has sufficient resources to meet the mortgage repayments and the mortgage account is clear of arrears.
- 5.14 To issue and serve statutory notices requisitioning information in respect of interests in and/or the use of land.
- 5.15 To issue and serve any notices which the Council is entitled to serve under any contract as employer.
- 5.16 To exercise any powers available to the Council under the provisions of any contract relating to the determination or forfeiture of the contract.
- 5.17 To issue and serve Advance Payments Code Notices in accordance with the Highways Act 1980.
- 5.18 To maintain and keep under review a list of Proper Officer functions.

**6. Functions allocated to the Chief Executive (or if he/she is absent or otherwise unable to act) to the Director of Education or the Head of Department who is responsible for the aspect of the services provided by his/her department in respect of which the function is to be discharged).**

### **Allocated Functions**

- 6.1 To institute proceedings for failures in school attendance pursuant to Section 444 of the Education Act 1996
- 6.2 To approve, following appropriate consultation, amendments to the Council's funding formula for schools
- 6.3 To approve, following appropriate consultation, amendments to the Council's admissions policy
- 6.4 To make discretionary awards to students in circumstances falling outside normal guidelines considered by finance and awards

### **Allocated Functions**

- 6.5 To act as the designated officer under the local complaints procedure established under Section 23 of the Education Reform Act 1988
- 6.6 To determine the annual central budgets for repairs and maintenance and the school meals service
- 6.7 To determine and authorise expenditure on projects for which specific approval has been granted by the Welsh Government
- 6.8 To approve applications for grants to voluntary organisations in accordance with the policy approved by the Cabinet or the council where the amount of grant does not exceed £10,000

## **7. Functions allocated to the Deputy Chief Executive, the Director of Neighbourhood Services and the Group Leader Building Control.**

### **Allocated Functions**

- 7.1 To do anything which the Council has a power or duty to do under the provisions of the Building Regulations and of the Building Act 1994 regarding the passing (with or without conditions) or rejection of deposited plans, the giving of notices that deposited plans are of no effect and the removal or alteration of offending work.
- 7.2 To authorise the execution of work to dangerous buildings and to recover expenses incurred in accordance with the Building Act 1984, Section 77.
- 7.3 To do anything which the Council has a power or duty to do under the provisions of the following enactments or any subordinate legislation made thereunder:-

### **Provision**

### **Summary of Effect**

Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 2

Power to publish lists of listed buildings

Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 3

Power to serve notice of listing on owner and occupier

Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 54-60

Power to execute urgent works to preserve a listed building and to recover expenses

Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 57-58

Power to determine applications for grant assistance towards repair or maintenance of historic buildings

Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 76

Power to execute urgent works and preserve an unoccupied building in a conservation area and to recover expenses

Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 79-80

Power to determine applications for grant assistance towards repair or

### **Allocated Functions**

|                                |                                                                    |
|--------------------------------|--------------------------------------------------------------------|
|                                | maintenance of historic buildings in a town scheme                 |
| Building Act 1984 – Section 77 | Power to execute work to dangerous buildings and recover expenses. |
| Building Act 1984 – Section 78 | Emergency measures for dealing with dangerous structures           |

## **8. Functions allocated to the Deputy Chief Executive and/or the Director of Neighbourhood Services.**

### **Allocated Functions**

- 8.1 To take any action as is necessary to declare highways to be maintainable at the public expense including where considered appropriate accepting requests for dedication of highways.
- 8.2 To undertake and maintain all works (including alteration and removal where necessary) for highway purposes in accordance with Part V of the Highways Act 1980, and to enter into any agreements in respect of any of the works referred to in Part V of the Highways Act 1980.
- 8.3 To provide services and amenities over a highway and to give consents to other parties as to execution of works and use of objects in accordance with Paragraph VIIA of the Highways Act 1980.
- 8.4 To take such action as is necessary to prevent or remove the unlawful interference with, annoyance or nuisance upon, or obstruction of highways including the service of relevant notices where appropriate.
- 8.5 To give consent where required for interference with or obstruction of a highway in accordance with Part IX of the Highways Act 1980.
- 8.6 To exercise all powers contained in Part XI of the Highways Act 1980 (other than the power contained in Section 205 of that Act) as to making up of Private Streets including powers to enter into agreements and the issuing of notices and determination of payments together with any consents or permissions required.
- 8.7 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby allocated to them.
- 8.8 To exercise the Council's powers under the relevant provisions of the Town Improvement Clauses Act 1847 and the Public Health Act 1925 in respect of street naming, the change or alteration of a street name and the numbering or re-numbering of a street.
- 8.9 To take such action as is necessary to stop up private means of access to the highway in accordance with Part VIII of the Highways act 1980.
- 8.10 To do anything which the Council has a power or duty to do that is necessary for the enforcement of any of the provisions contained in the enactments listed below (other

## **Allocated Functions**

than any of those provisions the enforcement of which is not a Cabinet function) to institute criminal proceedings arising from any breach of those provisions in consultation with the Head of Legal Services.

Animals Act 1971

Highways Act 1980

Land Drainage Act 1991

Mines, Quarries and Tips Act 1969

National Parks and Access to the

Countryside Act 1949 – Section 57

New Roads and Streetworks Act 1991 – Part III

Reservoir Act 1975

Road Traffic Act 1991

Road Traffic Regulation Act 1984

Road Traffic Regulation (Special Events) Act 1994

Town and Country Planning Act 1990

Town Police Clauses Act 1847

Transport Act 1985

Transport Act 2000

Wildlife and Countryside Act 1981

- 8.11 To authorise the making of emergency Traffic Orders under the Road Traffic Regulation Act 1984.
- 8.12 To make suitable contractual arrangements for the provision of school transport
- 8.13 To terminate school transport contracts in circumstances in which the contractor is in breach of contract
- 8.14 To do anything which the Council has a power or duty to do under the provisions of the following enactments or any subordinate legislation made thereunder:-

### **Provisions**

### **Summary of Effect**

Building Act 1984 – Section 77

Power to execute work to dangerous buildings and recover expenses.

Building Act 1984 – Section 78

Emergency measures for dealing with dangerous structures

Highways Act 1980 – Section 37

Provision whereby highway created by dedication may become maintainable at public expense

Highways Act 1980 - Section 38

Power of highway authorities to adopt by agreement

Highways Act 1980 – Section 57

Default powers of highways authorities in respect of non-repair of privately maintainable highways.

Highways Act 1980 – Section 59

Recovery of expenses due to extraordinary traffic

## **Allocated Functions**

|                                 |                                                                                                                                 |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Highways Act 1980 – Section 73  | Power to prescribe improvement line for widening street                                                                         |
| Highways Act 1980 – Section 74  | Power to prescribe Building Line.                                                                                               |
| Highways Act 1980 – Section 122 | Power to make temporary diversion where highway about to be repaired or widened.                                                |
| Highways Act 1980 – Section 146 | Duty to maintain stiles etc. on footpaths and bridleways.                                                                       |
| Highways Act 1980 – Section 147 | Power to authorise the erection of stiles etc. on footpaths and bridleways.                                                     |
| Highways Act 1980 – Section 278 | Contributions towards highway works by persons deriving special benefit from them.                                              |
| Highways Act 1980 – Section 286 | Power to require angles of new buildings at corners of street to be rounded off.                                                |
| Highways Act 1980 – Section 287 | Power to erect barriers in streets in cases of emergency etc.                                                                   |
| Highways Act 1980 – Section 288 | Power to require gas and water pipes to be moved                                                                                |
| Highways Act 1980 – Section 289 | Powers of entry of Highway Authority for purposes of survey.                                                                    |
| Highways Act 1980 – Section 290 | Supplementary provisions as to powers of entry for the purpose of survey.                                                       |
| Highways Act 1980 – Section 291 | Powers of entry of highway authority for purpose of maintaining, etc., certain structures and works.                            |
| Highways Act 1980 – Section 292 | Compensation for damage resulting from, and offences connected with, exercise of powers of entry etc. under Section 289 or 291. |
| Highways Act 1980 – Section 293 | Powers of entry for purposes connected with certain orders relating to footpaths and bridleways.                                |
| Highways Act 1980 – Section 294 | Entry etc., of premises by highway authority or council for certain purposes.                                                   |

## **Allocated Functions**

|                                                                            |                                                                                                  |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Highways Act 1980 – Section 295                                            | Power of councils to dispose of certain materials.                                               |
| Highways Act 1980 – Section 296                                            | Power of highway authority or Council to execute certain works on behalf of other person.        |
| Highways Act 1980 – Section 297                                            | Power of highway authority or council to require information as to ownership of land.            |
| Highways Act 1980 – Section 305                                            | Recovery of expenses by Councils and highway authorities.                                        |
| Local Government (Miscellaneous Provisions) Act 1976 – Sections 23 and 24. | Powers to deal with dangerous trees.                                                             |
| Local Government (Miscellaneous Provisions) Act 1976 – Sections 25 and 26. | Powers to deal with dangerous excavations.                                                       |
| Mid Glamorgan County Council Act 1987 – Section 10                         | Power to serve notice to reduce the emission of dust etc. from building operations.              |
| Mid Glamorgan County Council Act 1987 – Section 11                         | Power to serve notice to reduce dust from movement of coal.                                      |
| Mid Glamorgan County Council Act 1987 – Section 12                         | Power to weatherproof walls.                                                                     |
| Mid Glamorgan County Council Act 1987 – Section 13                         | Power to approve of plans etc. of retaining walls.                                               |
| Mid Glamorgan County Council Act 1987 – Section 14                         | Power to approve plans etc. of new sewers and to serve notices on persons submitting plans etc.  |
| Mid Glamorgan County Council Act 1987 – Section 15                         | Power to seize and impound stray animals.                                                        |
| Mid Glamorgan County Council Act 1987 – Section 17                         | Power to make an order prohibiting the use of residential streets for parking by heavy vehicles. |
| Mid Glamorgan County Council Act 1987 – Section 19                         | Power to serve notice requiring works to party or boundary walls.                                |
| Mines, Quarries and Tips Act 1969                                          | Inspections and powers in relation to tips.                                                      |
| National Parks and Access to the Countryside Act 1949 – Section 57         | Penalty for displaying on public paths notices deterring public use.                             |

### **Allocated Functions**

|                                                  |                                                                                                               |
|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| New Roads and Street Works Act 1991 – Part III   | Control of street works by public utilities undertakers pursuant to a statutory right or street works licence |
| Reservoir Act 1975                               | Inspection and registration of reservoirs.                                                                    |
| Road Traffic Regulation Act 1984 – Section 14(1) | Powers to restrict weight and size of vehicles crossing highway bridges.                                      |
| Wildlife and Countryside Act 1981 – Section 61   | Ploughing of public rights of way.                                                                            |

## **9. Functions allocated to the Chief Executive, the Director of Social Services and to Heads of Service and/or the manager responsible for the aspect of the council's social services functions provided by the service in respect of which the function is to be discharged**

### **Allocated Functions**

- 9.1 To assess the need of people who may be in need of care services and, if appropriate, the ability of carers to provide care; to decide, on the basis of the assessment what, if any, services should be provided to meet those needs; and to take all necessary steps to provide those services including the making of contracts for their provision.
- 9.2 To take any steps necessary to ensure that the Council complies with its statutory Social Services obligations to children and adults as set out in the following legislation:
- Children Act 1989
  - Carers (Recognition and Services) Act 1995
  - Crime and Disorder Act 1998
  - Family Law Act 1996
  - Housing Act 1996
  - Adoption and Children Act 2002
  - Carers and Disabled Children Act 2000
  - National Assistance Act 1948
  - Chronically Sick and Disabled Persons Act 1970
  - Housing Grants, Construction and Regeneration Act 1996
  - NHS Act 1977
  - Community Care (Delayed Discharges) Act 2003
  - Community Care (Direct Payments) Act 1996
  - Care Standards Act 2000
  - Mental Health Act 1983: Civil Measures
  - Mental Health (Patients in the Community) Act 1995
  - Children (Leaving Care) Act 2000
  - Children Act 2004
  - The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
- 9.3 To approve foster parents and other carers.



### **Allocated Functions**

- 9.4 To receive into guardianship persons who are suffering from a mental disorder.
- 9.5 To approve social workers as having appropriate competence in dealing with persons who are suffering from a mental disorder.
- 9.6 To exercise all the Council's obligations in relation to the facilities it provides itself and the services it purchases under contract.
- 9.7 To make decisions in respect of individual adoption cases, having regard to the recommendations from the Adoption Panel.
- 9.8 To approve levels of maximum funding to voluntary organisations which are subject to a formal service agreement where the amount of the funding does not exceed £150,000.
- 9.9 To authorise the carrying out of works of adaptation in accordance with Section 2(e) of the Chronically Sick and Disabled Persons Act 1970:
  - (a) Up to the value specified from time to time by the Council;
  - (b) In exceptional circumstances and where an urgent decision is required up to the higher value specified from time to time by the Council.

## **10. Functions allocated to the Deputy Chief Executive, the Director of Neighbourhood Services and to the Head of Housing & Regeneration**

### **Allocated Functions**

- 10.1 To determine the priority accorded to individual applications to the Housing Register and for Transfers and to allocate Council accommodation in accordance with the Council's policies.
- 10.2 To determine on applications from owner/occupiers to the Housing Register, in accordance with the Council's policies.
- 10.3 To determine applications for mutual exchanges.
- 10.4 To determine applications for successions, assignments and tenancy/secure contract changes.
- 10.5 To determine applications for housing which may not fully comply with the requirements of the Council's Housing Register and Allocation Rules but are considered to be of a particularly urgent or sensitive nature.
- 10.6 To determine applications for assistance by homeless persons and persons threatened with homelessness pursuant to The Housing (Wales) Act 2014 and to secure temporary accommodation as appropriate.
- 10.7 In consultation with the Deputy Chief Executive, serve notices of seeking possession for breaches of tenancy other than non-payment of rent or charges and if appropriate to institute proceedings for possession.

## **Allocated Functions**

- 10.8 In consultation with the Chief Executive or the Head of Legal Services, where appropriate, to make all initial decisions under the Data Protection Act 2018 & GDPR as to whether access to information is to be permitted and whether information is to be corrected or erased.
- 10.09 To authorise demolition of Council owned garages.
- 10.10 To take any steps which the Council is empowered to take for the recovery of housing rents and other income due to the Council, including instructing the Head of Legal Services to commence County Court proceedings.
- 10.11 To authorise and take any steps necessary for the Council to comply with its obligations in accordance with section 3 and 4 of the Housing Act 2004.
- 10.12 Administer mandatory Disabled Facilities Grants (DFGs)
- 10.13 Deliver the Council's Housing Renewal Program.

## **11. Removed**

## **12. Functions allocated to the Deputy Chief Executive and the Director of Neighbourhood Services**

### **Allocated Functions**

- 12.1 The function of doing any act which the Council has a power or duty to do (including the power to authorise officers and such other persons as may be deemed appropriate) and to serve any notice that is necessary for the enforcement of any of the provisions contained in the enactments set out below and to authorise and institute legal proceedings in consultation with the Head of Legal Services arising from any breach of those provisions:

Burials Act 1857

Clean Neighbourhoods and Environment Act 2005

Control of Pollution (Amendment) Act 1989

Control of Pollution Act 1974

Cremations Acts 1902 and 1952

Dogs Act 1906

Environment Act 1995

Environment (Wales) Act 2016

Environmental Protection Act 1990

Local Government (Miscellaneous Provisions) Act 1976

Prevention of Damage by Pests Act 1949

Public Health Act 1936

Public Health Act 1961

Refuse Disposal (Amenity) Act 1978

Town & Country Planning Act 1990

Waste Minimisation Act 1998

Waste and Emissions Trading Act 2003

Environmental Permitting (England and Wales) Regulations 2010

Local Authorities Cemeteries Order 1977

Recycling, Preparation for Reuse and Composting targets (definitions) (Wales)  
Order 2011  
Waste (Wales) Measure 2010

- 12.2 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to him by this Scheme.
- 12.3 To exercise any power conferred upon the Council relating to the management of any area of public open space.
- 12.4 To authorise exhumations subject to any necessary consents being first obtained.

**13. Functions allocated to the Deputy Chief Executive and the Head of Housing & Regeneration.**

**Allocated Functions**

- 13.1 To consider and adjust individual Improvement Grant rates when deemed appropriate.
- 13.2 To approve applications for grants towards the cost of improvement and repairs of dwellings under the provisions of the Housing Grants, Construction and Regeneration Act 1996 and to determine the payment of reasonable and appropriate fees in connection therewith.
- 13.3 To authorise in appropriate circumstances the waiver of the prior qualifying period for owner-occupiers and tenants specified in the Housing Grants, Construction and Regeneration Act 1996 in relation to applications for Renovation Grants.

**14. Functions allocated to the Deputy Chief Executive and to the Chief Finance Officer and to the Head of Revenues, Benefits & Customer Services**

**Allocated Functions**

- 14.1 To take any steps which the Council is empowered to take to recover National Non-Domestic Rates and Council Tax, including the commencement of proceedings and the taking of any steps in connection with the conduct of proceedings.
- 14.2 To determine:
  - (a) applications for discretionary rating relief from charities;
  - (b) applications for rating relief on grounds of hardship.
- 14.3 To determine applications for Housing Benefit and Council Tax Benefit.
- 14.4 To take any steps which the Council is empowered to take for the recovery of sums due under Council mortgages and other income due to the Council, including instructing the Head of Legal Services to commence County Court proceedings.
- 14.5 To write off debts and rents not exceeding £1,000 after exhausting recovery procedure in consultation with the Chief Finance Officer.

**15. Functions allocated to the Deputy Chief Executive, the Head of Housing and Regeneration and the Head of Public Protection**

**Allocated Functions**

- 15.1 The function of doing any act which the Council has a power or duty to do (including the power to serve any notice and to authorise officers or other suitably qualified persons) that is necessary for the enforcement of any of the provisions contained in the enactments set out below and any Orders, or Regulations or other instruments
- (a)
    - (i) made there under or
    - (ii) relating thereto,
  - (b) any modification or re-enactment and to authorise and institute legal proceedings in consultation with the Head of Legal Services arising from any breach of those provisions.

Births and Deaths Registration Act 1926  
Burial Act 1857  
Children & Families Act 2014  
Cremation Acts 1902 and 1952  
Controlled Waste Regulations 1992  
Environmental Protection Act 1990  
Health Act 2006 (updated 2009)  
Health and Safety at Work Act 1974  
Local Authorities Cemeteries Order 1977  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1982  
Mid Glamorgan County Council Act 1987  
Protection From Eviction Act 1977  
Public Health Act 1936  
Public Health Act 1961  
Refuse Disposal (Amenity) Act 1978  
The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002  
Water Industries Act 1991

- 15.2 To exercise the Council's powers under the Refuse Disposal (Amenity) Act 1978 to remove and dispose of abandoned vehicles and to recover the expenses connected therewith.

**16. (a) Functions Allocated To The Deputy Chief Executive and the Head of Public Protection.**

- (a) Functions Allocated the Chief Inspector Of Weights And Measures acting in their statutory role.**

**Allocated Functions**

- 16.1 The function of doing any act which the Council has a power or duty to do (including the power to serve any notice and to authorise officers or other suitably qualified

persons) that is necessary for the enforcement of any of the provisions contained in the enactments set out below and any Orders, or Regulations or other instruments

- (a)
  - (i) made there under or
  - (ii) relating thereto, or
  - (iii) in converted former European Union Law relating to food safety, animal feedstuffs, consumer and business protection, health protection, metrology, product safety and environmental protection pursuant to the European Union (Withdrawal) Act 2018;
- and
- (b) any modification or re-enactment and to authorise and institute legal proceedings in consultation with the Head of Legal and Democratic Services arising from any breach of those provisions.

### **Primary legislation**

Administration of Justice Acts 1970 and 1985  
Agriculture Act 1970  
Agriculture (Miscellaneous Provisions) Act 1968  
Agriculture Produce (Grading and Marketing) Acts 1928 and 1931  
Animals Act 1971  
Animal Boarding Establishments Act 1963  
Animal Health Act 1981 and 2002  
Animal Health and Welfare Act 1984  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Botulinum Toxin and Cosmetic Fillers (Children) Act 2021  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1989 and 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Building Act 1984  
Burial Act 1857  
Business Names Act 1985  
Cancer Act 1939  
Caravan Sites Control of Development Act 1960  
Caravan Sites Act 1968  
Charities Act 1992  
Children & Families Act 2014  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Christmas Day (Trading) Act 2004  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Communications Act 2003  
Companies Act 1985 and 2006  
Consumer Credit Act 2006  
Consumer Protection Act 1987  
Consumer Rights Act 2015  
Control of Horses (Wales) Act 2014  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright Designs and Patent Act 1988  
Criminal Justice Act 1988  
Criminal Justice and Police Act 2001

Criminal Justice and Public Order Act 1994  
Customs and Excise Management Act 1979  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Dangerous Dogs Act 1989 and 1991  
Dogs Act 1871  
Dogs Act 1906  
Education Reform Act 1988  
Energy Act 1976  
Energy Conservation Act 1981  
Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015  
Enterprise Act 2002  
Environmental Protection Act 1990  
Environment Act 1995  
Estate Agents Act 1979  
European Union (Withdrawal) Act 2018  
Explosives Acts 1875 and 1923  
Explosives (Age of Purchase) Act 1976  
Factories Act 1961  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Fireworks Acts 1951, 1964 and 2003  
Fire Safety and Places of Sport Act 1987  
Food and Environment Protection Act 1985  
Food Act 1984  
Food Hygiene Rating (Wales) Act 2013  
Food Safety Act 1990  
Fraud Act 2006  
Forgery and Counterfeiting Act 1981  
Gambling Act 2005  
Game Act 1831  
Guard Dogs Act 1975  
Hallmarking Act 1973  
Health Act 2006 (updated 2009)  
Health and Safety at Work etc. Act 1974  
Healthy Eating in Schools (Wales) Measure 2009  
Highways Act 1980  
House to House Collections Act 1939  
Housing Act 1985 and 2004  
Housing, Grants, Construction and Regeneration Act 1996  
Hypnotism Act 1952  
Insurance Brokers (Registration) Act 1971  
Intoxicating Substances (Supply) Act 1985  
Knives Act 1997  
Leasehold Reform (Ground Rent) Act 2022  
Legal Services Act 2007  
Licensing Act 1964 and 2003  
Local Government Act 2003  
Local Government (Miscellaneous Provisions) Acts 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989  
London Olympic Games and Paralympic Games Act 2006  
Medicines and Medical Devices Act 2021

Mid Glamorgan County Council Act 1987  
Motor Cycle Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991  
National Assistance Act 1948  
National Assistance (Amendment) Act 1951  
National Lotteries Act 1993  
Noise Act 1986  
Noise and Statutory Nuisance Act 1993  
Nurses Agencies Act 1957  
Offices, Shops and Railway Premises Act 1963  
Offensive Weapons Act 2019  
Olympic Symbol Etc (Protection) Act 1995  
Performing Animals (Regulation) Act 1925  
Pet Animals Act 1951  
Petroleum (Consolidation) Act 1928  
Petroleum (Transfer of Licences) Act 1936  
Poisons Act 1972  
Police and Justice Act 2006  
Police, Factories etc (Miscellaneous Provisions) Act 1916  
Pollution Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Prices Acts 1974 and 1975  
Proceeds of Crime Act 2002  
Property Misdescriptions Act 1991  
Protection Against Cruel Tethering Act 1998  
Protection from Eviction Act 1997  
Protection of Animals Act 1911  
Protection of Animals Act 1934  
Protection of Animals (Amendment) Act 1954  
Protection of Animals (Anaesthetics) Act 1954  
Protection of Animals (Amendment) Act 1988  
Protection of Animals Act 1991  
Protection of Animals Act 2000  
Protection of Children (Tobacco) Act 1986  
Psychoactive Substances Act 2016  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Diseases) Act 1984  
Public Health (Wales) Act 2017  
Public Health (Minimum Price for Alcohol) (Wales) Act 2018  
Refuse Disposal (Amenity) Act 1978  
Registered Designs Act 1949  
Regulation of Investigatory Powers Act 2000  
Renting Homes (Fees etc.) (Wales) Act 2019  
Riding Establishments Acts 1964 and 1970  
Road Traffic Acts 1988 and 1991  
Road Traffic (Foreign Vehicles) Act 1972  
Safety at Sportsgrounds Act 1975  
Scrap Metal Dealers Act 2013  
Shops Act 1950  
Slaughter of Poultry Act 1967  
The Sunbeds (Regulation) Act 2010  
Sunday Trading Act 1994  
Tattooing of Minors Act 1969  
Telecommunications Act 1984

The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002  
Theft Act 1968 and 1978  
Timeshare Act 1992  
Tobacco Advertising and Promotion Act 1992 and 2002  
Town Police Clauses Act 1847  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Trading Representation (Disabled Persons) Acts 1958 and 1972  
Unsolicited Goods and Services Acts 1971 and 1975  
Vehicle (Crime) Act 2001  
Video Recordings Acts 1984 and 1993  
Violent Crime Reduction Act 2006  
Water Industries Act 1991  
Weights and Measures Act 1976  
Weights and Measures Act 1985  
Zoo Licensing Act 1981

### **Secondary legislation**

Advanced Television Services Regulations 2003  
African Horse Sickness (Wales) Regulations 2013  
Animal By-Products (Enforcement) (Wales) Regulations 2014  
Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Wales) Regulations 2019  
Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016  
Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations 2016  
Avian influenza (Preventative Measures)(Wales) Regulations 2006  
Avian Influenza (Vaccination)(Wales) Regulations 2006  
Beef and Veal Labelling (Wales) Regulations 2011  
Biofuel Labelling Regulations 2004  
Bluetongue (Wales) Regulations 2008  
Business Protection from Misleading Marketing Regulations 2008  
Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008  
Cattle Identification (Wales) Regulations 2007  
Construction Products Regulations 2013  
Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013  
Consumer Protection from Unfair Trading Regulations 2008  
Consumer Rights (Payment Surcharges) Regulations 2012  
Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009  
Country of Origin of Certain Meats (Wales) Regulations 2015  
Crystal Glass (Descriptions) Regulations 1973  
Detergents Regulations 2010  
Diseases of Swine Regulations 2014  
EC Fertilisers (England and Wales) Regulations 2006  
Eggs and Chicks (Wales) Regulations 2009  
Electrical Equipment (Safety) Regulations 2016  
Electromagnetic Compatibility Regulations 2016  
Environmental Protection (Microbeads) (Wales) Regulations 2018  
Equine Identification (Wales) Regulations 2019  
Energy Information Regulations 2011  
Energy Performance of Buildings (England and Wales) Regulations 2012



Equine Identification (Wales) Regulations 2009  
Financial Services (Distance Marketing) Regulations 2004  
Fluorinated Greenhouse Gases Regulations 2015  
Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016  
Food Information (Wales) Regulations 2014  
Foot and Mouth Disease (Control Of Vaccination) Wales Regulations 2006  
Footwear (Indication of Composition) Labelling Regulations 1995  
Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018  
General Product Safety Regulations 2005  
Genetically Modified Food (Wales) Regulations 2004  
Genetically Modified Organisms (Traceability and Labelling) (Wales) Regulations 2005  
Infant Formula and Follow-on Formula (Wales) Regulations 2020  
Materials and Articles in Contact with Food (Wales) Regulations 2012  
Measuring Container Bottles (EEC Requirements) Regulations 1977  
Measuring Instruments Regulations 2016  
Non-automatic Weighing Instruments Regulations 2016  
Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019  
Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020  
Official Control (Animals, Feeds and Food) (Wales) Regulations 2007  
Official Feed and Food Controls (Wales) Regulations 2009  
Olive Oil (Marketing Standards) Regulations 2014  
Organic Products Regulations 2009  
Ozone-Depleting Substances Regulations 2015  
Package Travel and Linked Travel Arrangements Regulations 2018  
Packaging (Essential Requirements) Regulations 2015  
Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001  
Personal Protection Equipment (Enforcement) Regulations 2018  
Poultry meat (Wales) Regulations 2011  
Pressure Equipment (Safety) Regulations 2016  
Products of Animal Origin (Disease Control)(Wales) Regulations 2008  
Pyrotechnic Articles (Safety) Regulations 2015  
Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018  
Quick Frozen Foodstuffs (Wales) Regulations 2007  
Radio Equipment Regulations 2017  
REACH Enforcement Regulations 2008  
Recreational Craft Regulations 2017  
Registration of Establishments (Laying Hens)(Wales) Regulations 2004  
Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013  
Scotch Whisky Regulations 2009  
Simple Pressure Vessels (Safety) Regulations 2016  
Single Use Carrier Bags Charge (Wales) Regulations 2010  
Specified Products from China (Restriction on First Placing on the Market) (Wales) Regulations 2008  
Spirit Drinks Regulations 2008  
Supply of Machinery (Safety) Regulations 2008  
Textile Products (Labelling and Fibre Composition) Regulations 2012  
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010

Tobacco and Related Products Regulations 2016  
 Toys (Safety) Regulations 2011  
 Trade in Animals and Related Products (Wales) Regulations 2011  
 Transmissible Spongiform Encephalopathies (Wales) Regulations 2018  
 Veterinary Medicines Regulations 2013  
 Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing  
 Products Regulations 2012  
 Wine Regulations 2011  
 Weights & Measures (Packaged Goods) Regulations 2006  
 Welfare of Animals at the Time of Killing (Wales) Regulations 2014  
 Zoonoses (Monitoring) (Wales) Regulations 2007

Officers are authorised for other matters for any offence under legislation, or at common law, which is of a similar nature or related to the foregoing including offence of aiding, abetting, counselling and procuring, incitement, conspiracy and criminal attempts

- 16.2 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to him by this Scheme of Delegation.
- 16.3 To exercise the Council's powers under the Refuse Disposal (Amenity) Act 1978 to remove and dispose of abandoned vehicles and to recover the expenses connected therewith.
- 16.4 To grant, issue, amend revoke or refuse the grant or renewal of licences (other than licences in respect of which the said functions are either not Cabinet functions or are allocated under this Scheme to a Council Officer in another directorate); to effect, amend or revoke registrations; and to issue, amend or revoke authorisations in accordance with any of the legislation both primary and secondary listed above at 16.1. and to authorise officers or other suitably qualified persons) that is necessary to carry out the functions under this subsection

and

(a) any Orders, or Regulations or other instruments

- (i) made there under or
- (ii) relating thereto, or
- (iii) in converted former European Union Law relating to food safety, animal feedstuffs, consumer and business protection, health protection, metrology, product safety and environmental protection pursuant to the European Union (Withdrawal) Act 2018;

and

b) any modification or re-enactment to the foregoing.

- 16.5 To authorise surveillance in accordance with the requirements of the Regulation of Investigatory Powers Act 2000.
- 16.6 The statutory role of Chief Inspector of Weights and Measures shall be hereby delegated to the Trading Standards Team Leader.
- 17. Functions allocated to the Chief Executive, the Director of Social Services and/or to the Head of Children's Services**

### **Allocated Functions**

- 17.1 Approve recommendations of Adoption Panel
- 17.2 Consent to marriage where a Care Order exists
- 17.3 Consent to enlistment in HM forces where a Care order exists
- 17.4 Admission of child to secure accommodation
- 17.5 Placement of a child in care with parents or persons with parental responsibility (Placement of Children with Parents Regulations 1991)
- 17.6 Agreement for a child who is the subject of a Care Order to the regular attendance at or joining a religious organisation, where the parent does not agree
- 17.7 Approval of Foster Carers
- 17.9 All applications to the High Court
- 17.10 Decision on scale of payment for Foster Carer
- 17.11 Urgent increase in scale payment
- 17.12 Authorising a foreign trip/holiday for up to a period in excess of one month for a child who is the subject of a Care Order
- 17.13 Authorising a foreign trip/holiday for up to a period of one month for a child who is the subject of a Care Order
- 17.14 School trips, camps etc., for a child who is the subject of a Care Order where a parent does not agree
- 17.15 Participation of a child who is the subject of a Care Order in hazardous activities e.g. rock-climbing or skiing, where a parent does not agree
- 17.16 Seek an Emergency Protection Order
- 17.17 Accommodated child to travel abroad for periods of less than one month
- 17.18 Accept other Local Authority's request to supervise on their behalf.
- 17.18 Twin tracking decision in relation to adoption
- 17.19 Referral of child to Adoption Panel
- 17.20 Referral of matching of child for adoption and adoptive parents to adoption panel
- 17.21 Agreement for an accommodated child's regular attendance at or joining a religious organisation, where the parent has given verbal agreement
- 17.22 School trips, camps etc (including consent for any necessary emergency medical treatment) for an accommodated child where parent has given verbal agreement

- 17.23 Participation of an accommodated child in hazardous activities (e.g. rock-climbing or skiing) where parent has given verbal agreement
- 17.24 Decision to accommodate a child
- 17.25 Non-routine medical or dental treatment for a Looked After child, where the parent has given verbal agreement
- 17.26 Change of school for a child who is the subject of a Care Order
- 17.27 Change of school for an accommodated child
- 17.28 Request other Local Authorities to supervise on their behalf
- 17.29 Decision to notify Police of missing children
- 17.30 One off emergency additional payments (up to 1 weeks foster carer allowance)
- 17.31 To act as the Adoption Agency decision maker in respect of recommendations made by the County Borough Councils Adoption Agency

**18. Functions allocated to the Chief Executive and/or the Director of Social Services and/or to the Head of Children's Services and/or the appropriate Managers.**

- 18.1 Agreement to purchase external placement for a Looked After child
- 18.2 Authorisation of Fostering/Adoption Residency Allowance - following Fostering/Adoption Panel and Placement Panel
- 18.3 Non-routine medical or dental treatment for a child who is the subject of a Care Order, where a parent does not agree
- 18.4 Agreement to suspension of contact
- 18.5 Initiate Care proceedings
- 18.6 Authorising a passport application on behalf of a child who is the subject of a Care Order
- 18.7 Child who is the subject of a Care Order to travel abroad for periods of less than one month
- 18.8 Referral of a child who is the subject of a Care Order for assessment of Special Educational Needs
- 18.9 Accommodated child being referred for assessment for a statement of Special Educational Needs

**19. Functions allocated to the Chief Executive or if they are absent or otherwise unable to act to the Director of Social Services or the Head of Service / Manager responsible for the service in connection with which the function is to be discharged.**

## **Allocated Functions**

- 19.1 To arrange for the effective operation of the Authority's responsibilities for the purchase and provision of social care services for adults including people with disabilities, older people, people with mental health needs, people with substance misuse problems and people with HIV/AIDS.
- 19.2 To implement the Authority's statutory functions under the National Assistance Act, the NHS and Community Care Act, the Chronically Sick and Disabled Persons Act, the Mental Health Act, the Carers Act and other relevant legislation.
- 19.3 To promote the welfare and independence of and ensure the protection of vulnerable adults.
- 19.4 Manage the assessment of need process and the arrangement of services and the provision of facilities and assistance where appropriate, to meet those needs, for adults and their carers.
- 19.5 To arrange for consultation on and publication of inter-agency joint service plans and to co-ordinate the Council's contribution to such plans e.g. Health, Social Care and Well-being Strategy.
- 19.6 To represent the Council in joint planning with the Health Service and other agencies, including Joint Planning Groups.
- 19.7 To arrange applications for Government Grants in relation to adults with social care needs on behalf of the Council, e.g. Capacity Grant.
- 19.8 To ensure that contracts and service level agreements for the provision of adult social services are effectively managed and that related approved lists are in place and meet statutory requirements.
- 19.9 To arrange for the identification of adults with learning disabilities within the area of the Authority who are in need and ensure that an appropriate range of services and support are available to meet the needs of those people and their families, including maintaining a register of such persons.
- 19.10 To arrange for the effective operation of the Authority's responsibilities for the purchase and provision of social and health care services for adults with learning disabilities including people with autistic spectrum disorder and a dual diagnosis incorporating mental health needs and learning disability.
- 19.11 To oversee the assessment of need for, and to provide services and residential accommodation for those suffering from a disability, including a mental disability, pursuant to the National Assistance Act 1948, the Mental Health Act, the Chronically Sick and Disabled Persons Act, the Disabled Persons (Services, Consultation and Representation) Act and the National Health Service and Community Care Act.
- 19.12 To oversee the receipt of payments from the Local Health Authority towards expenditure incurred by them in connection with any of their functions pursuant to Section 28A of the National Health Services Act 1977 and Section 31 of the National Health Services Act 1999.

## SECTION 14

### APPENDIX 4

# SCHEME B

## PART III

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## **CABINET** FUNCTIONS ALLOCATED TO COUNCIL OFFICERS WHICH MAY BE DISCHARGED WITHOUT PRIOR CONSULTATION

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### **1.0 DEPUTY CHIEF EXECUTIVE**

The functions listed in 1.1 to 1.3 below shall be allocated to the Deputy Chief Executive in addition to the other Council officers to whom the said functions are allocated by this Scheme:

- 1.1. To approve applications by eligible businesses for financial assistance under the grant schemes operated by the Council pursuant to its economic development powers.
- 1.2 To authorise expenditure upon marketing and participation in appropriate economic development activities and events.
- 1.3 To determine applications for grant assistance under the Inner Urban Areas Act 1978 for improvements to properties in Industrial and Commercial Improvement Areas in accordance with the rules approved by the Council.

### **2.0 CORPORATE PROPERTY GROUP MANAGER**

- 2.1 The functions listed in 2.3 to 2.24 below shall be allocated to the Corporate Property Group Manager in addition to any other Council officers to whom the said functions are allocated by this Scheme:
- 2.2 The Corporate Property Group Manager may further delegate the functions in 2.3.to 2.24 below to suitably qualified officers in the Estates Department.
- 2.3 To determine applications by tenants for the Council's consent as landlord for:
  - (a) the assignment of their leasehold interests;
  - (b) the subletting or parting with possession of the whole or part of the premises let;
  - (c) the change of use of the premises let provided the proposed use:

- (i) falls within the same use class as defined in the Town and Country Planning (Use Classes) Order 1987 as the current use or
    - (ii) is a change of use for which planning permission has been granted either specifically or by the Town and Country Planning (General Permitted Development) Order 1995 subject to any arrears of rent being paid and any other breaches of covenant being remedied;
  - (d) the creation of a mortgage or charge over their leasehold interests;
  - (e) the making of internal and external alterations and the erection of additions and extensions subject to the tenant obtaining all necessary statutory consents and complying with such other conditions as may be considered appropriate.
- 2.4 To authorise the grant of a lease or tenancy in circumstances in which the identity of the proposed tenant has changed since the terms of the transaction were approved by or on behalf of the Council.
- 2.5 To authorise and agree terms for the letting of all properties by or to the Council (including the rent payable) at a rent not exceeding £50,000 per annum.
- 2.6 To approve the settlement of statutory compensation claims.
- 2.7 To appoint Agents to market for sale any types of Council land or property.
- 2.8 To authorise, and where appropriate accept terms for, the disposal of land or buildings having an estimated value not exceeding £150,000 by way of formal tender or auction.
- 2.9 To authorise, and agree terms for, the disposal of land or buildings having an estimated value not exceeding £150,000 other than by way of formal tender or auction.
- 2.10 To agree the terms of all rent reviews relating to properties leased by and to the Council.
- 2.11 To decide that the rent review provisions contained in a lease of property in the Council's ownership should not be implemented when a rent review is deemed inappropriate due to special circumstances.
- 2.12 To agree terms for the renewal of all leases granted by or to the Council.
- 2.13 To authorise and agree terms for the grant of easements and wayleaves and of licences to occupy land by or to the Council.
- 2.14 To make planning applications in respect of land which the Council is proposing to dispose of.
- 2.15 To arrange for title indemnity insurance to be effected in suitable circumstances.
- 2.16 To authorise the service of notices terminating leases or tenancies (including Those of business premises covered by Part II of the Landlord and Tenant Act 1954) where the Council does not oppose the grant of a new lease or tenancy.

- 2.17 To determine and approve applications for the transfer of Council mortgages and applications by mortgagors for the release of a part of a mortgage property from the mortgage.
- 2.18 To authorise and agree terms for settling rating appeals submitted by or on behalf of the Council.
- 2.19 To authorise and agree the release of restrictive covenants in favour of or binding the Council for sums up to a limit of £50,000.
- 2.20 To authorise and agree terms for the surrender of leases by or to the Council, including the payment or receipt of a premium not exceeding £50,000.
- 2.21 To authorise and agree terms for the resolution of dilapidation claims made by or against the Council.
- 2.22 To authorise and agree terms for the acquisition of land or buildings having an estimated capital or annual value not exceeding £50,000.
- 2.23 To approve the variation of existing lease terms.
- 2.24 To appoint an expert or arbitrator to determine a rent review or any dispute under the provisions of an existing lease.

### **3.0 PLANNING GROUP LEADER**

- 3.1 The functions listed below in 3.2 shall be allocated to the Planning Group Leader, in addition to any other Council officers to whom the said functions are allocated by this Scheme:
- 3.2 To do anything which the Council has a power or duty to do under the provisions of the following enactments or any subordinate legislation made thereunder:-

| <b>Provision</b>                                                             | <b>Summary of Effect</b>                                                                                 |
|------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 2      | Power to publish lists of listed buildings                                                               |
| Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 3A     | Power to serve notice of listing on owner and occupier                                                   |
| Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 54-56 | Power to execute urgent works to preserve a listed building and to recover expenses                      |
| Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 57-58 | Power to determine applications for grant assistance towards repair or maintenance of historic buildings |



Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 76

Power to execute urgent works and preserve an unoccupied building in a conservation area and to recover expenses

Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 79-80

Power to determine applications for grant assistance towards repair or maintenance of historic buildings in a town scheme

#### **4.0 . GROUP LEADER BUILDING CONTROL**

- 4.1 The functions listed in 4.2 to 4.4 shall be allocated to the Group Leader Building Control and the Senior Building Control Officer, in addition to any other Council officers to whom the said functions are allocated by this Scheme:
- 4.2 To do anything which the Council has a power or duty to do under the provisions of the Building Regulations and of the Building Act 1994 regarding the passing (with or without conditions) or rejection of deposited plans, the giving of notices that deposited plans are of no effect and the removal or alteration of offending work.
- 4.3 To authorise the execution of work to dangerous buildings and to recover expenses incurred in accordance with the Building Act 1984, Section 77 and
- 4.4 To take emergency measures for dealing with dangerous structures in accordance with the Building Act 1984, Section 78.

#### **5.0 HEAD OF ENGINEERING & HIGHWAYS, HEAD OF PUBLIC PROTECTION,**

- 5.1 The functions listed below from 5.3 to 5.13 shall be allocated to the Head of Engineering & Highways and the Head of Public Protection, in addition to any other Council officers to whom the said functions are allocated by this Scheme.
- 5.2 The Head of Engineering & Highways and the Head of Public Protection may further delegate the functions in 5.3 to 5.13 below to suitably qualified officers in their respective Departments who are responsible for the function which is to be discharged.
- 5.3 To take any action as is necessary to declare highways to be maintainable at the public expense including where considered appropriate accepting requests for dedication of highways.
- 5.4 To undertake and maintain all works (including alteration and removal where necessary) for highway purposes in accordance with Part V of the Highways Act 1980, and to enter into any agreements in respect of any of the works referred to in Part V of the Highways Act 1980.
- 5.5 To provide services and amenities over a highway and to give consents to other parties as to execution of works and use of objects in accordance with Paragraph VIIA of the Highways Act 1980.

- 5.6 To take such action as is necessary to prevent or remove the unlawful interference with, annoyance or nuisance upon, or obstruction of highways including the service of relevant notices where appropriate.
- 5.7 To give consent where required for interference with or obstruction of a highway in accordance with Part IX of the Highways Act 1980.
- 5.8 To exercise all powers contained in Part XI of the Highways Act 1980 as to making up of Private Streets (other than the power contained in Section 205 of that Act) including powers to enter into agreements and the issuing of notices and determination of payments together with any consents or permissions required.
- 5.9 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby allocated to them.
- 5.10 To exercise the Council's powers under the relevant provisions of the Town Improvement Clauses Act 1847 and the Public Health Act 1925 in respect of street naming, the change or alteration of a street name and the numbering or re-numbering of a street.
- 5.11 To take such action as is necessary to stop up private means of access to the highway in accordance with Part VIII of the Highways act 1980.
- 5.12 To do anything which the Council has a power or duty to do that is necessary for the enforcement of any of the provisions contained in the enactments listed below (other than any of those provisions the enforcement of which is not a Cabinet function) and to institute legal proceedings in consultation with the Deputy Chief Executive arising from any breach of those provisions:

Animals Act 1971  
 Highways Act 1980  
 Land Drainage Act 1991  
 Mines, Quarries and Tips Act 1969  
 National Parks and Access to the Countryside Act 1949 – Section 57  
 New Roads and Streetworks Act 1991 – Part III  
 Reservoir Act 1975  
 Road Traffic Act 1991  
 Road Traffic Regulation Act 1984  
 Road Traffic Regulation (Special Events) Act 1994  
 Town and Country Planning Act 1990  
 Town Police Clauses Act 1847  
 Transport Act 1985  
 Transport Act 2000  
 Wildlife and Countryside Act 1981

- 5.13 To do anything which the Council has a power or duty to do under the provisions of the following enactments or any subordinate legislation made thereunder:-

|                                |                                                                    |
|--------------------------------|--------------------------------------------------------------------|
| Building Act 1984 – Section 77 | Power to execute work to dangerous buildings and recover expenses. |
| Building Act 1984 – Section 78 | Emergency measures for dealing with dangerous structures           |

|                                 |                                                                                                      |
|---------------------------------|------------------------------------------------------------------------------------------------------|
| Highways Act 1980 – Section 37  | Provision whereby highway created by dedication may become maintainable at public expense            |
| Highways Act 1980 - Section 38  | Power of highway authorities to adopt by agreement                                                   |
| Highways Act 1980 – Section 57  | Default powers of highways authorities in respect of non-repair of privately maintainable highways.  |
| Highways Act 1980 – Section 59  | Recovery of expenses due to extraordinary traffic                                                    |
| Highways Act 1980 – Section 73  | Power to prescribe improvement line for widening street                                              |
| Highways Act 1980 – Section 74  | Power to prescribe Building Line.                                                                    |
| Highways Act 1980 – Section 122 | Power to make temporary diversion where highway about to be repaired or widened.                     |
| Highways Act 1980 – Section 146 | Duty to maintain stiles etc. on footpaths and bridleways.                                            |
| Highways Act 1980 – Section 147 | Power to authorise the erection of stiles etc. on footpaths and bridleways.                          |
| Highways Act 1980 – Section 278 | Contributions towards highway works by persons deriving special benefit from them.                   |
| Highways Act 1980 – Section 286 | Power to require angles of new buildings at corners of street to be rounded off.                     |
| Highways Act 1980 – Section 287 | Power to erect barriers in streets in cases of emergency etc.                                        |
| Highways Act 1980 – Section 288 | Power to require gas and water pipes to be moved                                                     |
| Highways Act 1980 – Section 289 | Powers of entry of Highway Authority for purposes of survey.                                         |
| Highways Act 1980 – Section 290 | Supplementary provisions as to powers of entry for the purpose of survey.                            |
| Highways Act 1980 – Section 291 | Powers of entry of highway authority for purpose of maintaining, etc., certain structures and works. |
| Highways Act 1980 – Section 292 | Compensation for damage resulting from, and offences connected with, exercise of                     |

|                                                                            |                                                                                                  |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
|                                                                            | powers of entry etc. under Section 289 or 291.                                                   |
| Highways Act 1980 – Section 293                                            | Powers of entry for purposes connected with certain orders relating to footpaths and bridleways. |
| Highways Act 1980 – Section 294                                            | Entry etc., of premises by highway authority or council for certain purposes.                    |
| Highways Act 1980 – Section 295                                            | Power of councils to dispose of certain materials.                                               |
| Highways Act 1980 – Section 296                                            | Power of highway authority or Council to execute certain works on behalf of other person.        |
| Highways Act 1980 – Section 297                                            | Power of highway authority or council to require information as to ownership of land.            |
| Highways Act 1980 – Section 305                                            | Recovery of expenses by Councils and highway authorities.                                        |
| Local Government (Miscellaneous Provisions) Act 1976 – Sections 23 and 24. | Powers to deal with dangerous trees.                                                             |
| Local Government (Miscellaneous Provisions) Act 1976 – Sections 25 and 26. | Powers to deal with dangerous excavations.                                                       |
| Mid Glamorgan County Council Act 1987 – Section 10                         | Power to serve notice to reduce the emission of dust etc. from building operations.              |
| Mid Glamorgan County Council Act 1987 – Section 11                         | Power to serve notice to reduce dust from movement of coal.                                      |
| Mid Glamorgan County Council Act 1987 – Section 12                         | Power to weatherproof walls.                                                                     |
| Mid Glamorgan County Council Act 1987 – Section 13                         | Power to approve of plans etc. of retaining walls.                                               |
| Mid Glamorgan County Council Act 1987 – Section 14                         | Power to approve plans etc. of new sewers and to serve notices on persons submitting plans etc.  |
| Mid Glamorgan County Council Act 1987 – Section 15                         | Power to seize and impound stray animals.                                                        |

|                                                                    |                                                                                                               |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Mid Glamorgan County Council Act 1987 – Section 17                 | Power to make an order prohibiting the use of residential streets for parking by heavy vehicles.              |
| Mid Glamorgan County Council Act 1987 – Section 19                 | Power to serve notice requiring works to party or boundary walls.                                             |
| Mines, Quarries and Tips Act 1969                                  | Inspections and powers in relation to tips.                                                                   |
| National Parks and Access to the Countryside Act 1949 – Section 57 | Penalty for displaying on public paths notices deterring public use.                                          |
| New Roads and Street Works Act 1991 – Part III                     | Control of street works by public utilities undertakers pursuant to a statutory right or street works licence |
| Reservoir Act 1975                                                 | Inspection and registration of reservoirs.                                                                    |
| Road Traffic Regulation Act 1984 – Section 14(1)                   | Powers to restrict weight and size of vehicles crossing highway bridges.                                      |
| Wildlife and Countryside Act 1981 – Section 61                     | Ploughing of public rights of way.                                                                            |

## **6.0 HEAD OF PUBLIC PROTECTION & HEAD OF HOUSING & REGENERATION**

The functions listed below shall be allocated to the Head of Public Protection and Head of Housing & Regeneration and all other Council officers delegated with duties by the said manager to whom the said functions are allocated by this Scheme:

To do anything which the Council has a power or duty to do that is necessary for the enforcement of any of the provisions contained in the Housing Act 2004 Sections 3 & 4 (other than any of those provisions the enforcement of which is not a Cabinet function) and to institute legal proceedings in consultation with the Deputy Chief Executive arising from any breach of those provisions:

## **7.0 HEAD OF ENGINEERING, SENIOR STRUCTURES ENGINEER, SENIOR TRAFFIC MANAGEMENT ENGINEER, SENIOR SAB and LAND DRAINAGE ENGINEER, SENIOR ENGINEER (HIGHWAY DEVELOPMENT CONTROL), SENIOR DESIGN ENGINEER, HIGHWAYS & FLEET MANAGER, NEW ROADS & STREETWORKS CO-ORDINATOR, HIGHWAYS INSPECTOR, HIGHWAYS OPERATIONS SUPERVISOR and STREET LIGHTING ENGINEER**

The powers of entry, inspection, removal and of authorising emergency works conferred upon the Council by any of the enactments listed below shall be allocated to the Council Officers who for the time being occupy the posts of Head of Engineering, Senior Structures Engineer, Senior Traffic Management Engineer, Senior SAB and Land Drainage Engineer, Senior Engineer (Highway Development Control), Senior Design Engineer, Highways and Fleet Manager, New Roads and Street Works (NRSW) Co-ordinator, Highway Inspector, Highways Operations Supervisor, Street Lighting Engineer in addition to any other Council officers to whom the said functions are allocated by this Scheme:

Animals Act 1971  
Highways Act 1980  
Land Drainage Act 1991  
Mines, Quarries and Tips Act 1969  
National Parks and Access to the Countryside Act 1949 – Section 57  
New Roads and Streetworks Act 1991 – Part III  
Reservoir Act 1975  
Road Traffic Act 1991  
Road Traffic Regulation Act 1984  
Road Traffic Regulation (Special Events) Act 1994  
Town and Country Planning Act 1990  
Town Police Clauses Act 1847  
Wildlife and Countryside Act 1981  
Flood and Water Management Act 2010  
Road Safety Act 2006

## **8.0 HEAD OF HOUSING & REGENERATION**

The functions listed from 8.1 to 8.6 below shall be allocated to the Head of Housing & Regeneration in addition to any other Council officers to whom the said functions are allocated by this Scheme:

- 8.1 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to him by this Scheme of Delegation.
- 8.2 To consider and adjust individual Improvement Grant rates when deemed appropriate.
- 8.3 To approve applications for grants towards the cost of improvement and repairs of dwellings under the provisions of the Housing Grants, Construction and Regeneration Act 1996 and to determine the payment of reasonable and appropriate fees in connection therewith.
- 8.4 To authorise in appropriate circumstances the waiver of the prior qualifying period for owner-occupiers and tenants specified in the Housing Grants, Construction and Regeneration Act 1996 in relation to applications for Renovation Grants.
- 8.5 To approve applications for grants towards the cost of improvement and repairs of dwellings under the provisions of the Housing Grants, Construction and Regeneration Act 1996 and to determine the payment of reasonable and appropriate fees in connection therewith;
- 8.6 To authorise in appropriate circumstances the waiver of the prior qualifying period for owner-occupiers and tenants specified in the Housing Grants, Construction and Regeneration Act 1996 in relation to applications for Renovation Grants.

## **9.0 STREET SCENE MANAGER**

- 9.1 The functions of doing anything which the Council has a power or duty to do (including the power to serve any notice) that is necessary for the enforcement of any of the provisions contained in the enactments listed below (other than any of those provisions

the enforcement of which is not a Cabinet function), and to institute legal proceedings in consultation with the Director of Neighbourhood Services arising from any breach of those provisions shall be allocated to the Street Scene Manager in addition to any other Council officers to whom the said functions are allocated by this Scheme:

Burial Act 1857  
Cremation Acts 1902 and 1952  
Controlled Waste Regulations 1992  
Environmental Protection Act 1990  
Health and Safety at Work Act 1974  
Local Authorities Cemeteries Order 1977  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1982  
Mid Glamorgan County Council Act 1987  
Public Health Act 1936  
Public Health Act 1961  
Refuse Disposal (Amenity) Act 1978  
Water Industries Act 1991.

9.2 The Notification of Burials under Births and Deaths Registration Act 1926

9.3 The issuing of Memorial Permits under the Local Authorities Cemeteries Order 1977

## **10.0 HEAD OF WASTE SERVICES**

10.1 The functions contained in the Control of Waste Regulations 1992 and the Environmental Protection Act shall be allocated to the Head of Waste Services, in addition to any other Council officers to whom the said functions are allocated by this Scheme.

10.2 The Head of Waste Services may further delegate the functions in 10.1 to suitably qualified officers in the Waste & Recycling Department who are responsible for the function which is to be discharged.

## **11.1 ENVIRONMENTAL HEALTH MANAGER**

In addition to any other Council officers to whom the said functions are allocated by this Scheme the Environmental Health Manager is hereby allocated the functions of doing any act which the Council has a power or duty to do that is necessary for the enforcement of any of the provisions contained in the enactments set out below and to institute legal proceedings in consultation with the Legal Department and the Head of Public Protection arising from any breach of those provisions:

Administration of Justice Acts 1970 and 1985  
Animal Boarding Establishments Act 1963  
Animal Health Act 1981 and 2002  
Animal Health and Welfare Act 1984  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1989 and 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Building Act 1984  
Burial Act 1857

Business Names Act 1985  
Cancer Act 1939  
Caravan Sites Control of Development Act 1960  
Caravan Sites Act 1968  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Christmas Day (Trading) Act 2004  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Climate Change Act 2008  
Communications Act 2003  
Consumer Protection Act 1987  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Dangerous Dogs Act 1989 and 1991  
Dogs Act 1871  
Dogs Act 1906  
Education Reform Act 1988  
Energy Act 1976  
Energy Conservation Act 1981  
Environmental Protection Act 1990  
Environment Act 1995  
Estate Agents Act 1979  
European Union (Withdrawal) Act 2018  
Factories Act 1961  
Fire Safety and Places of Sport Act 1987  
Food and Environment Protection Act 1985  
Food Act 1984  
Food Hygiene Rating (Wales) Act 2013  
Food Safety Act 1990  
Game Act 1831  
Guard Dogs Act 1975  
Hallmarking Act 1973  
Health Act 2006 (updated 2009)  
Health and Safety at Work etc. Act 1974  
Highways Act 1980  
Housing Act 1985  
Housing Act 2004  
Housing, Grants, Construction and Regeneration Act 1996  
Licensing Act 1964 and 2003  
Local Government Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989  
Medicines Act 1968  
Mid Glamorgan County Council Act 1987  
Mock Auctions Act 1961  
Motor Cycle Noise Act 1987  
National Lotteries Act 1993  
Noise Act 1986  
Noise and Statutory Nuisance Act 1993



Offices, Shops and Railway Premises Act 1963  
 Pesticides Act 1998  
 Pet Animals Act 1951  
 Petroleum (Consolidation) Act 1928  
 Petroleum (Transfer of Licences) Act 1936  
 Poisons Act 1972  
 Pollution Prevention and Control Act 1999  
 Prevention of Damage by Pests Act 1949  
 Protection from Eviction Act 1997  
 Protection of Children (Tobacco) Act 1986  
 Public Health Act 1936  
 Public Health Act 1961  
 Public Health (Control of Diseases) Act 1984  
 Public Health (Wales) Act 2017  
 Refuse Disposal (Amenity) Act 1978  
 Regulation of Investigatory Powers Act 2000  
 Renting Homes (Fees etc.) Wales Act 2019  
 Riding Establishments Acts 1964 and 1970  
 Safety at Sportsgrounds Act 1975  
 Scrap Metal Dealers Act 2013  
 Shops Act 1950  
 Slaughter of Poultry Act 1967  
 Sunbeds (Regulation) Act 2010  
 Sunday Trading Act 1994  
 Tattooing of Minors Act 1969  
 Telecommunications Act 1984  
 Theft Act 1968 and 1978  
 Tobacco Advertising and Promotion Act 1992 and 2002  
 Town Police Clauses Act 1847  
 Vehicle (Crime) Act 2001  
 Water Industries Act 1991

and

- (a) any Orders, or Regulations or other instruments
  - (i) made there under or
  - (ii) relating thereto, or
  - (iii) in retained European law relating to measuring instruments; food safety, animal feedstuffs, consumer and business protection, animal health and welfare, product safety and environmental protection pursuant to the European Union (Withdrawal) Act 2018;

and

- (b) any modification or re-enactment to the foregoing.

11.2 The Environmental Health Manager, shall be allocated the powers of entry, inspection, testing, sampling and seizure conferred upon the Council by any of the enactments listed below at 13.4 in addition to any other Council officers to whom the said functions are allocated by this Scheme:

11.3 The Environmental Health Manager may save for the institution of legal proceedings further delegate the functions in 11.1 and 11.2 above to suitably qualified officers in the Department who are responsible for the function which is to be discharged

13.4 Administration of Justice Acts 1970 and 1985  
 Animal Boarding Establishments Act 1963

Animal Health Act 1981 and 2002  
Animal Health and Welfare Act 1984  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1989 and 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Building Act 1984  
Burial Act 1857  
Business Names Act 1985  
Cancer Act 1939  
Caravan Sites Control of Development Act 1960  
Caravan Sites Act 1968  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Christmas Day (Trading) Act 2004  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Climate Change Act 2008  
Communications Act 2003  
Consumer Protection Act 1987  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Dangerous Dogs Act 1989 and 1991  
Dogs Act 1871  
Dogs Act 1906  
Education Reform Act 1988  
Energy Act 1976  
Energy Conservation Act 1981  
Environmental Protection Act 1990  
Environment Act 1995  
Estate Agents Act 1979  
European Union (Withdrawal) Act 2018  
Factories Act 1961  
Fire Safety and Places of Sport Act 1987  
Food and Environment Protection Act 1985  
Food Act 1984  
Food Hygiene Rating (Wales) Act 2013  
Food Safety Act 1990  
Game Act 1831  
Guard Dogs Act 1975  
Hallmarking Act 1973  
Health Act 2006 (updated 2009)  
Health and Safety at Work etc. Act 1974  
Highways Act 1980  
Housing Act 1985  
Housing Act 2004  
Housing, Grants, Construction and Regeneration Act 1996  
Licensing Act 1964 and 2003  
Local Government Act 2003  
Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982  
 Local Government and Housing Act 1989  
 Medicines Act 1968  
 Mid Glamorgan County Council Act 1987  
 Mock Auctions Act 1961  
 Motor Cycle Noise Act 1987  
 National Lotteries Act 1993  
 Noise Act 1986  
 Noise and Statutory Nuisance Act 1993  
 Offices, Shops and Railway Premises Act 1963  
 Pesticides Act 1998  
 Pet Animals Act 1951  
 Petroleum (Consolidation) Act 1928  
 Petroleum (Transfer of Licences) Act 1936  
 Poisons Act 1972  
 Pollution Prevention and Control Act 1999  
 Prevention of Damage by Pests Act 1949  
 Protection from Eviction Act 1997  
 Protection of Children (Tobacco) Act 1986  
 Public Health Act 1936  
 Public Health Act 1961  
 Public Health (Control of Diseases) Act 1984  
 Public Health (Wales) Act 2017  
 Renting Homes (Fees etc) Wales Act 2019  
 Refuse Disposal (Amenity) Act 1978  
 Riding Establishments Acts 1964 and 1970  
 Safety at Sportsgrounds Act 1975  
 Scrap Metal Dealers Act 2013  
 Shops Act 1950  
 Slaughter of Poultry Act 1967  
 Sunbeds (Regulation) Act 2010  
 Sunday Trading Act 1994  
 Tattooing of Minors Act 1969  
 Telecommunications Act 1984  
 Theft Act 1968 and 1978  
 Tobacco Advertising and Promotion Act 1992 and 2003  
 Town Police Clauses Act 1847  
 Vehicle (Crime) Act 2001  
 Water Industries Act 1991

and

- (a) any Orders, or Regulations or other instruments
  - (i) made there under or
  - (ii) relating thereto, or
  - (iii) in retained European law pursuant to the European Union (Withdrawal) Act 2018 relating to measuring instruments; food safety, animal feedstuffs, consumer and business protection, animal health and welfare, product safety and environmental protection;

and

- (b) any modification or re-enactment to the foregoing.

13.5 The Environmental Health Manager, in addition to any other Council officers to whom the said functions are allocated by this Scheme shall be allocated the following

functions at (a) to (d) below and furthermore the Authority indemnifies its officers under Section 26 Health and Safety at Work Act in respect of any act done in the execution of the relevant enactments.

- (a) Service of Improvement Notices, Emergency Prohibition Notices and Improvement Notices under the Food Safety Act, Sections 10(1) and 2(1) and the Health and Safety at Work etc Act 1974 Sections 21 & 22;
- (b) Empowerment to deal with any article or substance which is a potential cause of danger of serious personal injury under the Section 9 of the Food Safety Act and Section 25 of the Health and Safety at Work Act 1974;
- (c) Service of statutory notices in respect of blocked sewers under Section 35(1) of the Local Government (Miscellaneous Provisions) Act 1976, and stopped up drains, private sewers, water closets, waste pipes or soil pipes under Section 17(3) of the Public Health Act 1961;
- (d) Service of abatement notices under the Environmental Protection Act, Section 80 and Section 80A, in respect of statutory nuisances arising from:
  - noise emitted, or considered likely to be emitted, from premises so as to be prejudicial to health or a nuisance; or
  - noise that is prejudicial to health or a nuisance and is emitted from or caused by, or is considered likely to be emitted from or caused by, a vehicle, machinery or equipment in a street.

#### 14.1 **WASTE SERVICES MANAGER**

- 14.2 The powers of entry, inspection, testing, sampling and seizure conferred upon the Council by any of the enactments listed below including the issuing of fixed penalty notices shall be allocated to the the Waste Services Manager, Waste Strategy Team Leader, Household Waste & Recycling Manager, Trade Waste Officer, Recycling Wardens, Waste Operations Supervisor and Waste Services Operative in addition to any other Council Officers to whom the said functions are allocated by this scheme.

Burials Act 1857

Clean Neighbourhoods and Environment Act 2005

Control of Pollution (Amendment) Act 1989

Control of Pollution Act 1974

Cremations Acts 1902 and 1952

Dogs Act 1906

Dogs (Fouling of Land) Act 1996

Environment Act 1995

Environmental Protection Act 1990

Local Authorities Cemeteries Order 1977

Local Government (Miscellaneous Provisions) Act 1976

Prevention of Damage by Pests Act 1949

Public Health Act 1936

Public Health Act 1961

Refuse Disposal (Amenity) Act 1978

Town & Country Planning Act 1990

Waste Minimisation Act 1998

**15.0 HOUSING SOLUTIONS TEAM LEADER & OPERATIONAL HOUSING SERVICES MANAGER**

- 15.1 The functions listed at 15.1 to 15.6 below shall be allocated to the Council Officers occupying the posts of Housing Solutions Team Leader and the Operational Housing Services Manager In addition to any other Council Officers to whom the said functions are allocated by this Scheme:
- 15.2 To determine the priority accorded to individual applications to the Housing Register and for Transfers and to allocate Council accommodation in accordance with the Council's policies.
- 15.3 To determine on applications from owner/occupiers to the Housing Register, in accordance with the Council's policies.
- 15.4 To determine applications for mutual exchanges.
- 15.5 To determine applications for successions, assignments and tenancy changes.
- 15.6 To determine applications for assistance by homeless persons and persons threatened with homelessness pursuant to The Housing (Wales) Act 2014 and to secure temporary accommodation as appropriate.
- 15.7 In consultation with the Data Protection Officer, where appropriate, to make all initial decisions under the Data Protection Act 1998 as to whether access to information is to be permitted and whether information is to be corrected or erased.

**16.0 SENIOR TRAFFIC MANAGEMENT ENGINEER**

The Council Officers who for the time being occupy the post of Senior Traffic Management Engineer shall be allocated the function of issuing "Residents' Parking Only" permits in accordance with Sections 32 and 35 of the Road Traffic Regulation Act 1984.

**17.0 SENIOR EDUCATION WELFARE OFFICER**

The function of enforcing the provisions of the Education Act 1996 including the issuing of warning letters, Fixed Penalty Notices and instituting of legal proceedings for failures in school attendance pursuant to Section 444 of the Education Act 1996 shall be allocated to the Council Officers who for the time being occupy the posts of Senior Education Welfare Officer.

**18.0 PRINCIPAL MANAGERS FOR INTAKE & ASSESSMENT SERVICES**

The functions listed below from 18.1 to 18.26 shall be allocated to the Principal Managers for Intake and Assessment Services that Support Permanency and Youth Offending Services Manager in addition to any other Council officers to whom the said functions are allocated by this Scheme:

- 18.1 Twin tracking decision in relation to adoption
- 18.2 Referral of child to Adoption Panel

- 18.3 Referral of matching of child for adoption and adoptive parents to adoption panel
- 18.4 Agreement for an accommodated child's regular attendance at or joining a religious organisation, where the parent has given verbal agreement
- 18.5 School trips, camps etc (including consent for any necessary emergency medical treatment) for an accommodated child where parent has given verbal agreement
- 18.6 Participation of an accommodated child in hazardous activities (e.g. rock-climbing or skiing) where parent has given verbal agreement
- 18.7 Decision to accommodate a child
- 18.8 Non-routine medical or dental treatment for a Looked After child, where the parent has given verbal agreement
- 18.9 Change of school for a child who is the subject of a Care Order
- 18.10 Referral of a child who is the subject of a Care Order for assessment of Special Educational Needs
- 18.11 Change of school for an accommodated child
- 18.12 Accommodated child being referred for assessment for a statement of Special Educational Needs
- 18.13 Request other Local Authorities to supervise on their behalf
- 18.14 Decision to notify Police of missing children
- 18.15 One off emergency additional payments (up to 1 weeks foster carer allowance)
- 18.16 Seek an Emergency Protection Order
- 18.17 Accept other Local Authority's request to supervise on their behalf
- 18.18 Agreement to purchase external placement for a Looked After child
- 18.19 Authorisation of Fostering/Adoption Residency Allowance - following Fostering/Adoption Panel and Placement Panel
- 18.20 Non-routine medical or dental treatment for a child who is the subject of a Care Order, where a parent does not agree
- 18.21 Agreement to suspension of contact
- 18.22 Initiate Care proceedings
- 18.23 Authorising a passport application on behalf of a child who is the subject of a Care Order
- 18.24 Child who is the subject of a Care Order to travel abroad for periods of less than one month
- 18.25 Referral of a child who is the subject of a Care Order for assessment of Special Educational Needs

- 18.26 Accommodated child being referred for assessment for a statement of Special Educational Needs

**19.0 HEAD OF COMMUNICATIONS, CONSULTATION & CABINET OFFICE**

- 19.1 The functions contained in the Births and Deaths Registration Act 1953 and the Registration of Births, Deaths and Marriages Regulations 1968. shall be allocated to the Head of Communications, Consultation & Cabinet Office, in addition to any other Council officers to whom the said functions are allocated by this Scheme.
- 19.2 The Head of Communications, Consultation & Cabinet Office may further delegate the functions in 19.1 to suitably qualified officers in the Registrars Department/Office who are responsible for the function which is to be discharged.
- 19.3 The Head of Communications, Consultation & Cabinet Office shall be designated as the "Proper Officer" for births deaths and marriages.

## SECTION 14

### APPENDIX 4

# SCHEME C

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## SCHEME OF DELEGATION OF FUNCTIONS OTHER THAN CABINET FUNCTIONS TO COUNCIL OFFICERS

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### General

1. This Scheme provides for the delegation to Council Officers of functions other than those which are the responsibility of the Executive which it has resolved to be known as “the Cabinet” established by the Council in accordance with the duty to make executive arrangements placed upon the Council by Part II of the Local Government Act 2001.
2. This Scheme has been approved by the Council in accordance with the power to arrange for the discharge of any of their functions by Council Officers conferred upon them by Section 101 of the Local Government Act 1972.
3. In this Scheme:
  - (a) “Chief Officer” means any of the following:
    - Chief Executive;
    - Deputy Chief Executive
    - Director of Education,
    - Director of Social Services,
    - Director of Neighbourhood Services,
    - Director of Governance & Resources,
    - Chief Finance Officer,
    - Monitoring Officer.
  - (b) “JNC Officer” means an officer who has been designated by the Council as falling within the scope of the Joint Negotiating Committee for Chief Officers of Local Authorities;
  - (c) Words importing the singular number only shall include the plural number and vice versa;



- (d) References to any enactment shall include any statutory modification or re-enactment thereof for the time being in force and any subordinate legislation for the time being made thereunder.
4. The functions described in the Scheme are hereby delegated to the Council Officer(s) specified in the Scheme in respect of each such function or, if a Council Officer so specified is absent or otherwise unable to act to the Council Officer (if any) designated in the Scheme to act in his place.
  5. **Part I** of Scheme C describes the functions so delegated to the Chief Executive, the Deputy Chief Executive, Director of Education, Director of Social Services, Director of Neighbourhood Services, Director of Governance & Resources, Chief Finance Officer, Monitoring Officer, and the Managers which may not be discharged by the specified or designated Officer unless there has been prior consultation with the Council Member or Members and/or the Council Officer or Officers specified in the Scheme as consultee(s) in respect of that function.
  6. **Part II** of Scheme C describes the functions so delegated to Chief Executive, the Deputy Chief Executive, Director of Education, Director of Social Services, Director of Neighbourhood Services, Director of Governance & Resources, Chief Finance Officer, Monitoring Officer and the Managers which may be discharged by the specified Officer without prior consultation.
  7. **Part III** of Scheme C describes the functions so delegated to Council Officers which may be discharged by the specified Council Officer without prior consultation.
  8. Council Officers making decisions in connection with the discharge of the functions hereby delegated to them:
    - (a) must do so on the basis of the merits of the circumstances involved and the public interest;
    - (b) must have regard to any relevant advice provided by other Council Officers, in particular by:
      - (i) the Council's Chief Finance Officer acting in pursuance of that Officer's duties under Section 114 of the Local Government Finance Act 1988;
      - (i) the Council's Monitoring Officer acting in pursuance of that Officer's duties under Section 5 of the Local Government and Housing Act 1989;
      - (iii) the Solicitor to the Council (if not also the Monitoring Officer), who should be consulted when there is any doubt as to the Council's power to act, or as to whether the action proposed lies within the policy framework agreed by the Council; where the legal consequences of action or failure to act by the Council might have important repercussions;
    - (c) must comply with any conditions or restrictions on the exercise of their discretion which have been laid down either by the Council or by any Committee or other body established by the Council to which council has also delegated the function in connection with which the decision is being made;

- (d) must take account of any previous decision by the Council or by any Committee or other body established by the Council with power to make decisions relating to any relevant policies or procedures.
9. In discharging the functions delegated to them Council Officers shall comply with the Council's Procurement and Contracting Procedure Rules and Financial Procedure Rules in Sections 17 and 16 of the Council's Constitution, and shall not exercise those functions if to do so would have the effect of:
- (a) causing revenue expenditure to be incurred, unless it is incurred in accordance with the Council's approved revenue estimates or the provisions relating to virement contained in the Financial Procedure Rules; or
  - (b) causing capital expenditure to be incurred, other than capital expenditure on the acquisition of land or on preliminary or design work or in connection with a scheme which appears in the Council's approved capital estimates.
10. The delegation of a function to a Council Officer shall in each case include the power to utilise on the Council's behalf any statutory power available to it as a local authority that will facilitate the discharge of the delegated function.
11. The Council Officer to whom a function is delegated shall be appointed the Council's proper officer for the purpose of deciding whether the written record referred to in paragraph 15 below of a decision made in connection with the discharge of that function contains "exempt information" which the Council is entitled to withhold from the public.
12. Any Council Officer to whom a function is delegated may decline to make a decision in connection with the discharge of that function in relation to any particular matter and may instead refer the matter for decision to the Council or any Committee or other body to which the Council has also delegated the function in connection with which a decision is required.
13. The Council's Chief Finance Officer and/or the Council's Monitoring Officer may require any Council Officer to cease to discharge all or any of the functions delegated to that Officer pending the submission of a report to the next meeting of the Council.
14. Before making a decision in connection with the discharge of any of the functions listed in **Part I** of Scheme C (other than a proposed decision by the Chief Executive in relation to any matter which, for reasons of urgency, cannot await the next meeting of the Council, or a proposed decision by the Head of Legal Services to settle civil proceedings on a consent basis or to withdraw civil or criminal proceedings) the Council Officer proposing to make the decision shall:
- (a) ensure that a written summary of the proposed decision containing all the information required to be included in the written record referred to in paragraph 15 below, other than the date of the proposed decision, and shall send a copy of the summary to the Head of Legal and Governance to enable him/her to make a copy of the summary available for perusal by Council Members generally;
  - (b) not make a final decision in connection with the discharge of the delegated function until a period of five working days, excluding the day on which it was

sent, shall have elapsed from the date on which the summary was sent to the Head of Legal and Governance;

- (c) take into consideration, in addition to the views expressed by the Council Member(s) and/or Council Officer(s) specified as consultee(s) in Part I of Scheme C, any views expressed by any Council Member in relation to the proposed decision prior to making a final decision in connection with the discharge of the delegated function.
15. Every Council Officer making a decision in connection with the discharge of a function delegated to him under this Scheme (other than a decision involving the consideration of “personal data”, as defined by Section 1(1) of the Data Protection Act 2018, held for the purposes of the Council’s education, housing or social services functions or the determination of a planning application) shall ensure that a written record is made:
- (a) specifying the delegated function in connection with which the decision was made and the date of the decision;
  - (b) summarising:
    - (i) the decision taken;
    - (ii) the factual information upon which it was based;
    - (iii) any advice received, whether from other officers or otherwise;
    - (iv) any persons or bodies consulted before the decision was made;
  - (c) stating whether the written record contains “exempt information” which the Council is entitled to withhold from the public and specifying the relevant paragraph(s) of Part I of Schedule 12A to the Local Government Act 1972 which apply;
  - (d) stating whether the written record contains “confidential information” as defined in Section 100A (3) of the Local Government Act 1972.
16. The written record of a decision made in connection with the discharge of a function delegated to a Council Officer by virtue of this Scheme shall be signed by the Council Officer making the decision.
17. The written record of a decision made in connection with the discharge of a function delegated to a Council Officer by virtue of this Scheme shall be retained for a period of six years from the date of the decision by the Officer who made the decision, by the department in which the Council Officer who made the decision was employed.
18. As soon as reasonably practicable after a decision is made in connection with the discharge of a function delegated to him copies of the written record of the decision shall be sent by the Council Officer who made the decision to the Head of Legal Services to enable it to be made available for viewing by Council Members generally and, unless it contains “exempt information” of any of the descriptions in Schedule 12A of the Local Government Act 1972 or “confidential information” as defined in Section 100A(3) of the said Act, to be made available for public inspection.
19. As soon as reasonably practicable after a decision is made by a Council Officer in connection with the discharge of a delegated function prior to the making of which the

Council Officer was required to consult with a Council Member or Members, the decision taken in connection with the discharge of the delegated function shall be:

- (a) sent by the Council Officer making the decision to the Council Member(s) or Council Officer(s) who were required to be consulted before the decision was made;
  - (b) sent by the Council Officer making the decision to the Chairperson of the Scrutiny Committee responsible for scrutinising decisions made in connection with the discharge of the function in respect of which the decision was made;
  - (c) formally reported by the Council Officer making the decision or his/her Chief Officer to the Council or to any Committee or other body to which the Council has also delegated the function in connection with which the decision was made.
20. In the event of any Council Member or Council Officer who is designated in Part I of Scheme C as a consultee being absent or for any other reason unable to act as such he/she may nominate in writing another Council Member or Council Officer to act as consultee in his/her place.
21. Each written nomination made by a Council Member or Council Officer in accordance with paragraph 20 above shall be retained for a period of six years from the date of the decision in respect of which the nomination was made by the Chief Officer who made the decision or in whose directorate the Council Officer who made the decision was employed.

## SECTION 14

### APPENDIX 4

# SCHEME C

## PART I

**FUNCTIONS OTHER THAN CABINET FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE, DEPUTY CHIEF EXECUTIVE, DIRECTOR OF EDUCATION, DIRECTOR OF SOCIAL SERVICES, DIRECTOR OF NEIGHBOURHOOD SERVICES, DIRECTOR OF GOVERNANCE & RESOURCES, CHIEF FINANCE OFFICER, AND HEADS OF SERVICE, WHICH MAY NOT BE DISCHARGED UNLESS THERE HAS BEEN PRIOR CONSULTATION WITH SPECIFIED COUNCIL MEMBER(S) AND/OR COUNCIL OFFICER(S)**

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**1. Functions delegated to each Chief Officer/Director (or if the Chief Officer/Director is absent or otherwise unable to act:**

- (a) To the Deputy Chief Executive in consultation with the Head of Legal Services and the Chief Finance Officer if the chief officer who would normally discharge the function is the Chief Executive;

OR

- (b) To the Head of Service responsible for the service in connection with which the function is to be discharged in the case of any other chief officer

| Delegated Functions                                                                                                                                                                                                                                                                                                                      | Consultee(s)                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1 To authorise the submission of applications for grant aid to the Welsh Government and other appropriate bodies for purposes relating to matters falling within the responsibilities of the Chief Officer/Director concerned provided that such application is in accordance and complies with the Council's External Funding Policy. | The Chairman of any committee or other body to which the Council has also delegated the function in respect of which includes the service in respect of which the application is proposed to be submitted or, if there is no such committee or other body, the Mayor. |
|                                                                                                                                                                                                                                                                                                                                          | Chief Finance officer                                                                                                                                                                                                                                                 |
| 1.2 To authorise the acceptance of grant aid from the Welsh Government or other appropriate bodies for purposes relating to matters falling within the responsibilities of the Chief Officer/Director concerned.                                                                                                                         | The Chairman of any committee or other body to which the Council has also delegated the                                                                                                                                                                               |

| Delegated Functions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Consultee(s)                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | function which includes the service in respect of which the application is proposed to be submitted or, if there is no such committee or other body, the Mayor.                                                                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Chief Finance Officer                                                                                                                                                                                                                              |
| <p>1.3 (a) In respect of any proposed contract relating to services for which the Chief Officer/Director concerned is responsible and which have an estimated value exceeding Level C but not exceeding Level D:</p> <p>(b) To authorise the invitation of tenders; and</p> <p>(c) To accept the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council.</p>                                                                                                | <p>The Chairman of any committee or other body to which the Council has also delegated the function which includes the service in respect of which the contract is to be concluded or, if there is no such committee or other body, the Mayor.</p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Chief Finance Officer                                                                                                                                                                                                                              |
| <p>1.4 In respect of any proposed contract relating to services for which the Chief Officer/Director concerned is responsible and which have an estimated value exceeding Level C but not exceeding Level D to accept a tender other than the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council where there are special reasons approved by the Director of Finance, for not accepting the lowest tender or the highest tender as the case may be.</p> | <p>The Chairman of any committee or other body to which the Council has also delegated the function which includes the service in respect of which the contract is to be concluded or, if there is no such committee or other body, the Mayor.</p> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Chief Finance Officer                                                                                                                                                                                                                              |
| <p>1.5 To authorise the disposal of surplus goods acquired in connection with services for which the Chief Officer/Director concerned is responsible having an estimated total value not exceeding £250,000.</p>                                                                                                                                                                                                                                                                                                                                     | <p>The Chairman of any committee or other body to which the Council has also delegated the function which includes the service in connection with which the goods</p>                                                                              |

| Delegated Functions                                                                                                                                                                                                                   | Consultee(s)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.6 To approve fees and charges for new services and increases in existing fees and charges which are in accordance with any adopted charging policy and which are necessary to reflect either inflation or other increases in costs. | <p>were acquired or, if there is no such committee or other body, the Mayor;</p> <p>Chief Finance Officer</p> <p>The Chairman of any committee or other body to which the Council has also delegated the function which includes the service in respect of which the fees or charges will be payable or, if there is no such committee or other body, the Mayor.</p>                                                                                                                                                                                        |
| 1.7 To approve directorate, departmental or other divisional reviews of establishment which can be funded within existing budgets and/or with the benefit of any additional funding receivable.                                       | <p>Chief Finance Officer</p> <p>Either the Member of the cabinet responsible for the function in respect of which the amendments to existing staffing structures are required, if none, either of:</p> <p>(a) The Chairman of any Committee or other body to which the Council has also delegated the function which includes the service in respect of which the staff concerned are employed; or</p> <p>(b) If there is no such committee or other body, the Mayor;</p> <p>Member of the Cabinet for the Chief Executive</p> <p>Chief Finance Officer</p> |

**Delegated Functions****Consultee(s)**

- 1.8 To authorise the appointment of consultants providing a professional service whose fees are estimated to exceed £25,000.

Head of Strategic Human Resources.

The Chairman of any committee or other body to which the Council has also delegated the function which includes the service in respect of which the fees or charges will be payable or, if there is no such committee or other body, the Mayor

Chief Finance Officer

**2. Function delegated to the Chief Executive (or if he is absent or otherwise unable to act) to the Head of Legal Services**

**Delegated Functions****Consultee(s)**

- 2.1 To make a decision upon any matter which, for reasons of urgency, cannot await the next meeting of the Council or of any Committee or other body to which the Council has delegated the function in connection with which a decision is required (other than a decision which must by law be taken by the Council itself).

The Chairman of any committee or other body to which the Council has delegated the function in respect of which the decision is required or, if there is no such committee or other body, the Mayor;

The leader(s) of each political group into which the members of the Council are divided;

The Chief Officer/Director(s) (if any) responsible for the function in respect of which the decision is required.

The Chairman of respective Scrutiny Committee.



**3. Functions allocated to the Chief Executive and to the Head of Legal Services and the Senior Solicitor(s)**

| <b>Delegated Functions</b>                                                                                                                                                                               | <b>Consultee(s)</b>                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3.1 To instruct counsel in relation to any legal matter which affects the Council where the cost of doing so is not estimated to exceed £25,000.                                                         | The Chairman of any committee or other body to which the Council has delegated the function in respect of which it is proposed to instruct counsel or, if there is no such committee or other body, the Mayor. |
| 3.2 To authorise the settlement of civil proceedings on a consent basis where the amount payable by or to the Council exceeds £10,000 but does not exceed £50,000.                                       | The Chairman of any committee or other body to which the Council has delegated the function to which the proceedings relate or, if there is no such committee or other body, the Mayor.                        |
| 3.3 To determine applications for the grant or renewal of approvals of premises for the solemnization of marriages in pursuance of section 26 (1) (bb) of the Marriage Act and to revoke such approvals. | The Chairman and Vice-Chairman of the Licensing Committee.                                                                                                                                                     |

**4. Functions delegated to the Director of Neighbourhood Services and to the Group Leader Planning.**

| <b>Delegated Functions</b>                                                                                                                                                                            | <b>Consultee(s)</b>                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| 4.1 To provide observations to other authorities when the Council is consulted on planning applications in neighbouring areas and there is insufficient time to report such proposals to the Council. | Chairperson of the Planning Regulatory and Licensing Committee. |
| 4.2 To issue an injunction in accordance with the provisions of the Town and Country Planning act 1990.                                                                                               | Chairperson of the Planning Regulatory and Licensing Committee. |

**5. Function delegated to the Deputy Chief Executive and to the Head of Housing & Regeneration.**

**Delegated Functions****Consultee(s)**

- 5.1 To enter into agreements to create footpaths and  
bridleways in accordance with Part III of the Highways  
Act 1980.

Chairperson and  
Vice-Chairperson of  
Rights of Way  
Committee.

**5. Function delegated to the Chief Executive, the Head of Legal Services and Senior Solicitor(s)**

**Delegated Functions****Consultee(s)**

- 6.1 To determine applications for the grant or renewal of  
approvals of premises for the solemnization of marriages  
in pursuance of section 26(1) (bb) of the Marriage Act  
1949, and to revoke such approvals.

Chairperson and  
Vice-Chairperson of  
the Planning  
Regulatory and  
Licensing Committee.

**7. Function delegated to the Chief Finance Officer**

**Delegated Functions****Consultee(s)**

- 7.1 To authorise and approve agreed BIFFA schemes  
submitted in accordance with Council policy where  
Councillors have declared a personal interest.

Leader of the Council  
and if he is unavailable  
or unable to act the  
Mayor

**8. Function delegated to the Deputy Chief Executive, the Director of Education**

**Delegated Functions****Consultee(s)**

- 8.1 To take such decisions as are appropriate should the  
SACRE Committee be inquorate

Chair of the SACRE  
Committee

**9. Function delegated to both the Head of Public Protection and the Licensing Team Leader**

**Delegated Functions****Consultee(s)**

- 9.1 To determine applications to re-license Hackney  
Carriage & Private Hire drivers and Hackney Carriage &  
Private Hire vehicles made up to three days after the  
expiry of the previous licence

The Chair or Vice  
Chair of Planning,  
Regulatory &  
Licensing Committee  
and the Head of  
Legal Services

**SECTION 14**

**APPENDIX 4**

# **SCHEME C**

**PART II**

**FUNCTIONS OTHER THAN CABINET FUNCTIONS DELEGATED TO THE CHIEF EXECUTIVE, THE DEPUTY CHIEF EXECUTIVE DIRECTORS, CHIEF FINANCE OFFICER AND HEADS OF SERVICE WHICH MAY BE DISCHARGED WITHOUT PRIOR CONSULTATION**

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- 1.0 Functions delegated to the Chief Executive, the Deputy Chief Executive, Directors and the Chief Finance Officer (or if the Director or the Chief Finance Officer is absent or otherwise unable to act) to the Head of Service responsible for the service in connection with which the function is to be discharged)**

**Delegated Functions**

- 1.1 To approve shortlists for and make permanent and temporary appointments to all posts within their respective directorates.
- 1.2 To exercise the powers conferred upon them under the Council's Disciplinary and Grievance Procedures.
- 1.3 To approve amendments to existing staffing structures (other than directorate, departmental or other divisional reviews of establishment) which can be funded within existing budgets and/or with the benefit of any additional funding receivable.
- 1.4 To determine applications by staff for special leave of absence.
- 1.5 To invite tenders for any contract having an estimated value not exceeding £100,000 and:
  - (a) to accept the lowest tender received where payment is to be made by the Council and the highest tender received where payment is to be received by the Council; or
  - (b) to accept a tender other than the lowest tender received where payment is to be made by the Council or the highest tender received where payment is to be received by the Council where there are special reasons approved by the Chief Finance Officer for not accepting the lowest tender or the highest tender as the case may be.

## **Delegated Functions**

- 1.6 To respond to government papers and circulars relating to matters within their respective areas of responsibility.
- 1.7 To authorise the appointment of consultants providing a professional service whose fees do not exceed £25,000.

## **2.0 Functions delegated to the Chief Executive and to the Head of Legal Services and to the Senior Solicitor(s)**

### **Delegated Functions**

- 2.1 To institute and defend all civil and criminal proceedings (including appeals) on behalf of the Council, including proceedings in respect of which any other Council officer has been allocated a similar function, and to take any other steps in connection with the conduct of proceedings as he deems appropriate, including their withdrawal or discontinuance.
- 2.2 To authorise the settlement of proceedings on a consent basis where the amount payable by or to the Council does not exceed £10,000.
- 2.3 To instruct Counsel or external legal advisors in relation to any legal matters which affect the Council where the cost of doing so does not exceed £25,000.
- 2.4 To institute and conduct legal proceedings on behalf of any Council employee assaulted or threatened with assault during the course of his/her employment.
- 2.5 To authorise any member of staff to appear on behalf of the Council in county court or magistrates' court proceedings in accordance with Section 60 of the County Court Act 1984, Section 27 of the Courts and Legal Services Act 1990 and Section 223 of the Local Government Act 1972.
- 2.6 To authorise any member of staff to make statements of truth, to swear affidavits and to make statutory declarations on behalf of the Council.
- 2.7 To issue and serve Notices to Treat, Notices of Entry, Warrants for Possession and any other notices of whatever kind which may be necessary to give effect to a confirmed Compulsory Purchase Order made by the Council and to refer any dispute as to the compensation payable on compulsory acquisition to the Lands Tribunal.
- 2.8 To give any certificate or notice required for the purpose of registering any statutory or other charge at H. M. Land Registry on behalf of the Council.
- 2.9 To take appropriate action to enforce any statutory charge over premises existing in the Council's favour.

## **Delegated Functions**

- 2.10 To issue and serve statutory notices requisitioning information in respect of interests in and/or the use of land.
- 2.11 To issue and serve any notices which the Council is entitled to serve under any contract as employer.
- 2.12 To exercise any powers available to the Council under the provisions of any contract relating to the determination or forfeiture of the contract.
- 2.13 To confirm unopposed tree preservation orders under Section 199 of the Town and Country Planning Act 1990.
- 2.14 To exercise the functions of the Council following the service of a Purchase Notice or Blight Notice, including the issue and service of notices or counter notices.
- 2.15 To appoint authorised officers in connection with the licensing of Hackney Carriages and private hire vehicles for the purposes of Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.16 To maintain and keep under review a list of Proper Officer functions.

### **3.0 Functions delegated to the Director of Neighbourhood Services and the Deputy Chief Executive.**

#### **Delegated Functions**

- 3.1 To exercise the following Council's powers to determine or otherwise all planning (and other) applications with the exception of:-
  - i) Applications that the Director of Neighbourhood Services considers are likely to be of significant public interest;
  - ii) Applications where a Councillor requests in writing during a specified consultation period of 21 days that a matter should be considered by the Planning Regulatory and Licensing Committee stating their reasons and justification for such a request; **NOTE: Ward Members will be notified by email when objections are received to a planning application in order to give them the opportunity to consider whether or not they wish for the application to be considered at Committee.**
  - iii) The application is a "major development" as defined by the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
  - iv) Applications that are contrary to the provisions of the adopted Local Development Plan, where the recommendation is to approve.

- v) Applications submitted by or on behalf of a Councillor, any member of the Council's Planning Division, or Council staff involved in the processing/commenting upon applications (or the spouse or partner of any of these).

The exceptions detailed at i) – v) above shall be presented to the Planning Regulatory and Licensing Committee for determination.

### 3.2 To exercise the following Council's powers:

- a. Section 73 (of The Town and Country Planning Act 1990) applications which relate to major developments.
- b. To issue written authorisation to appropriate officers to enable them to exercise powers of entry;
- c. To issue notices requiring information as to interests in land;
- d. To issue Provisional Tree Preservation Orders and to include in the order a direction that it shall take effect immediately without previous confirmation;
- e. The service of tree replacement notices;
- f. To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to her by this scheme of delegation;
- g. The service of planning contravention notices and consideration of any offers or representations made in person in response to such a notice;
- h. The issuance of enforcement notices including Listed Building enforcement notices;
- i. The service of temporary stop notices and stop notices;
- j. The service of breach of condition notices;
- k. The service of enforcement warning notices;
- l. The power to decline to accept applications, determine the need for an Environmental Statement, accept formal withdrawal of planning applications; determine planning applications as invalid;
- m. Hazardous Substance Contravention Notices;
- n. Section 215 of the Town and Country Planning Act Notices;
- o. Notices in respect of unlawful advertisements;
- p. Powers relating to the protection of important hedgerows
- q. To deal with minor amendments to planning applications;
- r. To issue written authorisation to appropriate officers to enable them to exercise powers of entry;
- s. To issue notices requiring information as to interests in land;
- t. To issue Provisional Tree Preservation Orders and to include in the order a direction that it shall take effect immediately without previous confirmation;
- u. The service of tree replacement notices;
- v. To authorise works in compliance with conditions imposed on planning permissions;
- w. Authorisation to discharge the requirement of conditions imposed on earlier consents by written agreement;

- x. To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to her by this scheme of delegation;
  - y. The service of planning contravention notice and consideration of any offers or representations made in person in response to such a notice;
  - z. The issuance of enforcement notices including Listed Building enforcement notices;
  - aa. The service of stop notices;
  - bb. The service of breach of condition notices;
  - cc. The power to decline to accept applications, determine the need for an Environmental Statement, accept formal withdrawal of planning applications; determine planning applications as invalid;
  - dd. Hazardous Substance Contravention Notices;
  - ee. Section 215 of the Town and Country Planning Act Notices;
  - ff. Notices in respect of unlawful advertisements;
  - gg. Powers relating to the protection of important hedgerows
- 3.3 To determine Building Regulation applications submitted in accordance with the relevant provisions of the Building Act 1984.
- 3.4 To determine applications for the relaxation and dispensation of the Building Regulations.

#### **4.0 Function delegated to the Chief Finance Officer.**

##### **Delegated Functions**

- 4.1 To authorise and approve agreed BIFFA schemes submitted in accordance with Council policy.

#### **5.0 (a) Functions allocated to the Deputy Chief Executive, and the Head of Public Protection.**

##### **(b) Functions allocated to the officer acting in his statutory role as Chief Inspector of Weights and Measures**

##### **Allocated Functions**

- 5.1 The function of doing any act which the Council has a power or duty to do (including the power to serve any notice and to authorise officers or other suitably qualified persons) and falls within the service area that is necessary for the enforcement of any of the provisions contained in Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and to authorise and institute legal proceedings in consultation with the Head of Legal Services arising from any breach of those provisions.

## **Allocated Functions**

- 5.2 To grant, issue, amend revoke or refuse the grant or renewal of licences (other than licences in respect of which the said functions are Cabinet functions or are allocated under this Scheme to a Council Officer in another directorate); to effect, amend or revoke registrations; and to issue, amend or revoke authorisations as are contained in any of the provisions in Schedule 1 of The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007.
- 5.3 To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to him by this Scheme of Delegation.
- 5.4 To authorise surveillance in accordance with the requirements of the Regulation of Investigatory Powers Act 2000. This delegation does not apply to the Deputy Chief Executive.
- 5.5 To act as Disclosure Officer as defined in the Code of Practice for the purposes of the Criminal Procedure and Investigation 1996.
- 5.6 The statutory role of Chief Inspector of Weights and Measures shall be hereby delegated to the Trading Standards Manager.
- 5.7 The function of doing any act which the Council has a power or duty to do (including the power to serve any notice and to authorise officers or other suitably qualified persons) and falls within the service area that is necessary for the enforcement of any of the provisions contained in:

Clean Neighbourhoods and Environment Act 2005

Police and Justice Act 2006

Violent Crime Reduction Act 2006

Together with the right to grant, issue, amend revoke or refuse the grant or renewal of licences (other than licences in respect of which the said functions are Cabinet functions or are allocated under this Scheme to a Council Officer in another directorate); to effect, amend or revoke registrations; and to issue, amend or revoke authorisations as are contained in any of the provisions referred to above.



## SECTION 14

### APPENDIX 4

# SCHEME C

## PART III

### **FUNCTIONS OTHER THAN CABINET FUNCTIONS DELEGATED TO COUNCIL OFFICERS WHICH MAY BE DISCHARGED WITHOUT PRIOR CONSULTATION**

#### **1.0 DEPUTY CHIEF EXECUTIVE & HEAD OF PUBLIC PROTECTION**

- 1.1 The functions listed in 1.3 to 1.12 below shall be delegated to the Deputy Chief Executive and to the person for the time being occupying the post of the Head of Public Protection (or if they are absent or otherwise unable to act) to the person for the time being occupying the post of Licensing Manager or the Licensing Solicitor.
- 1.2 The Head of Public Protection may further delegate the functions referred to in 1.3 to 1.12 below to suitably qualified officers in the Department who are responsible for the function which is to be discharged.

#### **Delegated Function(s)**

- 1.3 To grant applications for hackney carriage and private hire vehicle licences and operators' licences.
- 1.4 To grant applications for hackney carriage and private hire vehicle drivers' licences in accordance with such guidelines, conditions, limitations or restrictions as may be prescribed by the Planning Regulatory and Licensing Committee.
- 1.5 To revoke existing hackney carriage and private hire vehicle licences when applications by the owners of the vehicles for the grant of new licences in respect of replacement vehicles are granted.
- 1.6 To suspend licences pertaining to hackney carriages and private hire vehicles not presented for pre-arranged six-monthly tests after the issue of a formal warning to the owners until such time as the test is carried out.
- 1.7 To determine applications for House-to-House Collection Licences in accordance with the regulations for the time being in force.
- 1.8 To determine applications for street collection permits in accordance with the regulations for the time being in force and to do so on a first come first served basis.
- 1.9 To approve applications made under the Licensing Act 2003 where the Council has received no objection.
- 1.10 To approve applications made under the Gambling Act 2005 where the Council has received no objection.

## **2.0 DEPUTY CHIEF EXECUTIVE, HEAD OF PUBLIC PROTECTION & OTHERS**

- 2.1 The powers in 2.2 and 2.3 below shall be delegated to the Deputy Chief Executive, the Head of Public Protection, the Licensing Manager, the Senior Licensing and Transport Officer and Licensing Officers

### **Delegated function(s)**

- 2.2 To suspend or revoke a Private Hire drivers licence and a Hackney Carriage drivers licence where the grounds identified within section 61 of the Local Government (Miscellaneous Provisions) Act 1976 are met.
- 2.3 To suspend or revoke a Private Hire vehicle licence and a Hackney Carriage vehicle licence where the grounds identified within section 60 of the Local Government (Miscellaneous Provisions) Act 1976 are met.

## **3.0 DEPUTY CHIEF EXECUTIVE, HEAD OF PUBLIC PROTECTION & LICENSING MANAGER**

- 3.1 The powers in 3.2 and 3.3 below shall be delegated to the Deputy Chief Executive, the Head of Public Protection and the Licensing Manager

### **Delegated function(s)**

- 3.2 To suspend or revoke with immediate effect a Private Hire or Hackney Carriage vehicle drivers licence pursuant to section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.3 To suspend or revoke a Private Hire operators licences where the grounds identified within section 62 of the Local Government (Miscellaneous Provisions) Act 1976 are met.

## **4.0 GROUP LEADER PLANNING**

- 4.1 The powers listed in 4.5 and 4.7 below together with:
- 4.2 any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to him by this Scheme of Delegation;
- 4.3 the power to determine planning applications in accordance with the scheme approved for the time being by the Council;

shall be delegated to the Group Leader Planning in addition to any other Council officers to whom the said powers are delegated by this Scheme:

### **Delegated Functions**

- 4.4 To exercise the following Council's powers to determine or otherwise all planning (and other) applications with the exception of:-
- i) Applications that the Director of Neighbourhood Services considers are likely to be of significant public interest;

- ii) Applications where a Councillor requests in writing during a specified consultation period of 21 days that a matter should be considered by the Planning Regulatory and Licensing Committee stating their reasons and justification for such a request; **NOTE: Ward Members will be notified by telephone and email when objections are received to an application in order to give them the opportunity to consider whether or not they wish for the application to be considered at Committee.**
- iii) The application is a “major development” as defined by the Town and Country Planning (Development Management Procedure) (Wales) Order 2012.
- iv) Applications that are contrary to the provisions of the adopted Local Development Plan, where the recommendation is to approve.
- v) Applications submitted by or on behalf of a Councillor, any member of the Council’s Planning Division, or Council staff involved in the processing/commenting upon applications (or the spouse or partner of any of these).

The exceptions detailed at i) – v) above shall be presented to the Planning Regulatory and Licensing Committee for determination.

#### 4.5 To exercise the following Council’s powers:

- a. To deal with minor amendments to planning applications;
- b. To issue written authorisation to appropriate officers to enable them to exercise powers of entry;
- c. To issue notices requiring information as to interests in land;
- d. To issue Provisional Tree Preservation Orders and to include in the order a direction that it shall take effect immediately without previous confirmation;
- e. The service of tree replacement notices;
- f. To authorise works in compliance with conditions imposed on planning permissions;
- g. Authorisation to discharge the requirement of conditions imposed on earlier consents by written agreement;
- h. To exercise any power conferred upon the Council to recover expenses incurred by it as a result of the exercise of any of the powers hereby delegated to her by this scheme of delegation;
- i. The service of planning contravention notice and consideration of any offers or representations made in person in response to such a notice;
- j. The issuance of enforcement notices including Listed Building enforcement notices;
- k. The service of stop notices;
- l. The service of breach of condition notices;
- m. The power to decline to accept applications, determine the need for an Environmental Statement, accept formal withdrawal of planning applications; determine planning applications as invalid;
- n. Hazardous Substance Contravention Notices;
- o. Section 215 of the Town and Country Planning Act Notices;
- p. Notices in respect of unlawful advertisements;
- q. Powers relating to the protection of important hedgerows