



# CARDIFF COUNCIL CONSTITUTION

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution came into effect on the 30th May 2002 and is periodically reviewed and amended by the Council as necessary. There may be a slight delay in updating the web site version, but Legal Services staff can advise you whether any particular part of the version published on our web site is the very latest version.

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## **PART 1 - SUMMARY AND EXPLANATION**

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### **The County Council's Constitution**

1. Cardiff Council's Constitution, sets out how the Authority operates how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
2. The Constitution is divided into 15 Articles which set out the basic rules governing the Authority's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **What's in the Constitution?**

3. Article 1 of the Constitution commits the Council to provide accountable leadership to the community, in partnership with its citizens, to improve service delivery to all the people of Cardiff. Articles 2–15 explain the rights of citizens and how the key parts of the Authority operate. These are:
  - Members of the Council (Article 2)
  - Citizens and the Authority (Article 3)
  - The Council (Article 4)
  - Chairing the Council (Article 5)
  - Scrutiny Committees (Article 6)
  - The Executive (Article 7)
  - Regulatory and other committees (Article 8)
  - The Standards & Ethics Committee (Article 9)
  - Joint arrangements (Article 10)
  - Council Employees (Article 11)
  - Decision Making (Article 12)
  - Finance, Contracts and Legal Matters (Article 13)
  - Review and Revision of the Constitution (Article 14)
  - Suspension, interpretation and publication of the Constitution (Article 15)

### **How the Authority operates**

#### **Council Arrangements**

4. The Council is composed of 75 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
5. Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards & Ethics

Committee advises them on the Code of Conduct and on development needs linked with conduct.

6. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. The Council decides the Authority's strategic policies, as set out in Article 4 and sets the budget each year.

### **Executive Arrangements (Leader and Cabinet)**

7. The Cabinet is the part of the Council which is responsible for most major decisions. The Cabinet is made up of the Leader elected by the Council, and up to nine other councillors whom he/she nominates for approval by the Council. Meetings of the Cabinet, Scrutiny Committees, the Council and other committees are open to the public to attend except where confidential information or exempt information is being discussed, as defined by the law. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Scrutiny**

8. Scrutiny Committees support the work of the Cabinet and the Council as a whole. The number of Scrutiny Committees is determined by the Council. Scrutiny Committees monitor the decisions of the Cabinet. They allow backbench members, citizens and stakeholders to have a greater say in matters concerning the Authority. They produce reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery. They can 'call-in' a decision which has been made but not yet implemented. This enables Scrutiny to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

### **The Authority's Employees**

9. The Authority has employees to give advice, implement decisions of the Cabinet and Council, and manage the day-to-day delivery of its services, including making decisions in accordance with a Scheme of Delegations. Employees are bound by a statutory Code of Conduct and a Protocol governs the relationships between employees and Councillors. The employees of the Authority serve the Authority as a whole and are required to advise impartially.

### **Citizens' Rights**

10. Citizens have a number of rights in their dealings with the Authority. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Authority's own processes.

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

Citizens may:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Cabinet, Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- contribute to investigations by the Scrutiny Committees;
- see reports and background papers, and any record of decisions made by the Council and Cabinet except where they contain personal or confidential information;
- complain to the Authority with regard to a perceived dissatisfaction about the standard of service, action or lack of action by the Authority or its staff. All complaints will be dealt with in accordance with the Authority's Complaint Policy, which provides an effective framework for review should the complainant be dissatisfied with the initial response;
- complain to the Commission for Local Administration in Wales (Ombudsman) if they think the Authority has not followed its procedures properly. However, the Authority expects a complainant to allow it the opportunity to resolve the complaint using the Authority's own Complaint Policy before contacting the Ombudsman, and the Ombudsman normally expects this too;
- complain to the Ombudsman if they have evidence which they think shows that a Councillor or Co-Opted Member has not followed the Members' Code of Conduct; and
- inspect the Authority's accounts and make their views known to the external auditor.

The Authority welcomes participation by its citizens in its work.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 1 – The Constitution**

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#### **1.1 Powers of the Authority**

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

#### **1.2 The Constitution**

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

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the Authority to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) provide a framework for good governance;
- (c) help Councillors represent their constituents more effectively through a comprehensive programme of Councillor development;
- (d) enable decisions to be taken efficiently and effectively;
- (e) provide a means of improving the deliver of services to the community;
- (f) create an effective means of holding decision-makers to public account;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decision; and
- (i) support the active involvement of citizens in the process of local authority decision-making.

#### **1.4 Review of the Constitution**

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

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

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#### **2.1 Composition**

The Authority will comprise 75 Councillors (otherwise called Members). One or more Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission for Wales and approved by the National Assembly for Wales.

#### **2.2 Election and terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years or at such other time as may be set by law. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

#### **2.3 Roles and functions of all Councillors**

##### **(a) Key roles**

Councillors will:

- (i) collectively set the Policy Framework and carry out a number of strategic functions;
- (ii) represent their communities and bring their views into the Authority's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) seek to balance different interests identified within the ward and represent the ward as a whole;
- (v) contribute to the continual improvement of council services through the Wales Improvement Programme;
- (vi) be involved in decision-making;
- (vii) be available to represent the Authority on other bodies; and
- (viii) maintain the highest standards of conduct and ethics.

##### **(b) Rights and Duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and this Constitution;

(ii) Councillors may visit any land or premises of the Authority subject to the following:

- they must properly identify themselves to the person in control of the premises and may not issue instruction to employees;
- or interview any employee other than a Corporate Director, Chief Officer or senior officer nominated for that purpose on matters of policy or principle, or any matter which is either under consideration by the Council or Cabinet or likely to be brought before it or any of its Committees;
- visits to residential establishments must have regard to the privacy and safety of residents and therefore may only be undertaken following proper notice to the relevant Chief Officer or his/her nominee and the visit may then be made in accordance with arrangements specified.

(iii) Councillors will not make public information which is confidential information or exempt information without the consent of the Authority or divulge information given in confidence to anyone other than a Councillor, officer or other person legally entitled to know it.

## 2.4 **Conduct**

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

Each Councillor will after their election give the Cardiff Undertaking to publicly demonstrate their commitment with all other Councillors to upholding the highest standards of conduct and to serving the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty.

The giving of the Cardiff Undertaking will take place at:

- (a) the annual meeting after the ordinary election or
- (b) if the Councillor does not attend that annual meeting at the first meeting of the Council thereafter which the Councillor attends or
- (c) where the Councillor is elected at a by-election the first meeting of the Council which the Councillor attends after the by-election.

## 2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme, as set out in Part 6 of this Constitution.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 3 – Citizens and The Council**

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#### **3.1 Citizens' rights**

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

##### **(a) Voting and Petitions**

Citizens on the electoral roll for the area have the right to sign a petition to request a referendum for an 'elected mayor' form of Constitution and the right to vote in any such referendum.

##### **(b) Information**

Citizens have the right to:

- (i) attend meetings of the Council, its Committees and the Cabinet except those parts of meetings where confidential information or exempt information is likely to be disclosed, and that business is conducted in private;
- (ii) see reports and background papers of meetings held in public, and any records of decisions made by the Council, the Cabinet and designated senior officers; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.

##### **(c) Participation**

- (i) Citizens have the right to contribute to investigations by Scrutiny Committees in accordance with the Scrutiny Procedure Rules, as set out in Part 4 of this Constitution;
- (ii) ask questions at meetings of the Council, of members of the Cabinet or the Chairperson of a Committee.

##### **(d) Complaints**

Citizens have the right to complain to:

- (i) the authority itself under its Complaint Policy;

- (ii) the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own Complaint Policy first;
- (iii) the Ombudsman where they believe a Councillor or co-opted member of the Authority has breached the Member's Code of Conduct

### **3.2 Citizens' responsibilities**

Citizens must not be violent, abusing or threatening to Councillors or employees and must not wilfully harm things owned by the Authority, Councillors or employees.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 4 – The Council**

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#### **4.1 Functions of the Council**

Only the Council will exercise the following functions:-

- (a) adopting and changing the Authority's executive arrangements and this Constitution, save as provided in Article 11.3 (a)
- (b) approving or adopting the policy framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules set out in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
- (d) electing and removing the Leader and appointing and removing members of the Cabinet (not being the Leader);
- (e) agreeing and/or amending the terms of reference of committees, deciding on their composition and making appointments to them, except as expressly and lawfully delegated;
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.5;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the City;
- (i) making or confirming the appointment of the Chief Executive;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or by a person to whom or body to which it has delegated its powers rather than the Cabinet; and
- (l) all other matters which, by law, must be reserved to Council.

## 4.2 Meanings

### (a) Policy Framework

The policy framework means the following plans and strategies:-

- Cardiff Improvement Plan;
- “What Matters: The 10 Year Strategy for Cardiff”, a single integrated partnership strategy incorporating the (i) Community Strategy; (ii) Crime and Disorder Reduction Strategy; (iii) Children and Young People’s Plan; and (iv) Health and Well-Being Strategy;
- Local Well-Being Plan;
- Local Transport Plan;
- Local Development Plan;
- Welsh Language Strategy;
- Youth Justice Plan;
- Corporate Plan;
- Housing Strategy;
- Rights of Way Improvement Plan;
- Pay Policy Statement;

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

### (b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### (c) Housing Land Transfer

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

## 4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;



(c) extraordinary meetings

and they will be conducted in accordance with the Council Meeting Procedure Rules, as set out in Part 4 of this Constitution.

#### 4.4 **Responsibility for functions**

The Monitoring Officer will keep up to date the details in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 5 – Chairing the Council**

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#### **5.1 Role and Function of the Lord Mayor**

The Lord Mayor and the Deputy Lord Mayor will be elected by the Council annually. The Lord Mayor and in the absence of the Lord Mayor, the Deputy Lord Mayor will preside at the meetings of the Council and have the following roles and functions:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters before the meeting and the place at which Councillors who are not members of the Cabinet are able to hold the Cabinet to account;
- (d) to carry out duties in respect of Members' Family Absence as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 6 – Scrutiny Committees**

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#### **6.1 Terms of Reference & Membership**

The Council has appointed the following Scrutiny Committees:

- (a) Children and Young People
- (b) Community and Adult Services
- (c) Economy and Culture
- (d) Environmental
- (e) Policy Review and Performance

to discharge the functions set out in the Terms of Reference shown in Appendix 2 to Part 3 of this Constitution. Membership of Scrutiny Committees is restricted to those Councillors who are not members of the Cabinet.

#### **6.2 General**

Within their terms of reference, Scrutiny Committees will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Authority's functions;
- make reports and/or recommendations to the Council and/or the Cabinet;
- consider any matter affecting the area or its inhabitants; and
- exercise the right to 'call-in', for reconsideration, decisions made but not yet implemented by the Cabinet, Cabinet Members and designated senior officers.
- Receive and consider reports from statutory external inspectors or auditors referred to them.
- Act in accordance with the Scrutiny Procedure Rules.

#### **6.3 Specific functions**

##### **(a) Policy Review and Performance**

The **Policy Review and Performance** Scrutiny Committee will:

- (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) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question relevant people and organisations about their views on issues and proposals affecting the area;

- (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) adjudicate on any areas of overlap between the functions of the Scrutiny Committees and allocate any additional areas of responsibility which are not already included within the terms of reference of any particular Scrutiny Committee.

### **(b) Scrutiny**

Scrutiny Committees will:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and employees both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Authority in relation to its policy objectives, performance targets and/or service areas;
- (iii) question members of the Cabinet and committees and/or employees about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the 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 committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

### **(c) Resources**

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

### **(d) Annual Report**

Scrutiny Committees must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **6.4 Proceedings of Scrutiny Committees**

Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules, as set out in Part 4 of this Constitution.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

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

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#### **7.1 Role**

The Cabinet will arrange for the discharge of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **7.2 Form and composition**

##### **Cabinet**

The Cabinet will consist of the Leader together with no more than nine other Councillors.

The Council elects the Leader.

The Council appoints not less than two but no more than nine councillors to the Cabinet (excluding the Leader).

#### **7.3 Leader**

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

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor or from being Leader or from being a member of the Cabinet under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council; or
- (e) the day of the next regular election.

#### **7.4 Other Cabinet Members**

Cabinet members (other than the Leader) will be Councillors appointed by the Council.

There may be no co-optees and no deputies or substitutes for members of the Cabinet (other than the Leader). Neither the Lord Mayor nor Deputy-Lord Mayor may be appointed to the Cabinet, and Cabinet Members (including the Leader) may not be members of a Scrutiny Committee.

A Councillor appointed as a Cabinet Member shall hold office until:

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

#### **7.5 Assistants to Cabinet Members**

The Cabinet may appoint Councillors to act as assistants to the Cabinet as the Cabinet considers reasonably necessary and appropriate. Their role will be:

- (a) to assist the Cabinet collectively;
- (b) to liaise with the Chairs and members of relevant Scrutiny Committees; and
- (c) to act as observers at meetings of the Cabinet or a committee of the Cabinet

in accordance with the detailed Role Description set out in Appendix A.

Assistants to the Cabinet may not vote on any matters before the Cabinet, neither may they substitute for a Cabinet Member at a meeting of the Cabinet nor in any decision-making role.

#### **7.6 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules, as set out in Part 4 of this Constitution.

#### **7.7 Responsibility for functions**

Part 3 of the Constitution sets out the provisions made with respect to the allocation of any functions which are the responsibility of the Cabinet among the following persons:-

- (a) the Cabinet;
- (b) any member of the Cabinet;



- (c) any committee of the Cabinet; and
- (d) any officers of the authority.

To the extent that the functions which are the responsibility of the Cabinet have not been allocated as set out above (but not further or otherwise) the Leader may discharge any of those functions or may determine the respective responsibilities of Cabinet, Cabinet Committees, Cabinet Members and officers in respect of the taking of particular Executive Decisions. The Leader shall notify the Proper Officer in writing of any such delegation of responsibilities and the Proper Officer will maintain a list setting out the respective responsibilities as they may be from time to time in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

Any person who or body which has arranged for the discharge of any functions in accordance with the powers conferred by section 15 of the Local Government Act 2000 shall notify the Proper Officer in writing of such arrangements and the Proper Officer will maintain a record of such arrangements as they may be from time to time in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

- 7.8 During any period when there is no Cabinet, any functions which are the responsibility of the Cabinet shall be allocated to and discharged by the Head of Paid Service or in his/her absence the Corporate Directors acting singularly or collectively provided that in discharging such functions the Head of the Paid Service or the Corporate Directors shall have regard to and comply with any protocol applying to the exercise of delegated powers in so far as that is reasonably practicable, and in consultation with any Councillor being the Leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

## APPENDIX A – ASSISTANTS TO CABINET MEMBERS – ROLE DESCRIPTION

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- 1 Assistants to Cabinet Members are Members appointed by the Cabinet to work with a Cabinet Member or Cabinet Members and assist them with any function except decision-making subject to the limitations below.
- 2 This includes taking forward particular projects or programmes. Most Assistant posts will range across the functions of the Cabinet Member but it is a matter for each individual Cabinet Member, after discussion with the Leader of the council, to establish any limits or conditions on the ways in which the Assistant will operate. Any limitations on the role of Assistant which the Cabinet Member wishes to impose should be a matter of record, to be copied to the Leader of the Council and the Monitoring Officer.
- 3 The role of Assistant to Cabinet Member does not attract a special responsibility allowance.
- 4 Assistants to Cabinet Members may:
  - (a) Undertake specific task, research and investigations and attend conferences, seminars and meetings, as requested by the Cabinet Member, so as to keep abreast of current policy and development initiatives.
  - (b) Attend Cabinet Briefings on behalf of a Cabinet Member.
  - (c) Attend (but not vote) at Cabinet meetings on behalf of a Cabinet Member.
  - (d) Attend formal and informal functions on behalf of a Cabinet Member, except for official openings or ceremonies or events where a formal speech is required, in which case, in the event of the absence of the Cabinet Member, the Lord Mayor or another Cabinet Member will normally represent the Council.
  - (e) Formally speak at events and functions on issues within his or her area of responsibility, where the Assistant has received a specific named invitation to speak.
  - (f) Liaise with non-executive members in order to ensure that the Cabinet Member is fully aware of issues which are conce5n to Members.
  - (g) Appear before a Scrutiny Committee where the Cabinet Member cannot attend or where the Assistant has focused on the particular project or programme. (However, the Scrutiny Committee may also request the Cabinet Member to attend on a further occasions).
  - (h) Be a member of a Scrutiny Committee which does not relate to his or her Cabinet Member's portfolio.

(i) Be a member of a Scrutiny Task and Finish Group.

5 However, an Assistant to a Cabinet Member cannot:

(a) Take decisions

(b) Deputise for a Cabinet Member at Council Meetings

(c) Be a member of the Scrutiny Committee which scrutinises his or her Cabinet Member's portfolio.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 8 – Regulatory & other committees**

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#### **8.1 Regulatory and other committees**

The Council will appoint the committees with the terms of reference set out in Part 3 of the Constitution.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 9 – The Standards & Ethics Committee**

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#### **9.1 Standards & Ethics Committee**

The Council has and will continue to appoint a statutory Standards & Ethics Committee.

#### **9.2 Composition**

##### Political Balance

The Standards & Ethics Committee does not have to comply with the political balance rules in section 15 of the 1989 Local Government and Housing Act and the Council has resolved that three Councillors elected at the annual meeting of the Council shall be nominated to sit on the Committee.

##### **(a) Membership**

The Standards & Ethics Committee will be composed of nine members. Its membership will include:

- (i) Five 'independent' members, who are not either a Councillor or an employee or the spouse of a councillor or an employee of the Authority or any other relevant authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001;
- (ii) Three Councillors (who shall not include the Leader and shall include not more than one member of the Cabinet) of the Authority; and
- (iii) One member of a Community Council wholly or mainly in the Council's area (a 'Community Committee Member').

##### **(b) Term of office**

- (i) Independent members shall be appointed for a period of not less than four years and no more than six years, such period to be determined by Council upon their appointment. They may be re-appointed for one further consecutive term of up to a further four years only.
- (ii) Members of Cardiff Council who are members of the Standards & Ethics Committee shall be appointed for a period of no longer than the period until the next ordinary local government election following their appointment. They shall cease to be a member of the Standards & Ethics Committee if they cease to be a member of Cardiff Council. They may be re-appointed for one further consecutive term only.

(iii) The Community Committee Member shall be appointed for a period of no longer than the period until the next ordinary elections for the community council following his/her appointment. He or she shall cease to be a member of the Standards & Ethics Committee if he or she ceases to be a member of a community council in the Council's area. He or she may be re-appointed for one further consecutive term only.

**(c) Quorum**

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

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

**(d) Voting**

Independent members and community committee members will be entitled to vote at meetings.

**(e) Community committee members**

A community committee member shall not take part in the proceedings of the Standards & Ethics Committee or any of its sub-committees when any matter relating to a member of their Community Council is being considered.

**(f) Chairing the Committee**

- (i) Only an independent member of the Standards & Ethics Committee may be the Chairperson.
- (ii) The Chairperson and Vice Chairperson will be elected by the members of the Standards & Ethics Committee for whichever is the shortest period of (a) not less than 4 years and no more than 6 years, or (b) until the term of office of that person as an independent member of the Committee comes to an end. The Chairperson and Vice Chairperson can be re-appointed.

**9.3 Community Councils Sub-Committee**

The Standards & Ethics Committee will include a sub-committee to exercise the function set out in Article 9.4(h) below. The sub-committee will include at least two independent members and one community committee member, unless the matter before the sub-committee relates to the community committee member's Council or a member of that council, in which case the community committee member's place will be taken by another member of the Standards & Ethics Committee.

**9.4 Role and Function**

The Standards & Ethics Committee will have the following roles and functions:



- (a) promoting and maintaining high standards of conduct by the Leader, Councillors, co-opted members and church and parent governor representatives;
- (b) assisting Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that Officer by the Ombudsman, determining whether a breach of the Code of Conduct has taken place and deciding whether to impose a penalty in respect of the Councillor or co-opted members who has been found to be in breach of the Code;
- (h) the exercise of 9.4(g) above in relation to the community councils wholly or mainly in its area and the members of those community councils;
- (i) dealing with any allegation of misconduct of Councillors within the Authority's powers of self regulation;
- (j) monitoring the operation of the Authority's complaint and whistleblowing policies and making recommendations to the Council to improve their effectiveness; and
- (k) those functions in relation to community councils situated in the area of the Council and members of those community councils which are required by law.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 10 – Joint Arrangements**

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#### **10.1 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions, which are not Executive Functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The Cabinet may appoint Cabinet Members to a joint committee. The Cabinet may also appoint non-Cabinet Members to represent the Cabinet and in doing so the non-Cabinet Members shall report to the Cabinet not the Council. Such Members need not reflect the political composition of the local authority as a whole.
- (d) Details of any joint arrangements under Articles 10.1(a) and (b) including any delegations to joint committees will be found in the scheme of delegations in Part 3 of this Constitution.

#### **10.2 Access to information**

- (a) The Access to Information Procedure Rules apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the Access to Information Procedure Rules in Part V (A) of the Local Government Act 1972 will apply.

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

- (a) The Council may delegate Non-Executive Functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.

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

#### 10.4 **Contracting out**

The Council or Cabinet may arrange for the Council to contract out to another body or organisation functions which may be exercised by an officer. Contracting out to another local authority can be arranged under S 101 of the Local Government Act 1972. Special statutory provisions permit joint arrangements with Health Bodies, but otherwise there may be a need for order under Section 70 of the Deregulation and Contracting Out Act 1994, unless the contracting arrangements provide that the contractor acts as the Council's agent under usual contracting principles, and provided there is no delegation of the Authority's discretionary decision making.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 11 – Council Employees**

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#### **11.1 Management structure**

- (a) **General**  
The Council may engage such employees as it considers necessary to carry out its functions.
- (b) **Head of Paid Service, Monitoring Officer and Section 151 Officer**  
The Council will designate Council employees to take these statutory posts, as set out in Part 7 of this Constitution. Such posts will have the functions described in Article 11.2–11.4 below.
- (c) **Structure**  
The Head of Paid Service will provide and publicise a description of the overall staffing structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

#### **11.2 Constitutional functions of the Head of Paid Service**

- (a) **Discharge of functions by the Council**  
The Head of Paid Service has a right to report to the Council on any matter relating to the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees.
- (b) **Restrictions on functions**  
The Head of Paid Service may not be the Monitoring Officer but may hold the post of the Section 151 Officer if a qualified accountant.
- (c) **The core roles of the Head of Paid Service are:**
- overall corporate management and operational responsibility (including co-ordinating the discharge of the authority's different functions and overall management responsibility for all staff);
  - the provision of professional and impartial advice to all parties in the decision making process (the Cabinet, Scrutiny Committees, full Council and other committees);
  - responsibility for a system of record keeping for all the authority's decisions;
  - representing the authority on partnership and external bodies (as required by statute or the Council); and
  - service to the whole Council, on a politically neutral basis.

### 11.3 Constitutional functions of the Monitoring Officer

(a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, employees and the public. For this purpose the Monitoring Officer has been delegated the power to amend the Constitution to give effect to any decisions of the Council or the Cabinet, and to take account of any changes of fact or law.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and S.151 Officer, the Monitoring Officer will report to the Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Provided that the decision has not already been implemented 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 & Ethics Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Ethics Committee.

(d) **Receiving reports**

The Monitoring Officer is responsible for receiving and where necessary co-ordinating action on reports made by the Public Services Ombudsman and decisions of the case tribunals. Any other Council Member or Officer to whom such reports may be addressed must forward them to the Monitoring Officer.

(e) **Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards & Ethics Committee. The Monitoring Officer shall also conduct an investigation into any allegation of misconduct by a Councillor where he/she has reason to believe that it may be appropriate for the Council to exercise its powers of self regulation, and report to the Standards and ethics Committee as appropriate.

(f) **Proper officer for access to information**

The Monitoring Officer will ensure that Executive Decisions and decisions of designated senior officers, together with the reasons for those decisions and relevant employee reports and background papers are made publicly available as soon as possible.

(g) **Advising whether executive decisions are within the budget and policy framework**

The Monitoring Officer, in conjunction with the Section 151 Officer as appropriate, will advise whether decisions of the Cabinet or Cabinet Members are in accordance with the budget and policy framework.

(h) **Providing advice**

The Monitoring Officer, in conjunction with the Section 151 Officer as appropriate, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

- (i) **Corporate management**  
The Monitoring Officer will contribute to the corporate management of the authority, particularly by providing advice on constitutional issues, lawfulness and propriety.
- (j) **Restrictions on posts**  
The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### 11.4 **Constitutional functions of the Section 151 Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making**  
After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council or to the Cabinet in relation to an Executive Function and the Authority's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Authority is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs**  
The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Corporate management**  
The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice**  
The Section 151 Officer, in conjunction with the Monitoring Officer as appropriate, 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 employees in their respective roles.
- (e) **Give financial information**  
The Section 151 Officer will provide financial information to members of the public and the community, as necessary and appropriate.

#### 11.5 **The Statutory Officers**

The Head of Paid Service, the Monitoring Officer and the Section 151 Officer shall meet together periodically with the employees responsible for human resources internal audit and the provision of legal services to the Authority to consider how the probity of the Authority's decision making processes and discharge of functions may be protected and enhanced.

#### 11.6 **Conduct**



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

#### 11.7 **Employment**

The recruitment, selection and dismissal of employees will comply with the Employment Procedure Rules.

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 12 – Decision Making**

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#### **12.1 Responsibility for decision making**

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

#### **12.2 Principles of decision making**

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

- (a) on the basis of merit and in the public interest;
- (b) with due consultation and after taking professional advice from employees;
- (c) with due regard for the need to promote equality of opportunity, sustainability, risk and human rights etc.;
- (d) in accordance with proper access to information; and
- (e) explaining the reasons for the decision, a record of any personal interest declared, any dispensation to speak granted by the Authority's Standards & Ethics Committee and details of any relevant consultation.

#### **12.3 Types of decision**

- (a) **Decisions reserved to the Council**  
Decisions relating to the functions listed in Article 4.1 will be made by the Council and not delegated.
- (b) **Decision making by the Council**  
Subject to Article 12.4, the Council meeting will follow the Council Meeting Procedure Rules when considering any matter.
- (c) **Decision making by the Cabinet**  
Subject to Article 12.4, the Cabinet will follow the Cabinet Procedures Rules when considering any matter.
- (d) **Decision making by Scrutiny Committees and any sub-committees of Scrutiny Committees**  
Scrutiny Committees and their sub-committees will follow the Committee Meeting Procedure Rules and the Scrutiny Procedures Rules when considering any matter.
- (e) **Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.4, other committees and sub-committees will follow the Committee Meeting Procedures Rules as apply to them.

(f) **Decision making by Officers**

Officer decisions will be made in accordance with Part 3, Section 4 of this Constitution.

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

The Council, its committees, a Councillor or an employee acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which is compatible with the requirements of natural justice and the rights contained in the European Convention on Human Rights.

## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 13 – Finance, Contracts and Legal Matters**

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#### **13.1 Financial management**

The management of the Authority's financial affairs will be conducted in accordance with the Financial Procedure Rules.

#### **13.2 Contracts**

Every contract made by the Authority will comply with the Contracts Procedure Rules.

#### **13.3 Legal proceedings**

The Director of Governance and Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority or in any case where the Director of Governance and Legal Services considers that such action is necessary to protect the Council's interests.

#### **13.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Governance and Legal Services or other employee authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

With the exception of any contract formed using an electronic procurement system or with a value of less than thirty thousand pounds [£30,000], any contract entered into on behalf of the Authority shall be made in writing and signed under arrangements set out in the Contracts Procedure Rules. Any contract entered into on behalf of the Authority shall comply with the requirements of the Contract Procedure rules and the Financial Procedure Rules.

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

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

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## **PART 2 – ARTICLES OF THE CONSTITUTION**

### **Article 14 – Review and Revision of the Constitution**

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#### **14.1 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, and will advise the Council accordingly.

#### **14.2 Changes to the Constitution**

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

Except as otherwise provided, changes to the following elements of the constitution can only be approved by the Council:

- Articles
- Council, Committee, Scrutiny and Employment Procedure Rules
- Council Scheme of Delegations
- Terms of Reference for Council and Scrutiny Committees
- Protocol on Member/Officer Relations
- Member Code of Conduct
- Members' Allowances Scheme

##### **(b) Change from a leader and executive form of executive to alternative arrangements, or vice versa**

The Council must take reasonable steps to consult with local electors and other interested persons in the area if drawing up proposals for change.

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## PART 2 – ARTICLES OF THE CONSTITUTION

### Article 15 – Suspension, Interpretation and Publication of the constitution and Transitional Provisions

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#### 15.1 Suspension of the Constitution

(a) **Limit to suspension**

The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended in whole or in part by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend**

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

#### 15.2 Interpretation

(a) Where the Constitution permits the Authority to choose between different courses of action, the Authority will always choose that option which it thinks is closest to the purposes stated in Article 1.

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

(c) The following words, phrases and terms shall have the meanings ascribed to them unless the context requires or it is otherwise provided at law.

<b>Word, phrase or term</b>	<b>Meaning</b>
Access to Information Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Article	An Article of this Constitution
Authority	The corporate body being the County Council of the City and County of Cardiff
Budget	Has the meaning set out in Article 4.2.(b)
Budget and Policy Framework Procedure Rules	The rules so titled set out in Part 4 of the Constitution

<b>Word, phrase or term</b>	<b>Meaning</b>
Cabinet	The executive of the Council
Cabinet Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Call in	The referral of a decision in accordance with the Scrutiny Procedure Rules
Cardiff Undertaking	A commitment given by the presentation at a meeting of the Council (which is open to the public) of a signed document undertaking to uphold the highest standards of conduct and to serve the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty. Such commitment to be in the form or like form to that set out in Part 5 of the Constitution.
Chair	The person elected by the Council as the Chair of a Committee or appointed as the Chair of a sub-committee or in his or her absence the Deputy Chair of such committee or sub-committee where one has been elected or appointed or the person presiding at the meeting of a committee or sub-committee
Chairman	The person who presides at a meeting of the Council or a Committee pursuant to the provisions of this Constitution
Clear Days	Mean days excluding the day when the document is first made available for inspection or dispatched to Councillors and the date of the meeting to which it relates but includes any intervening date when the document is available for public inspection
Committee	A committee or sub-committee of the Authority
Committee Meeting Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Confidential information	Confidential information as defined by section 100A(3) of the Local Government Act 1972 as more particularly set out in Article 10.3 of the Access to Information Procedure Rules
Constitution	This constitution, as amended
Contract Procedure Rules	The Contract Standing Orders and Procurement Rules set out in Part 4 of the Constitution
Council	The Authority meeting together in accordance with Schedule 12 of the Local Government Act 1972

Council Meeting Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Council Procedure Rules	The rules set out in Part 4 of the Constitution
Councillor	A member of the Authority
Employee	An employee of the Authority
Employment Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Executive Decision	A decision made for the purpose of discharging an Executive Function
Executive Function	A function of the Authority which is determined to be an executive function in accordance with section 13 of the Local Government Act 2000
Exempt information	Information of a nature described in Schedule 12A of the Local Government Act 1972 as more particularly set out in Article 10.4 of the Access to Information Procedure Rules
Financial Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Forward Plan	The agreed plan of business for the Cabinet, to be published on a monthly basis, setting out all the business to be undertaken by the Cabinet for a 12 month period
Head of Paid Service	The officer of the Council designated by the Council under section 4 of the Local Government and Housing Act 1989
Leader	The executive leader as defined in section 48 of the Local Government Act 2000
Lord Mayor	The Lord Mayor for the time being and in his / her absence the Deputy Lord Mayor
Member	Unless otherwise stated means a member of the committee or body to which the rule or requirement applies
Members Code of Conduct	The Code of Conduct adopted by the Council in accordance with section 51 of the Local Government Act 2000
Members' Allowances Scheme	The scheme referred to in Part 6 of the Constitution

<b>Word, phrase or term</b>	<b>Meaning</b>
Monitoring Officer	The officer of the Council designated by the Council under section 5 of the Local Government and Housing Act 1989
Non-Executive Function	A function of the Authority which is determined to be a non-executive function in accordance with regulations made under section 13 of the Local Government Act 2000
Operational Land / Property	Council land and property held to facilitate delivery of Council services to include without limitation land and property such as offices; schools and associated playing fields; nurseries; youth centres; caretakers houses; libraries; community centres and halls; sport/leisure and outdoor centres and pools; residential homes; day and training centres; enterprise centres; housing area offices; depots; civic amenity sites; cemeteries; crematoria; laboratories; animal pounds; public conveniences; theatres and concert halls; historic buildings and civic residences; and parks, recreation grounds, sports pitches, play areas and all associated buildings, changing rooms and ancillary residential accommodation, but excluding land held for investment or development purposes. In the case of doubt, the Corporate Director, Resources and the Director of Governance and Legal Services shall determine the issue
Ombudsman	Commission for Public Administration in Wales
Petition	A petition in writing requesting some action or redress in respect of a matter within the jurisdiction of the Council.
Policy Framework	The plans and strategies referred to in Article 4 paragraph 4.2 of the Constitution
Proper Officer	An officer of the Authority designated for that purpose by the Authority and in the absence of such designation the County Clerk and Monitoring Officer will be deemed to be the Proper Officer
Regulatory committee	Any committee with statutory recognised regulatory functions, for example, Licensing Committee, Planning Committee and Public Protection Committee. A Scrutiny Committee or a Committee of the Cabinet cannot be a Regulatory Committee
Scrutiny Committees	Those committees of the Authority appointed in accordance with Article 6

Word, phrase or term	Meaning
Scrutiny Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Section 151 Officer	The officer of the Council designated by the Council under section 151 of the Local Government Act 1972 as the person having responsibility for the administration of the financial affairs of the Authority
Working Day	Means any day on which the main offices of the Authority are open for usual business and for the avoidance of doubt the phrase 'clear working days' shall exclude the day when notice is given or the documents is made available for inspection or is dispatched to Councillors as the case may be and the date of the meeting or event to which it relates
Writing	A requirement that something shall be submitted in writing will be satisfied by the submission by email to an address designated by the proper Officer for that purpose provided that it is transmitted by the Councillor concerned from the Councillor's email address and in such circumstances will be deemed to have been signed by the Councillor concerned

- (d) Reference to any statute or statutory provision includes a reference to:
  - (i) that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and
  - (ii) all statutory instruments or orders made pursuant to it.
- (e) Words denoting the singular number only shall include the plural and vice versa.
- (f) Words denoting any gender include all genders.
- (g) The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Constitution.
- (h) References to a designated employee of the Council includes (except where the law prescribes that the function, action or the like must be taken by that person alone) a person duly authorised to act for or on behalf of that person provided that the employee designated by or for the purposes of the Constitution shall remain responsible to the Authority.
- (i) References to a post or designation shall be deemed to include a reference to the employee for the time-being performing those

functions where the post or designation name is altered or the functions are reallocated and where there is a reference to a generic title (e.g. Chief Operating Officer, Chief Officer) such reference will be deemed to include other posts whatever their designation or name but being within the same tier of management or responsibility.

### **15.3 Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Councillor of the Authority.
- (b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

### **15.4 Transitional Provisions**

- (a) Anything which as at the date this Constitution comes into effect, is in the process of being done in the exercise of, or in connection with the functions of the Authority, may be continued by the person or body by which those functions become exercisable in respect of the function in question.
- (b) Anything done by, or in exercise of, or in connection with any of the functions of the Authority, prior to the date of the adoption of this Constitution by the Council shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the body or person who is charged with that function.
- (c) Notwithstanding anything in the Scrutiny Procedure Rules, a report of a Scrutiny Committee which has been prepared and approved by a Scrutiny Committee prior to the date of the Constitution coming into effect may be submitted to a meeting of the Council for its consideration provided that nothing in this provision shall permit any person or body to make a decision upon any such report except in accordance with the Constitution.

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 1A – Council Meeting**

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#### **Functions of the Council**

The Council's Constitution (Article 4) sets out the following functions which can only be exercised by the Full Council i.e. a meeting of all Council Members and which includes the adoption of the policy framework. Only the Council will exercise the following functions:-

- (a) adopting and changing the Authority's executive arrangements and the Constitution);
- (b) approving or adopting the policy framework, the budget and any application to the Welsh Assembly Government in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules set out in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
- (d) electing and removing the Leader and appointing and removing members of the Cabinet (not being the Leader);
- (e) agreeing and/or amending the Terms of Reference of Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) adopting an Allowances Scheme under Article 2.5;
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;
- (i) making or confirming the appointment of the Chief Executive;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or by a person to whom or body to which it has delegated its powers rather than the Cabinet; and

- (l) all other matters which, by law, must be reserved to Council.

The policy framework includes the plans and strategies listed in Schedule 3 to the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended), together with such other plans and strategies which the Authority may decide should be adopted by the Council as a matter of local choice, as set out in Article 4.2(a) of this Constitution.



## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 1B – Non Executive Functions**

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Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of the authority. These are covered by Section 2 of this Scheme.

However, some functions cannot be the responsibility of the executive (Cabinet). These functions can be found in the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 as amended.

Non-Executive Functions are detailed at Appendix 1.

In the case of delegation of any Council function the power of modifying or varying any approval, consent, licence, permission or registration or any condition, limitation, restriction or term to which it is subject or revoking any such approval, consent, licence, permission or registration is also delegated.

Appendix 2 provides details of the Terms of Reference for the Non-Executive Committees.

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## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### Section 2 – Cabinet Functions

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The Council have determined that the following functions can only be exercised by the Cabinet i.e. a meeting of the Cabinet. *[For the avoidance of doubt, the Cabinet may determine on any particular matter under consideration by the Cabinet pursuant to this Section 2, that a decision on any such particular matter (or any part thereof) may be delegated to a senior officer who is within the Assistant Director tier of management responsibility or above.*

1	To recommend to Council any policy, plan or strategy which the Authority has resolved shall be subject to approval by Council as part of the Policy Framework and any amendment of any policy plan or strategy forming part of the Policy Framework.
2	To take any urgent decisions which are contrary or not wholly in accordance with the approved Budget or contrary to the Policy Framework.
3	To develop a medium term financial strategy, with priorities and targets, over a rolling three year period.
4	To prepare, agree and, if appropriate, consult on the Authority's plans, policies and strategies which do not form part of the Policy Framework.
5	To initiate and guide reviews of the Authority's Policy Framework.
6	To lead the integration of strategic objectives across the Authority.
7	To make arrangements for the making of in-year changes to the Policy Framework, to the extent authorised by the Authority.
8	To agree responses to consultation papers from the Government (including White and Green papers), from the Welsh Assembly Government, LGA, WLGA and all other bodies in respect of strategic policy.

9	To determine the response to reports from the Overview and Scrutiny Committees.
10	To recommend to the Council and to review the Treasury Management policies and annual limits
11	To receive financial forecasts including the medium term financial strategy and the monitoring of financial information and indicators
12	To recommend to the Council the annual budget, including the Capital and Revenue Budgets, the Prudential indicators, authorised borrowing limit and the level of Council Tax
13	To ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time and between annual budgets. This will include recommending to Council any changes to policy that will materially reduce or increase the services of the Authority or create significant financial commitments in future years.
14	To review and monitor the Authority's strategy and overall implementation in relation to e-Government, telecommunications, information systems and information technology
15	To agree and oversee the Authority's overall policy in relation to grants to external bodies and to agree the Authority's strategy for the payment of grants.
16	To approve the purchase, sale or appropriation of land and buildings in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
17	To approve the letting or taking of a lease, tenancy or license of land and/or premises in any case where arrangements have not been made for discharge of the function by an officer of the Authority
18	To authorise the making of compulsory purchase orders except for compulsory purchase orders made in respect of single houses under Part II of the Housing Act 1985 and or the Acquisition of Land Act 1981
19	To consider, at least annually, the level of reserves, provisions and balances held by the Authority and to make recommendations to Council where appropriate.
20	To approve writing-off of debts in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
21	To approve the write-off of stocks, stores and other assets in any case where arrangements have not been made for discharge of the function by an officer of the Authority
22	To recommend the Corporate Asset Management Plan to the Authority and approve a rolling programme of property disposals.

23	To receive reports on contract overspends in accordance with limits set out in Financial Procedure Rules and recommend the action to be taken.
24	To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has been amended or in any case where arrangements have not been made for discharge of the function by an officer of the Authority and within the Policy and Budgetary Framework.
25	To agree to the provision of new primary and secondary schools, nursery and special schools, and to provide sites for new, substituted or transferred voluntary schools.
26	To approve the publication of proposals for the closure or significant change or significant enlargement of schools and to enact the closure or change or enlargement of any schools once the agreement of the Welsh Assembly Government has been given.
27	To approve any arrangements for joint service provision with the National Health Service.
28	To develop, and to recommend to the Council, a Housing Strategy and Operational Plan.
29	To agree revisions to the Authority's Housing Allocations Policy.
30	To agree the Authority's Policy and strategy for the setting of fees and charges.
31	To agree changes to overall eligibility criteria for access to services of the Authority.
32	To approve the making of bids to the Welsh Assembly Government and other bodies for capital funding (except where these are within the Policy and Budgetary Framework).
33	To authorise the implementation of any capital project not within the approved capital programme and not otherwise funded by a body or person other than the Authority.
34	To authorise the invitation of tenders, offers or bids in accordance with the Contracts Procedure Rules and where appropriate for that purpose approve select lists of contractors, suppliers and tenderers in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
35	To authorise issue or approve variations within the contract in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
36	To identify and agree appropriate tender evaluation criteria and the relative importance/weighting of each factor in accordance with the Contracts Procedure Rules so that tenders can be evaluated to determine which tender represents the Best Value to the Authority in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
37	To approve the acceptance of tenders in accordance with the Contracts Procedure Rules in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
38	To consider the reports of external review bodies on matters of strategic service delivery.

39	To approve the variation of capital expenditure by the addition, deletion or material modification of an existing project by virement to or from another which is already in the programme in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
40	To initiate or respond to appropriate Parliamentary matters (other than the promotion or opposition to personal or local Bills).
41	To determine any matter delegated to an officer, where that officer considers it more appropriate for it to be dealt with by the Cabinet.
42	To approve the establishment or closure (except any temporary closure for maintenance or refurbishment or in the case of an emergency) of any facility for the provision of or at which direct services to the public will be provided by the Authority to service users (e.g. libraries, leisure centres, day centres).
43	To perform any Executive Function in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
44	To agree any amendments or variations to, and arrangements under an agreement dated 27 March 2000 made under Section 165 of the Local Government Planning and Land Act 1980 between the Cardiff Bay Development Corporation and the Authority.
45	To carry out the functions and obligations and exercise the powers of the Authority under the Cardiff Bay Barrage Act 1993 (except to the extent that such functions are Non-Executive Functions) in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
46	To perform the functions of the Authority as harbour authority in any case where arrangements have not been made for discharge of the function by an officer of the Authority.

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### Section 3 – Responsibility for Local Choice Functions

The Council is able to determine who has responsibility for the functions, identified as Local Choice functions. They have assigned these functions to the decision making bodies set out in the table below:

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation</b>
The discharge of any function by the Authority acting as a Harbour Authority.	Cabinet	
Any function under a local Act other than a function specified or referred to in Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 as amended.	Council	
The determination of an appeal against any decision made by or on behalf of the authority.	Appeals Committee	
Functions in relation to the revisions of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000.	Council	Monitoring Officer
The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002.	Cabinet	Monitoring Officer
The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).	Cabinet	Monitoring Officer

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation</b>
The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Cabinet	Monitoring Officer
The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Council	
The making of appointments under paragraphs 2 to 4 (appointment of Members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council	
The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Cabinet	
Any function relating to contaminated land.	Public Protection Committee/Shared Regulatory Service Joint Committee	Director/Assistant Director/Chief Officer/Head of Shared Regulatory Service
The discharge of any function relating to the control of pollution or the management of air quality.	Public Protection Committee/Shared Regulatory Service Joint Committee	Director/Assistant Director/Chief Officer/Head of Shared Regulatory Service
The service of an abatement notice in respect of a statutory nuisance.	Public Protection Committee/Shared Regulatory Service Joint Committee	Director/Assistant Director/Chief Officer/Head of Shared Regulatory Service





Function	Decision Making Body	Delegation
<p>(c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) –</p> <ul style="list-style-type: none"> <li>(i) section 16 – power magistrates’ court to authorise stopping up or diversion of highway;</li> <li>(ii) section 117 – application for under section 116 on behalf of another person;</li> <li>(iii) section 118 – stopping up of footpaths, bridleways and restricted byways;</li> <li>(iv) section 118ZA - application for a public path extinguishment order;</li> <li>(v) section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;</li> <li>(vi) section 118B – stopping up of certain highways for purposes of crime prevention etc;</li> <li>(vii) section 118C - application by proprietor of school for special extinguishment order;</li> <li>(viii) section 119 – diversion of footpaths, bridleways and restricted byways;</li> <li>(ix) section 119ZA – application for a public path diversion order;</li> <li>(x) section 119A – diversion of footpaths, bridleways and restricted byways crossing railways etc;</li> <li>(xi) section 119B – diversion of certain highways for purposes of crime prevention etc;</li> <li>(xii) section 119C – application by proprietor of school for special diversion order;</li> <li>(xiii) section 119D – diversion of certain highways for protection of sites of special scientific interest;</li> <li>(xiv) section 120 – exercise of powers of making public path extinguishment and diversion orders;</li> <li>(xv) section 121B – register of applications;</li> </ul>	Council	Planning Committee

Function	Decision Making Body	Delegation
<p>(d) the functions contained in the following provisions of part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) –</p> <ul style="list-style-type: none"> <li>(i) section 130 – protection of public rights;</li> <li>(ii) section 139 – control of builders’ skips;</li> <li>(iii) section 140 – removal of builders’ skips;</li> <li>(iv) section 140A(1) – builders’ skips: charges for occupation of the highway;</li> <li>(v) section 142 – licence to plant trees, shrubs etc in a highway;</li> <li>(vi) section 147 – power to authorise erection of stiles etc on footpath or bridleway;</li> <li>(vii) section 147ZA(1) – agreements relating to improvements for benefit of provisions of persons with mobility problems;</li> <li>(viii) section 149 – removal of things so deposited on highways as to be a nuisance etc;</li> <li>(ix) section 169 – control of scaffolding on highways;</li> <li>(x) section 171 – control of deposit of building materials</li> <li>(xi) section 171A(2) and regulations made under that section – works under s169 or s171: charge for occupation of the highway;</li> <li>(xii) section 172 – hoardings to be set up during building etc;</li> <li>(xiii) section 173 – hoardings to be securely erected;</li> <li>(xiv) section 178 – restriction on placing of rails, beams, etc under streets, and pavements lights and ventilators;</li> <li>(xv) section 179 – control of construction of cellars etc under street;</li> <li>(xvi) section 180 – control of openings into cellars etc under streets, and pavement lights and ventilators;</li> </ul>	Council	Planning Committee
<p>(e) exercising functions under section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders); and</p>	Council	Planning Committee

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation</b>
(f) exercising functions under section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review).	Council	Planning Committee
<p>The appointment of any individual:-</p> <p>(a) to any office other than an office in which he/she is employed by the authority;</p> <p>(b) to any body other than:</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment.</p>	<p>Council – except for appointments pursuant to powers of intervention under section 6 or section 7 of the School Standards and Organisation (Wales) Act 2013</p> <p>Delegation – which are assigned as Cabinet Functions.</p>	<p>- For appointment of officer representatives to outside bodies and groups, authority to make and revoke appointments from time to time as necessary is delegated to the Chief Executive, in consultation with the relevant Cabinet member (further delegable if the Chief Executive has a conflict of interest).</p> <p>- For appointments pursuant to powers of intervention – Director of</p>

		Education under delegation reference DEd1 (in Section 4F of this scheme)
Power to make payments or provide other benefit in cases of maladministration etc.	Council	Director/Assistant Director/Chief Officer
Functions in respect of the calculation of council tax base in accordance with any of the following:- (a) the determination of an amount for item T in section 33(1) and 44(1) of the Local Government Finance Act 1992; (b) the determination of an amount for item TP in sections 34(3), 45(3), 48(3), 48(4) of the Local Government Finance Act 1992; (c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.	Council	
<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation</b>
Licensing functions in accordance with Part 2 of the Licensing Act 2003 except Section 6.	Licensing Committee	
Functions in respect of gambling under the following provisions of the Gambling Act 2005. (a) section 29 – licensing authority information; (b) section 30 – other exchange of information; (c) section 166 – resolution not to issue casino licenses; (d) section 212 and regulations made under that section – fees; (e) section 284 – removal of exemption; (f) section 304 – authorised persons; (g) section 346 – prosecutions by licensing authority; (h) section 349 – three year licensing policy; (i) section 350 – exchange of information;	Licensing Committee	

(j) part 5 of Schedule 11 – registration with local authority		
Functions in respect of approval under Section 51 or a determination under Section 53 of the School Standards and Organisation (Wales) Act 2013.	Cabinet	

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4 – FUNCTIONS DELEGATED TO OFFICERS**

#### **Section 4A - Introduction**

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#### **1 Overall Basis**

1.1 This scheme delegates certain functions of the Council and the Cabinet to officers and should be interpreted widely rather than narrowly. It is divided into the following sub-sections:

A – Introduction

B – General Delegations to Chief Executive, Corporate Directors and Directors

C – General Delegations to Assistant Directors and Chief Officers (and Heads of Service)

D – General Delegations to Operational Managers

E – Specific Delegations to Statutory Officers

F – Specific Delegations to other Officers

These sub-sections inter-relate and should not be read in isolation.

1.2 In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties, and for the avoidance of doubt, the term “officer” shall be deemed to include any individual who is not an employee of the Council (for example, a locum, agency worker, specialist consultant, joint manager appointed with another organisation or similar) who is engaged by the Council to take responsibility for discharging the delegated powers and duties concerned, unless legislation provides that the relevant power or duty can only be carried out by an employee of the authority.

1.3 This scheme delegates power and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation.

1.4 This scheme operates under Sections 101, 151 and 270 of the Local Government Act 1972 and all other powers enabling the Council.

1.5 This scheme includes the obligation on officers to keep Members properly informed of activity arising within the scope of these delegations.

1.6 In addition to functions delegated to officers under this scheme, the Council, any of its Committees and or the Cabinet may also decide to delegate certain functions and decisions to officers. Any such delegations to officers shall:

- (i) be notified to the Monitoring Officer who maintains a record of all delegations (in accordance with the requirements of section 100G of the Local Government Act 1972); and
- (ii) for the avoidance of doubt, any such officer delegations shall not be further delegated, unless expressly provided for in the resolution.

1.7 For the avoidance of doubt, the Interpretation provisions set out in Part 2, Article 15.2 of the Constitution shall apply to this Scheme where the context permits and unless otherwise expressly stated. This is including but without limitation to Article 15.2(i) in respect of references to post titles or designations in any officer delegation, whether in or under this Scheme or any other officer delegation referred to in paragraph 1.6 above.

## **2 Overall Limitations**

2.1 This scheme does not delegate to officers:

- (a) Any matter reserved to full Council;
- (b) Any matter which by law may not be delegated to an officer;
- (c) Any matter expressly withdrawn from delegation by this scheme or at any time by the Cabinet.

2.2 In each case the delegated authority to officers exclude:-

- (a) the taking of decisions which make, amend or are not in accordance with the budget and policy framework
- (b) the setting or changing of policy and associated service standards;
- (c) the review of performance
- (d) the setting of overall service area budgets
- (e) responding to formal central government consultation in respect of strategic policy

which remain the responsibility of Council/the Cabinet /Committees as appropriate.

2.3 Any exercise of delegated powers shall be subject to:-

- (a) Any statutory restrictions
- (b) The Council's Constitution, including Financial and Land Procedure Rules and Contracts Procedure Rules
- (c) The Council's budget and policy framework
- (d) Any other policies
- (e) The Code of Conduct for Members
- (f) The Code of Conduct for Employees

2.4 In exercising delegated powers officers shall:-

- (a) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by the Contracts and Financial Procedure Rules;
- (b) have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local government and Housing Act 1989 or of the Section 151 Officer under Section 114 of the Local Government Finance Act 1988;



- (c) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the Monitoring Officer (for decisions taken within the Scheme, the form of evidence required is shown in sub-sections B, C and D); and
- (d) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

### **3 Further Provisions**

- 3.1 In all cases delegated authority includes management of the human and material resources made available for their functions and departments within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.
- 3.2 In all cases delegated authority includes the power to issue and serve statutory and other notices, to institute formal cautions, to recommend the institution of legal proceedings before courts or tribunals, to take default action under all legislation relevant to their functional area and to authorise Officers to appear on behalf of the Council in tribunals, review boards and inquiries, also to sign all necessary documents and authorise entry to land in pursuance of statutory powers, provided always that this is in accordance with the functional responsibilities of the officer concerned, and subject to the provisions of Article 13 of this Constitution.
- 3.3 In all cases, delegated authority includes the power to determine applications and authorise payments and implement national agreements.
- 3.4 It shall always be open to an officer to consult with the Cabinet, or a non-executive committee on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet or a committee (as appropriate).
- 3.5 In exercising delegated powers, officers shall consult with such other relevant officers as may be appropriate and shall have regard to any advice given.
- 3.6 Unless expressly provided to the contrary, this scheme includes the power for officers further to delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Monitoring Officer under Section 100G of the Local Government Act 1972. Sub-delegations may be made across departmental boundaries and to other Councils and their officers as appropriate.

### **4 Record of Exercise of any Function**

- 4.1 In the case of decisions taken by (i) Full Council; Committee or Cabinet (ii) the Chief Executive; (iii) a Corporate Director or Director, exercising a Corporate

Director or Director delegation, except for any decision made under Sub-Section 4E of the Scheme:-

- (a) the written record of the decision, in the prescribed form, will be sent to, and kept by, the Democratic Services Manager;
- (b) the written record of the decision will be open to public inspection, except where it contains confidential or exempt information; and
- (c) a copy will be sent to the Corporate Director, Resources if the decision requires a call on budget which should be notified to him/her.

4.2 All decisions made by the Cabinet will be published in the Cabinet Decision Register. Similarly any Executive Decisions made by officers which fall within paragraph 4.1 (ii) and (iii) above, whether such decisions are made under this Scheme or by virtue of a delegation from the Cabinet, will be published in the Officer Executive Decision Register.

4.3 In the case of decisions by an employee other than those decisions set out in sub-paragraphs 4.1 and 4.2 above:-

- (a) the written record of the decision will be kept in accordance with the requirements of the relevant Director or Chief Officer;
- (b) the written record of decision will be open to inspection by a Councillor in accordance with the Access to Information Procedure Rules; and
- (d) a copy will be sent to the Corporate Director, Resources if the decision requires a call on budget which should be notified to him/her.

For the avoidance of doubt, the record of the exercise of a delegated power may relate to the exercise of one or more power where the powers have been exercised contemporaneously.

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4B – Delegations to Chief Executive, Corporate Directors and Directors**

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**NOTE:** the following delegations must be read in conjunction with the foregoing Sub-Section A which set out the overall basis, limitations, and further provisions which apply to this scheme of delegations.

All Delegated decisions taken in this sub-section, apart from CD1 and CD2 (Council Functions), will be published in the Officer Executive Decision Register, irrespective of whether they are further delegated, that is, both the decision to delegate and the delegated decision will be published.

**PROVIDED ALWAYS** that the decision is:

- a) within budget;
- b) in accordance with the Council's policy framework;
- c) in accordance with the Council's Financial and Land Procedure Rules and Contracts Procedure Rules;
- d) in accordance with their Service Area Business Plan; and
- e) not a matter specifically reserved for Full Council, a Committee of the Council, the Executive or a Statutory Officer.

The Chief Executive, Corporate Director, and all Directors shall be authorised:-

- 1.1 To make any decisions relating to any matter within their area of responsibility ('General Delegation'), including, for the avoidance of doubt, any matter specifically delegated in this Scheme of Delegations to an Assistant Director, Chief Officer (or Head of Service) or Operational Manager.
- 1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.

**1.3 To exercise the following Specific Delegations:-**

Ref	Delegation	Form of Evidence
<p><b>Human Resources</b> CD1</p>	<p>Authority to manage the human resources within their area of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein.</p> <p><b>Qualification: This may not be further delegated.</b></p>	<p>Relevant HR Form</p>
<p>CD2</p>	<p>Authority to consider and approve, as appropriate, in consultation with the Chief HR Officer and Corporate Director, Resources and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff (aged 55 or over) in the following circumstances:</p> <p>(1) in the interests of the efficiency of the service (2) who request voluntary retirement</p> <p><b>Qualification: This may not be further delegated.</b></p>	<p>Relevant HR Form</p>
<p><b>Procurement</b> CD3</p>	<p>To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to variations - see CD4; framework arrangements - see FS20; or where the Contracts Procedure Rules make contrary provision) where the estimated contract value does not exceed £5,000,000; and in all cases, subject to consultation with the Cabinet Member for Finance and any other Cabinet Member with relevant portfolio responsibility and compliance with Financial Procedure Rules, Contracts Procedure Rules and the Policy and Budget Framework and provided that in the event of an objection from the Cabinet Member/s, the decision shall be referred to Cabinet.</p> <p><b>Qualification: This may not be further delegated.</b></p>	<p>Pre-Tender and Contract Award Forms</p> <p>Officer Decision Form and Report</p>

Ref	Delegation	Form of Evidence
CD4	<p>To authorise, issue or approve variations in accordance with the values, as set out in the Contracts Procedure Rules, subject to consultation with the Cabinet Member for Finance and any other Cabinet Member with relevant portfolio responsibility, and provided that in the event of an objection from the Cabinet Member/s, the decision shall be referred to the Cabinet.</p> <p><b>Qualification: This may not be further delegated.</b></p>	
CD5	<p>To appoint persons to undertake management consultancy up to a value of £500,000 where the sum is allocated in the budget and for that purpose, subject to compliance with the Contracts Procedure Rules and the Policy and Budget Framework.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Pre-Tender and Contract Award Forms
<b>Other</b> CD6	<p>Within Service Areas to vire sums not exceeding £250,000 provided under specific public revenue budget heads to other purposes (revenue only), subject to compliance with the Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form
CD7	<p>Within service areas to vary the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £250,000 to or from another project but subject to the Policy and Budgetary Framework and in accordance with Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form
CD9	<p>In accordance with any policy or strategy approved by the Cabinet to consider and determine applications for financial assistance or assistance in kind and to approve or reject applications having a value not exceeding £1,000,000 per grant.</p>	Grant Application Form

Ref	Delegation	Form of Evidence
CD10	To exercise the rights and responsibilities of the Council as shareholder or member of a company or other body, where no other specific provision has been made. <b>Qualification: This may be further delegated to officers of grade OM1 or above only.</b>	

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4C – Delegations to Assistant Directors and Chief Officers (and Heads of Service)**

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#### **DELEGATIONS TO ALL ASSISTANT DIRECTORS, THE CHIEF HR OFFICER and THE CHIEF FINANCE OFFICER**

**NOTE:** the following delegations must be read in conjunction with the foregoing Sub-Section A which set out the overall basis, limitations, and further provisions which apply to this scheme of delegations.

**PROVIDED ALWAYS** that the decision is:

- a) within budget;
- b) in accordance with the Council’s policy framework;
- c) in accordance with Council’s Financial and Land Procedure Rules and Contracts Procedure Rules;
- d) in accordance with their Service Area Business Plan; and
- e) not a matter specifically reserved for Full Council, a Committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive, Corporate Director or a Director.

**All Assistant Directors and Chief Officers shall be authorised:-**

- 1.1 To make any decisions relating to any matter within their area of responsibility (‘General Delegation’), including, for the avoidance of doubt, any matter specifically delegated in this Scheme of Delegations to an Operational Manager.**
  
- 1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.**

**1.3 To exercise the following Specific Delegations:-**

Ref	Delegation	Form of Evidence
<b>Human Resources</b> CO1	<p>Authority to manage the human resources within their area of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Relevant HR Form
CO2	<p>Authority to consider and approve, as appropriate, in consultation with the Chief HR Officer and the Corporate Director, Resources and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff (aged 55 or over) in the following circumstances:</p> <p>(1) in the interests of the efficiency of the service            (2) who request voluntary retirement</p> <p><b>Qualification: This may not be further delegated.</b></p>	Relevant HR Form
<b>Procurement</b> CO3	<p>To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to variations – see CO4; framework arrangements – see FS20; or where the Contracts Procedure Rules make contrary provision) where the estimated contract value does not exceed £1,000,000; and in all cases, subject to compliance with Financial Procedure Rules, Contracts Procedure Rules and the Policy and Budget Framework.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Pre-Tender and Contract Award Forms



Ref	Delegation	Form of Evidence
CO4	<p>To authorise, issue or approve variations in accordance with the values, as set out in the Contracts Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	
<b>Other</b> CO5	<p>To make any applications under the planning legislation to the Authority as Local Planning Authority in relation to development of land for which the Chief Officer is responsible including Planning Applications to develop any land held by the Authority or for the development of any land by the Authority whether on its own or jointly.</p>	
CO6	<p>To manage any operational land or premises or assets and to secure such maintenance, repair or renewal of the same, save that the purchase repair, leasing, hire, disposal and maintenance of vehicles will be managed in accordance with arrangements made by the officer who is for the time being the Authority's Transport Manager.</p>	
CO7	<p>Within the service area to vary the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £100,000 to or from another project subject to the Policy and Budget Framework and in accordance with Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form
CO8	<p>Within service areas to vire sums not exceeding £50,000 provided under specific published revenue budget heads to other purposes (revenue only) subject to compliance with Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form

Ref	Delegation	Form of Evidence
CO9	<p>In accordance with any policy or strategy approved by the Cabinet to consider and determine applications for financial assistance or assistance in kind and to approve or reject applications having a value not exceeding £250,000.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Grant Application Form
CO10	<p>In accordance with any policy or strategy approved by the Cabinet to set fees and charges which may be made by the Authority and to waive such fees or charges or grant concessions where it would be likely to promote the economic, social or environmental well being of the Authority's area.</p>	Concessionary Letting Form
CO11	<p>To make applications or submit bids for funding or financial assistance or assistance in kind, to any person or body and take all necessary steps to accept this assistance.</p>	Grant Submission Form
CO12	<p>To approve the write-off of stocks, stores and other assets where the value of the stocks, stores or other assets does not exceed £5,000.</p>	
CO13	<p>To settle complaints made under the Council's Complaint Policy where appropriate, which may include an apology, rectification, or in exceptional circumstances a monetary payment up to a maximum of £100; and to settle Ombudsman's recommendations under Section 21 of the Public Services Ombudsman (Wales) Act 2005, up to a maximum of £1,000.</p>	

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4D – Delegations to Operational Managers**

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**NOTE: the following delegations must be read in conjunction with the foregoing Section 4A which set out the overall basis, limitations, and further provisions which apply to this scheme of delegations.**

**PROVIDED ALWAYS that the decision is:**

- a) within budget;**
- b) in accordance with the Council’s policy framework;**
- c) in accordance with Council’s Financial and Land Procedure Rules and Contracts Procedure Rules;**
- d) in accordance with their Service Area Business Plan; and**
- e) not a matter specifically reserved for Full Council, a Committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive, Corporate Director, Director, Assistant Director, Chief Officers or Heads of Service,**

**All Operational Managers shall be authorised:-**

- 1.1 To make any decisions relating to any matter within their area of responsibility (‘General Delegation’),**
- 1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.**

**1.3 To exercise the following Specific Delegations:-**

Ref.	Delegation	Form of Evidence
<b>Human Resources</b> OM1	Authority to manage the human resources within their area of responsibility as set out in the approved Human Resources policies and procedures.	Relevant HR Form
<b>Procurement</b> OM2	To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to variations – see OM3; framework arrangements – see FS20; or where the Contracts Procedure Rules make contrary provision) where the estimated contract value does not exceed £250,000; and in all cases, subject to compliance with Financial Procedure Rules, Contracts Procedure Rules and the Policy and Budget Framework.  <b>Qualification: This may not be further delegated for procurements of £10,000 or above.</b>	Pre-Tender and Contract Award Forms
OM3	To authorise, issue or approve variations in accordance with the values, as set out in the Contracts Procedure Rules.	
<b>Other</b> OM4	In accordance with any policy or strategy approved by the Cabinet to consider and determine applications for financial assistance or assistance in kind and to approve or reject applications having a value not exceeding £50,000.  <b>Qualification: This may not be further delegated.</b>	Grant Application Form

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4E – SPECIAL DELEGATIONS TO STATUTORY, LEGAL, FINANCIAL & HUMAN RESOURCES OFFICERS**

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**NOTE:** The following delegations must be read in conjunction with the foregoing Sub-Sections A, B and C which set out the overall basis, limitations, and further provisions which apply to this Scheme of Delegations and also the general delegations to the Chief Executive, Corporate Directors, Directors, Assistant Directors and Chief Officers.

All Delegated decisions taken in this sub-section by the Chief Executive will be published in the Officer Executive Decision Register.

**PROVIDED ALWAYS** that the decision is:

- a) within budget;
- b) in accordance with the Council's policy framework;
- c) in accordance with Council's Financial and Land Procedure Rules and Contracts Procedure Rules;
- d) in accordance with their Service Area Business Plan; and
- e) not a matter specifically reserved for Full Council, a Committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive, Corporate Director or a Director.

<b>Chief Executive &amp; Head of Paid Service</b>	
CE1	In cases of urgency or emergency, to exercise any Executive Function (even where such matters are reserved to the Cabinet) or take any decision on behalf of the Council, where this is necessary to protect the Council's interests.
CE2	To be Head of Paid Service and discharge the functions of appointment and dismissal of, and taking disciplinary action against, any member of staff, in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein, except where such functions have been reserved to the Appointments Committee.
CE3	To exercise corporate Council functions as appropriate.
CE4	To incur expenditure in the event of a civil emergency.
CE5	To determine any matter which is not a matter specifically reserved for full Council, a committee of the Council, the Cabinet or another Statutory Officer.

CE6	For the purposes of the Local Government (Contracts) act 1997, authority for the Corporate Director, Resources and any one of the following – Chief Executive, Director of Governance & Legal Services and Monitoring Officer to sign each certificate given under the Act.
CE7	To the Chief Executive or Nominee (Chief HR Officer) to make decisions on employee Terms and Conditions, (including procedures for dismissal), except those relating to: <ul style="list-style-type: none"> <li>• Chief Executive, Chief Officers and other JNC for Chief Officer posts;</li> <li>• Changes to the Council’s corporate pay grade structure;</li> <li>• Changes for employee Terms and Conditions which are the subject of contention with the trade unions.</li> </ul>
CE8	[Not used]
CE9	[Not used]
CE10	To appoint proper officers where required at law for the performance of Executive Functions.
CE11	Re-grading applications – To determine applications for re-grading from the Chief HR Officer
CE12	To approve new operational HR employment policies and changes to existing policies as required.
CE13	Receive notice of resignation of office (pursuant to section 84 of the Local Government Act 1972)
<b>Qualification: The above may not be further delegated, save that in the absence of the Chief Executive, they may be exercised by his nominated deputy.</b>	
<b>DIRECTOR OF GOVERNANCE &amp; LEGAL SERVICES and the officers for the time being nominated as Monitoring Officer and Deputy Monitoring Officer, to the extent to which the matters below relate to the statutory functions of the Monitoring Officer and are required to discharge their respective roles.</b>	
LD1	To appoint proper officers or authorise an officer of the Authority for any purpose the performance of which is an Executive Function where statute requires that the officer should be appointed or authorised for that specific purpose or purposes.
LD2	All proper officer functions not allocated to other officers and to act as Solicitor to the Council.
LD3	Authority to affix the Common Seal of the Council.
<b><u>Local Government Act 1972 Part V – General Provisions as to Members &amp; Proceedings of Local Authorities</u></b>	
LD4	Section 83(1) to (4) – Witness and Receipt of Declarations of Acceptance of Office.
LD5	[Not used]

LD6	Section 88(2) – Convening meeting to fill casual vacancy of Chairman.
LD7	[Not used]
LD8	[Not used]
LD9	[Not used]
LD10	Section 99 and Schedule 12 Paragraph 4(2)(b) – Signature of Summonses to Council Meetings.
LD11	Section 99 and Schedule 12 Paragraph 4(3) – Receipt of Notices regarding Addresses to which Summonses to Meetings to be sent.
LD12	<p><b><u>Part V A – Access to Information</u></b></p> <ul style="list-style-type: none"> <li>• Section 100B(2) – Exclusion of exempt items from public access.</li> <li>• Section 100B(7)C – Provision of copies of documents to newspapers.</li> <li>• Section 100C(2) – Provision of written summary of exempt proceedings.</li> <li>• Section 100D(1)(a) – Preparation of lists of background papers.</li> <li>• Section 100D(5) – Identification of background papers to a report.</li> <li>• Section 100F(2) – Identification of exempt information not to be disclosed.</li> </ul>
LD13	<p><b><u>Part XI General Provision – Documents and Notices etc</u></b></p> <ul style="list-style-type: none"> <li>• Section 228(3) – Inspection of accounts.</li> <li>• Section 229(5) – Certification of official documents.</li> <li>• Section 231(1) – Receipt of Notices served on the Council.</li> <li>• Section 233 – Service of Notices by the Council.</li> <li>• Section 234(1) &amp; (2) – Signing of Documents.</li> <li>• Section 238 – Certification of bylaws.</li> </ul>
LD14	<p><b><u>Local Government Housing Act 1989</u></b></p> <ul style="list-style-type: none"> <li>• Section 2(4) – Receipt of list of politically restricted posts.</li> <li>• Section 19(1) – Receipt of general notice of pecuniary interests from Members.</li> </ul>

LD15	<b><u>Local Government (Committees &amp; Political Groups) Regulations 1990</u></b> Regulation 8 – Receipt of notice of formation of political groups and changes in membership of political groups.
LD16	<b><u>Constitution (including Rules of Procedure)</u></b> To exercise Delegations as set out in the Constitution (including Rules of Procedure)
LD17	<b><u>Appointments</u></b> To appoint councillors or non-councillor members to committee seats allocate to political groups or nominating bodies (or to make changes, fill vacancies or give effect to temporary membership changes – “substitutions” ) in accordance with the wishes of political groups or member nominating body.
LD18	To make appointments to outside bodies in accordance with the decision of Council.
LD19	To constitute the membership of appeals and complaints committees and Council Tax/Benefit Revenue Boards from panels of trained members.
LD20	<b><u>Representing the Council in the Courts, Tribunals or at Public Enquiries</u></b> To authorise the institution, defence, withdrawal of compromise of any claims or legal proceedings, and or criminal, in consultation with the relevant Chief Officer, except where power to institute proceedings is delegated to specific officers.
LD21	To appear personally or authorise officers of the Council to appear on the Council’s behalf in court proceedings or at any tribunal or public or local inquiry.
LD22	To engage Counsel to represent the Council at any proceedings.
LD23	To defend and settle (subject to consultation with the relevant Director/Chief Officer and the Chief HR Officer any Employment Tribunal proceedings.
LD24	<b><u>Applications under Section 53 of the Wildlife and Countryside Act 1981</u></b> Authority to decide (using the guidelines contained in the legislation and any guidance issued by the authority) whether a claim is supported by sufficient evidence for an order to be made and (subject to circulation of details of such claims to



	Members of the Planning Committee) to serve notice on applicants who have submitted insufficient evidence or not met the legal requirements that no order be made.
LD25	<b><u>Pastoral Measure 1983</u></b> Authority to determine the Council's response to any proposal received for consultation to alter ecclesiastical boundaries under the Measure, taking into account the views of ward councillors for the area and subject to any of these councillors being able to require the matter to be decided by the Cabinet.
LD26	<b><u>Orders</u></b> To make all Statutory Orders.
LD27	Instituting criminal proceedings in cases of assault against employees where it is considered appropriate to do so in the interest of the County Council and where such proceedings have not been undertaken by the Police.
LD28	To discharge the functions of the authority in respect of cancellation of family absence pursuant to Regulation 34 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013
<b>Corporate Director, Resources; and the officers for the time being nominated as Section 151 Officer and Deputy Section 151 Officer, to the extent to which the matters below relate to the statutory functions of the Section 151 Officer and are required to discharge their respective roles.</b>	
FS1	Delegated Powers conferred on the Corporate Director, Resources under Financial Procedure Rules.
FS2	To be the Officer with responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and meeting the requirement under Section 113 of the Local Government Finance Act 1988 to be a member of one of the recognised accountancy bodies.

FS3	To nominate a properly qualified member of staff to deputise should the Corporate Director, Resources be unable to perform his/her duties under Section 114 of the Local Government Finance Act 1988.
FS4	To facilitate and manage the co-ordination of medium term financial planning, annual budget planning, budget monitoring and the preparation of statutory and other accounts, associated grant claims and supporting records.
FS5	To manage the Council's financial affairs and services, including all matters relating to the Collection Fund, General Fund, Housing Revenue Account, Treasury Management, Reserves and Provisions, Subsidiary Accounts, all other funds established under statutory requirements and trust funds including charitable trust funds where the Council or its officers are trustees.
FS6	For the purpose of the Local Government (Contracts) Act 1997, authority for the Corporate Director, Resources and any one of the following – Chief Executive, Director of Governance and Legal Services and Monitoring Officer, to sign each certificate given under the Act.
FS7	To carry out the functions and exercise the powers of the Authority under Part 1 of the Local Government Finance Act 1988 (Administration and Collection of Community Charges).
FS8	To carry out the functions and exercise the powers of the Authority under Parts I and II of the Local Government Finance Act 1992 (except determinations under Sections 8 (2) or 12 (1) of the 1992 Act) (Administration and Collection of Council Tax).
FS9	To carry out the functions and exercise the powers of the Authority under Part III of the Local Government Finance Act 1988.
FS10	To operate the Authority's main bank account and arrange for all cheques to bear the signature of the Corporate Director, Resources.
FS11	To arrange and operate other bank accounts and to nominate authorised signatories to act on behalf of the Council.
FS12	To approve arrangements for bank accounts for cheque book schools.
FS13	To write off of irrecoverable debts and to determine the payment period of debts where debtors offer to pay by instalments where the debt in question does not exceed £100,000.
FS14	To determine the level of security for the due performance of any contract and to approve Contract Guarantee Bonds.
FS15	To accept nominations of admitted bodies to participate in the Superannuation Fund.

FS16	To determine the appropriate rate of interest where chargeable under any statutory power of the Authority.
FS17	To approve deductions from pay in suitable cases when requested by staff.
FS18	To grant extensions of repayment periods under house mortgages granted by the Authority and on the repossession of mortgaged houses, to sell the same by auction or by private treaty or to foreclose in appropriate cases.
FS19	To waive the right to recovery of salaries paid in advance to employees under Section 30 of the Local Government (Miscellaneous Provisions) Act 1976.
FS20	To authorise the invitation of tenders, quotations, offers or bids and agree appropriate tender evaluation criteria for Framework/Call-off arrangements in accordance with the Contracts Procedure Rules and where appropriate for that purpose, approve select lists of contractors, suppliers and tenderers.
FS21	To approve the acceptance of tender bids, quotations or estimates for Framework/Call-off arrangements in accordance with the Contracts Procedure Rules within financial estimates where: (a) Where the value of the contract does not exceed £5,000,000 and the contract is awarded to the lowest tenderer; or (b) even though the tender is not the lowest provided that the value of the contract does not exceed £1,000,000
FS22	To approve the write-off of stocks, stores and other assets where the value of the stocks, stores or other assets does not exceed £50,000.

FS23	<p>To issue legal proceedings (and under Section 223 of the Local Government Act 1972 be authorised to appear on behalf of the County Council at the hearing of any legal proceedings in the Magistrates Court) by way of an application for the issue of a Liability Order in respect of:-</p> <ul style="list-style-type: none"> <li>• unpaid Council Taxes and penalties under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; by way of an application for the issue of a warrant of commitment to prison under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; to require financial information, to make an Attachment of Earnings Order; to levy the appropriate amount by distress and sale goods; and to exercise all other enforcement powers of the County Council under the Council Tax (Administration and Enforcement) Regulations 1992 and any subsequent amendments of such Regulations</li> <li>• unpaid rates; by way of an application for the issue of a warrant of commitment; and to exercise all other powers of enforcement of the County Council under the Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989 and any amendment thereto.</li> </ul>
FS24	To engage the services of bailiffs for the service of summonses and warrants of commitment, obtaining financial information, the levying of distress warrants and the sale of goods and any appropriate action for the recovery of outstanding Community Charges under the Local Government Finance Act 1988 and any regulations made there under and outstanding Council Taxes and penalties under the Local Government Finance Act 1992 and any Regulations made there under.
FS25	To engage the services of bailiffs to serve such summonses, distress warrants, liability orders or warrants of commitment, to levy distress and to sell goods as may be necessary to recover outstanding rates.
FS26	The settlement of claims, in special circumstances (individual claims for loss or damage to employees' personal effects up to a maximum of £100). (CIS 4.F.IN.021A)
FS27	To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has not been amended.
FS28	In accordance with any policy or strategy decided by the Pensions Committee, to approve decisions relating to the operational management of the Cardiff & Vale of Glamorgan Pension Fund ('the Fund') and the administration of pension benefits.
FS50	Represent Cardiff Council at the Cardiff Bus AGM.
FS52	Functions of the Returning Officer.
FS53	Functions of the Electoral Registration Officer.

FS54	To give public notice of a casual vacancy (pursuant to section 87(2) of the Local Government Act 1972) and receive notice calling for an election (pursuant to s.89(1) and 89(6) of the same Act, and regulations made thereunder).
<b>Chief HR Officer</b>	
HR1	Amendments to Establishment – To approve the proposals of Chief Officers to <ul style="list-style-type: none"> <li>• Determine any applications for re-grading at Operational Manager Level and below (CIS <u>4.C.134</u>)</li> <li>• Vary their establishment by:- (CIS <u>4.C.238</u>) <ul style="list-style-type: none"> <li>○ Deleting posts</li> <li>○ Creating posts (CIS <u>4.C.217</u>)</li> <li>○ Re-designating and redefining existing posts</li> </ul> </li> </ul>
HR2	Re-grading Appeals – To determine appeals against decisions made on applications for re-grading from officers graded Operational Manager and below.
HR3	Appointment of temporary staff over and above establishment for periods in excess of 12 months where the funding for the post(s) is/are from external sources. (CIS Ref. 4.C.015)
HR4	Market Supplements – To approve the payment of Market supplements of up to a maximum of 30% of salary.
HR5	Determine requests for extension of half sick pay.
HR6	To determine appeals from staff with regard to unsuccessful applications for flexible working.
HR7	Approval of applications for voluntary severance for Operational Manager and below. (CIS <u>4.C.182</u> )

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## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### Section 4F – Delegations to Specific Officers

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The officers named below shall be authorised to exercise the following Delegations, provided always that the decision is:

- a) within budget
- b) in accordance with the Council’s policy framework
- c) in accordance with Council’s Financial and Land Procedure Rules and Contracts Procedure Rules
- d) in accordance with their Service Area Business Plan
- e) not a matter specifically reserved for Full Council, a Committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive, Corporate Director or any other Director or Assistant Director.

Ref	Delegation
Head of Shared Regulatory Service	<ul style="list-style-type: none"><li>• To act as the Chief Inspector of Weights and Measures and to exercise the functions assigned to the Council as a weights and measures authority.</li><li>• To discharge the duties and functions listed in Schedule 1 Part 3 of the Shared Regulatory Service Collaboration Agreement dated 10<sup>th</sup> April 2015.</li><li>• To exercise all functional responsibilities delegated by the Licensing Committee and the Public Protection Committee.</li></ul>
Operational Manager, Bereavement and Registration Services	<ul style="list-style-type: none"><li>• To act as the proper officer for the registration service and to exercise the functions assigned to the Council under the Registration Acts.</li></ul>

Director of Social Services	<ul style="list-style-type: none"> <li>• To be the Director of Social Services pursuant to section 6 of the Local Authority Social Services Act 1970 with responsibility for the social services functions of the Council, including the authority to decide on the reception of persons into guardianship of the Authority under sections 7 and 37 of the Mental Health Act 1983, the exercise of functions of nearest relative of persons so suffering and to make appointments of Approved Social Workers.</li> <li>• To be the Council's Lead Officer on Children's Services for the purposes of the Children Act 2004.</li> </ul>
Director, Education  Director, Education, DEd1	<ul style="list-style-type: none"> <li>• To be the Chief Education Officer of the Authority pursuant to Section 532 of the Education Act.</li> <li>• To exercise the Council's powers of intervention under Part 2 of the School Standards and Organisation (Wales) Act 2013, including for the avoidance of doubt, the powers to serve a Warning Notice; appoint additional governors or an Interim Executive Board.</li> </ul>
Director of City Operations	<ul style="list-style-type: none"> <li>• To exercise all functional responsibilities delegated by the Planning Committee.</li> </ul>
Director of Communities, Housing and Customer Services	<ul style="list-style-type: none"> <li>• To make compulsory purchase orders in respect of single dwellings under Part II of the Housing Act 1985 and or the Acquisition of Land Act 1981.</li> <li>• To make all necessary arrangements in consultation with the Cabinet Member, Environment and with advice as necessary from the Corporate Director Resources and the Director Governance and Legal Services, to enable the Council to discharge its functions as a Single Licensing Authority under Part 1 of the Housing (Wales) Act 2014.</li> </ul>



**Director of Economic Development**

DE1	<p>To authorise disposals of land or an interest in land where the value is not more than £1,000,000 and where:</p> <ul style="list-style-type: none"><li>(i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;</li><li>(ii) The offer represents the best price reasonably obtainable; and</li><li>(iii) The offer so accepted is on price alone,</li></ul> <p>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land, and Provided that this power may not be sub-delegated other than in accordance with delegation CP1 below.</p>
DE2	<p>To authorise acquisitions of land or an interest in land where the value is not more than £1,000,000 and where:</p> <ul style="list-style-type: none"><li>(i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;</li><li>(ii) The Council's offer represents no more than market value as determined by a qualified valuer; and</li><li>(iii) The amount offered is on price alone,</li></ul> <p>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land, and Provided that this power may not be sub-delegated other than in accordance with delegation CP2 below.</p>

DE3	<p>To authorise the grant or taking of a lease at a rent not exceeding £1,000,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £1,000,000, where:</p> <ul style="list-style-type: none"> <li>(i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation; and</li> <li>(ii) In the case of a grant, the offer represents the best rent reasonably obtainable by the Council as approved by a qualified valuer; or</li> <li>(iii) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer,</li> </ul> <p>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land, and Provided that this power may not be sub-delegated other than in accordance with delegation CP3 below.</p>
DE4	<p>To declare Operational Land and Property as surplus to the Council's requirements, subject to consultation with service areas and ward Members, and subject to no objections being received from ward Members. Receipt of a ward Member objection will require the report to be referred to the Cabinet for decision.</p> <p><b>Qualification: This may not be further delegated.</b></p>
DE5	<p>To grant grazing licences, easements, leases to utility undertakings for operational purposes, temporary licences and renewals.</p>
DE6	<p>To grant landlord's consent to alterations to land involving change of use (other than A4.8).</p>
DE7	<p>To agree the sale of residential freehold reversions.</p>
DE8	<p>To grant the release or modification of restrictive covenants for alterations to residential premises.</p>
DE9	<p>To settle Part 1 claims under the Land Compensation Act 1973.</p>
DE10	<p>To grant landlord's consent to the assignment of existing tenancies.</p>
DE11	<p>To grant landlord's consent to the subletting of existing tenancies.</p>
DE12	<p>To grant landlord's consent to alterations to land involving no change of use.</p>
DE13	<p>To agree Council House sales under Right to Buy provisions.</p>

<b>Corporate Property and Estates Manager</b>	
CP1	<p>Subject to sub-delegation of delegation DE1, to authorise disposals of land or an interest in land where the value is not more than £100,000 and where:</p> <ul style="list-style-type: none"> <li>(i) The offer represents the best price reasonably obtainable;</li> <li>(ii) The offer so accepted is on price alone; and</li> <li>(iii) The offer is greater than that estimated by a qualified valuer or no more than 10% below that estimate.</li> </ul> <p><b>Qualification: This may not be further delegated</b></p>
CP2	<p>Subject to sub-delegation of delegation DE2, to authorise the acquisition of land or an interest in land where the value is not more than £100,000 and where:</p> <ul style="list-style-type: none"> <li>(i) The Council's offer represents no more than market value; and</li> <li>(ii) The amount offered is on price alone.</li> </ul> <p><b>Qualification: This may not be further delegated</b></p>
CP3	<p>Subject to sub-delegation of delegation DE3, to authorise the grant or taking of a lease at a rent not exceeding £100,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £100,000, where:</p> <ul style="list-style-type: none"> <li>(i) In the case of a grant, the offer represents the best rent reasonably obtainable by the Council as approved by a qualified valuer; or</li> <li>(ii) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer.</li> </ul> <p><b>Qualification: This may not be further delegated</b></p>

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## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 5 – Delegations to Joint Committees**

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Glamorgan Archives Joint Committee	All powers and duties in connection with the care preservation maintenance and management of archives and records except the power of setting a budget or borrowing money, subject to the terms of the agreement dated 11 <sup>th</sup> April 2006.
Welsh Purchasing Consortium	Subject to the terms of the agreement dated 26 <sup>th</sup> November 1998, such powers as are necessary to procure the commodities listed in Schedule 4 of the agreement, other than powers to (i) incur capital expenditure; and or (ii) procure or order goods or make purchases or in any other way incur revenue expenditure on behalf of a Member without that Member's previous consent.
Prosiect Gwyrd	Subject to the terms of the agreement dated 9 <sup>th</sup> December 2013, certain powers in relation to the joint procurement of a residual waste treatment solution.
Shared Regulatory Service	The functions described in Schedule 1 Part 1 of the Shared Regulatory Service Collaboration Agreement dated 10 <sup>th</sup> April 2015, subject to the terms of that Agreement.
Cardiff Capital Region Joint Cabinet	All functions in relation to delivery of the Cardiff Capital Region City Deal, in accordance with the provisions of the Joint Working Agreement dated 1 <sup>st</sup> March 2017.

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## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### APPENDIX 1 – Responsibility for Non-Executive Council Functions

Function	Responsibility
<p data-bbox="231 526 1248 600"><b>Functions relating to town and country planning and development control</b></p> <ol data-bbox="223 638 1260 1960" style="list-style-type: none"><li>1. Power to determine application for planning permission.</li><li>2. Power to determine applications to develop land without compliance with conditions previously attached.</li><li>3. Power to grant planning permission for development already carried out.</li><li>4. Power to decline to determine application for planning permission.</li><li>5. Duties relating to the making of determinations of planning applications.</li><li>6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.</li><li>7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.</li><li>8. Power to enter into agreement regulating development or use of land.</li><li>9. Power to issue a certificate of existing or proposed lawful use or development and power to revoke such a certificate.</li><li>10. Power to serve a completion notice.</li><li>11. Power to grant consent for the display of advertisements.</li><li>12. Power to authorise entry onto land.</li><li>13. Power to require the discontinuance of a use of land.</li><li>14. Power to serve a planning contravention notice, breach of condition notice or stop notice.</li><li>15. Power to issue an enforcement notice.</li><li>16. Power to apply for an injunction restraining a breach of planning control.</li><li>17. Power to determine applications for hazardous substances consent, and related powers.</li><li>18. 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.</li><li>19. Power to require proper maintenance of land.</li><li>20. Power to determine application for listed building consent, and related powers.</li><li>21. Power to determine applications for conservation area consent.</li></ol>	<p data-bbox="1316 638 1484 705" style="text-align: center;"><b>Planning Committee</b></p>

<ol style="list-style-type: none"> <li>22. Duties relating to applications for listed building consent and conservation area consent.</li> <li>23. Power to serve a building preservation notice, and related powers.</li> <li>24. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.</li> <li>25. Powers to acquire a listed building in need of repair and to serve a repairs notice.</li> <li>26. Power to apply for an injunction in relation to a listed building.</li> <li>27. Power to execute urgent works.</li> <li>28. Power related to mineral working</li> <li>29. Power related to footpaths and bridleways (in respect of section 257 of the Town and Country Planning Act 1990).</li> <li>30. Power as to certification of appropriate alternative development.</li> <li>31. Duties in relation to purchase notices</li> <li>32. Powers related to blight notices</li> <li>33. Powers relating to the preservation of trees.</li> <li>34. Powers relating to the protection of important hedgerows</li> </ol>	
<p><b>Functions relating to Licensing and registration</b></p> <ol style="list-style-type: none"> <li>1. Power to issue licences authorising the use of land as a caravan site (“site licences”).</li> <li>2. Power to license the use of moveable dwellings and camping sites.</li> </ol>	<p><b>Public Protection Committee / Shared Regulatory Service Joint Committee</b></p>
<ol style="list-style-type: none"> <li>3. Power to license hackney carriages and private hire vehicles.</li> <li>4. Power to license drivers of hackney carriages and private hire vehicles.</li> <li>5. Power to license operators of hackney carriages and private hire vehicles.</li> </ol>	<p><b>Public Protection Committee</b></p>
<ol style="list-style-type: none"> <li>6. Power to register pool promoters.</li> <li>7. Power to grant track betting licences.</li> <li>8. Power to license inter-track betting schemes.</li> <li>9. Power to grant permits in respect of premises with amusements machines.</li> <li>10. Power to register societies wishing to promote lotteries.</li> <li>11. Power to grant permits in respect of premises where amusements with prizes are provided.</li> <li>12. Power to issue entertainments licences.</li> </ol>	<p><b>Licensing Committee</b></p>
<ol style="list-style-type: none"> <li>13. Power to license sex shops and sex cinemas.</li> <li>14. Power to license performances of hypnotism.</li> </ol>	<p><b>Public Protection Committee /</b></p>



<ul style="list-style-type: none"> <li>15. Power to license premises for acupuncture, tattooing ear piercing and electrolysis.</li> <li>16. Power to license pleasure boats and pleasure vessels.</li> <li>17. Power to license market and street trading.</li> <li>18. Duty to keep list of persons entitled to sell non-medicinal poisons.</li> <li>19. Power to license dealers in game and the killing and selling of game.</li> <li>20. Power of register and license premises for the preparation of food.</li> <li>21. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</li> <li>22. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</li> <li>23. Duty to promote fire safety.</li> <li>24. Power to license premises for the breeding of dogs.</li> <li>25. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</li> <li>26. Power to register animal trainers and exhibitors.</li> <li>27. Power to license zoos.</li> <li>28. Power to license dangerous wild animals.</li> <li>29. Power to enforce regulations in relation to animal by-products.</li> </ul>	<p><b>Shared Regulatory Service Joint Committee</b></p>
<ul style="list-style-type: none"> <li>30. Power to license the employment of children.</li> </ul>	<p><b>Public Protection Committee</b></p>
<ul style="list-style-type: none"> <li>31. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.</li> <li>32. Power to issue a permit to conduct charitable collections.</li> <li>33. Power to grant consent for the operation of a loudspeaker.</li> <li>34. Power to grant a street works licence.</li> <li>35. Duty to register the movement of pigs.</li> <li>36. Power to enforce regulations in relation to the movement of pigs.</li> <li>37. Power to issue a licence to move cattle from a market.</li> <li>38. Power to sanction use of parts of buildings for storage of celluloid.</li> <li>39. Duty to enforce and execute 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.</li> </ul>	<p><b>Public Protection Committee / Shared Regulatory Service Committee</b></p>

<p>40. [Deleted]</p> <p>41. [Deleted]</p> <p>42. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>(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</p> <p>(b) An order under Section 147 of the Enclosure Act 1845 (c.8 &amp; 9 Vict.c.118).</p> <p>43. Power to register variation of rights to common.</p>	<p><b>Public Protection Committee</b></p>
<p>Functions in respect of establishing a Licensing Committee (pursuant to section 6 of the Licensing Act 2003)</p>	<p><b>Council</b></p>
<p><b>Functions relating to Health and Safety at Work</b></p> <p>Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of Health and Safety at Work etc. Act 1974), to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.</p>	<p><b>Public Protection Committee / Shared Regulatory Service Joint Committee</b></p>

<p style="text-align: center;"><b>Functions relating to Elections</b></p> <ol style="list-style-type: none"> <li>1. Duty to appoint an electoral registration officer.</li> <li>2. Power to assign officers in relation to requisitions of the registration officer.</li> <li>3. Power to dissolve community councils.</li> <li>4. Power to make orders for grouping communities.</li> <li>5. Power to make orders for dissolving groups and separating community councils from groups.</li> <li>6. Duty to appoint returning officer for local government elections.</li> <li>7. Duty to provide assistance at European Parliamentary elections.</li> <li>8. Duty to divide constituency into polling districts.</li> <li>9. Power to divide electoral divisions into polling districts at local government elections.</li> <li>10. Powers in respect of holding of elections.</li> <li>11. Power to pay expenses properly incurred by electoral registration officers.</li> <li>12. Power to fill vacancies in the event of insufficient nominations.</li> <li>13. Duty to declare vacancy in office in certain cases.</li> <li>14. Duty to give public notice of a casual vacancy.</li> <li>15. Power to make temporary appointments to community councils.</li> <li>16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.</li> <li>17. 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.</li> </ol>	<b>Council</b>
<p style="text-align: center;"><b>Functions relating to Name and Status of Areas and Individuals</b></p> <p>Note: The following Council functions are not delegated to any committee and will be discharged by the Council itself:-</p> <ol style="list-style-type: none"> <li>1. Power to change the name of a county or county borough.</li> <li>2. Power to change the name of a community</li> <li>3. Power to confer title of honorary alderman or to admit to be an honorary freeman</li> <li>4. Power to petition for a charter to confer county borough status.</li> </ol> <p><b>Power to make, amend, revoke or re-enact byelaws.</b></p> <p><b>Power to promote or oppose local or personal Bills.</b></p>	<b>Council</b>

<p style="text-align: center;"><b>Functions relating to Pensions</b></p> <ol style="list-style-type: none"> <li>1. Functions relating to local government pensions, etc pursuant to Regulations under Section 7, 12 or 24 of the Superannuation Act 1972</li> <li>2. Functions relating to pensions, allowances and gratuities pursuant to Regulations under Section 18(3A) of the Local Government and Housing Act 1989.</li> </ol>	<p><b>Pensions Committee</b></p>
<p style="text-align: center;"><b>Miscellaneous Functions</b></p> <ol style="list-style-type: none"> <li>1. 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).</li> <li>2. Functions relating to sea fisheries.</li> <li>3. Power to make standing orders</li> <li>4. Power to make standing orders as to contracts.</li> <li>5. Power to consider reports from the Public Services Ombudsman for Wales.</li> <li>6. Duty to determine affordable borrowing limit.</li> <li>7. Approval of annual investment strategy in accordance with guidance</li> </ol>	<p><b>Council</b></p>
<ol style="list-style-type: none"> <li>1. Appointment and dismissal of Chief Officers, Assistant Directors, Corporate Directors and Chief Executive</li> <li>2. Power to appoint officers for particular purposes (appointment of "proper officers")</li> <li>3. Duty to designate an officer as the head of the authority's paid service, and to provide staff, etc.</li> <li>4. Duty to designate an officer as the monitoring officer and to provide staff, etc.</li> <li>5. Duty to make arrangements for proper administration of financial affairs</li> </ol>	<p><b>Appointments Committee</b></p>
<p style="text-align: center;"><b>The promotion and maintenance of high standards of conduct within the Council</b></p> <ol style="list-style-type: none"> <li>1. To advise the Council on the adoption or revision of its Code of Conduct.</li> <li>2. To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance</li> </ol>	<p><b>Standards &amp; Ethics Committee</b></p>

<p>from the Public Services Ombudsman for Wales and recommendations of case tribunals under section 80 of the Local Government Act 2000.</p> <p>3. To determine complaints referred by the Public Services Ombudsman for Wales.</p> <p><b>Assistance to Members and Co-opted Members of the Authority</b></p> <p>To ensure that all Members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that Members are aware of the standards expected from local Councillors under the Code.</p>	
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## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### APPENDIX 2 – TERMS OF REFERENCE FOR COMMITTEES

Committee	Terms of Reference
<p>Appointments (convened as and when required)</p>	<p>To discharge the functions of the authority in respect of the appointment and dismissal of Chief Officers and Deputy Chief Officers (as defined in the Local Authorities (Standing Orders)(Wales) Regulations 2006) and the statutory Head of Democratic Services, in accordance with the Employment Procedure Rules and any other relevant Council policies and procedures.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
<p>Audit</p>	<p><u>Governance, Risk &amp; Control</u></p> <ul style="list-style-type: none"> <li>• To review the Council’s corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.</li> <li>• To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the Council’s framework of governance, risk management and internal control.</li> <li>• To consider the council’s arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.</li> <li>• To consider the Council’s framework of assurance and ensure that it adequately addresses the risk and priorities of the Council.</li> <li>• To monitor the effective development and operation of risk management in the Council.</li> <li>• To monitor progress in addressing risk-related issues reported to the committee.</li> <li>• To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.</li> <li>• To review the assessment of fraud risks and potential harm to the council from fraud and corruption.</li> <li>• To monitor the Counter-fraud strategy, actions and resources.</li> </ul>

Committee	Terms of Reference
	<p data-bbox="448 230 639 264"><u>Internal Audit</u></p> <ul style="list-style-type: none"> <li data-bbox="448 271 1066 304">• To approve the Internal Audit Charter.</li> <li data-bbox="448 344 1391 490">• To approve the risk-based internal audit plan, containing internal audit's resource requirements, the approach to using other sources of assurances and any work required to place reliance upon those other sources.</li> <li data-bbox="448 530 1391 676">• To approve significant changes to the risk-based internal audit plan, including audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.</li> <li data-bbox="448 716 1391 790">• To approve significant interim changes to the risk based internal audit plan and resource requirements.</li> <li data-bbox="448 831 1391 936">• To make appropriate enquiries of both management and the audit manager to determine if there are any inappropriate scope or resource limitations.</li> <li data-bbox="448 976 1391 1413">• To consider reports from the Audit Manager on Internal Audit's performance during the year. These will include: <ul style="list-style-type: none"> <li data-bbox="523 1050 1391 1155">- Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;</li> <li data-bbox="523 1162 1391 1236">- Regular reports on the results of the Quality Assurance and Improvement Programme;</li> <li data-bbox="523 1243 1391 1413">- Reports on instances where the internal audit function does not conform to the PSIAS and Local Government Application Note considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.</li> </ul> </li> <li data-bbox="448 1453 1391 1637">• The opinion on the adequacy and effectiveness of the Council's framework of governance, risk management and internal control together with a summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.</li> <li data-bbox="448 1677 1391 1751">• To consider summaries of specific internal audit reports as requested.</li> <li data-bbox="448 1792 1391 1975">• To receive reports outlining the action taken where the Audit Manager has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.</li> <li data-bbox="448 2016 1391 2078">• To contribute to the Quality Assurance and Improvement Programme and in particular the external quality assessment</li> </ul>



Committee	Terms of Reference
	<p>of internal audit that takes place at least once every five years.</p> <ul style="list-style-type: none"> <li>• To consider a report on the effectiveness of internal audit to support the Annual governance Statement, where required to do so by the Accounts and Audit Regulations.</li> <li>• To support the development of effective communication with the audit manager.</li> </ul> <p><u>External Audit</u></p> <ul style="list-style-type: none"> <li>• To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.</li> <li>• To consider specific reports as agreed with the external auditors.</li> <li>• To comment on the scope and depth of external audit work and to ensure it gives value for money.</li> <li>• To commission work from internal and external audit.</li> <li>• To advise and recommend on the effectiveness of relationships between external and internal audit and other inspector agencies or relevant bodies.</li> </ul> <p><u>Financial Reporting</u></p> <ul style="list-style-type: none"> <li>• To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</li> <li>• To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</li> <li>• To seek assurances that the Council has complied with the Treasury Management Strategy and Practices by demonstrating effective control of the associated risks and pursuing optimum performance consistent with those risks.</li> </ul> <p><u>Accountability Arrangements</u></p> <ul style="list-style-type: none"> <li>• To report to Council on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of the governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.</li> </ul>

Committee	Terms of Reference
	<ul style="list-style-type: none"> <li>• To report to Council on an annual basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.</li> <li>• To raise the profile of probity generally within the Council and to report on matters of concern to the individual Cabinet Member, relevant Scrutiny Committee, Cabinet or to Council as necessary and appropriate.</li> <li>• To work in synergy with the Scrutiny Committees of the Council and liaise with other Council Committees as and when appropriate to avoid duplication in work programmes.</li> </ul> <p><u>Training &amp; Development</u></p> <ul style="list-style-type: none"> <li>• To attend relevant training session in accordance with the Member Development Programme including specialist training tailored for Members of the Audit Committee e.g. treasury management.</li> </ul>
Constitution	<p>To review the Council's Constitution, and to recommend to Council and/or Cabinet any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-</p> <ul style="list-style-type: none"> <li>(a) Drafting improvements to enhance clarity and remove minor anomalies.</li> <li>(b) Updating to reflect legislative changes and matters of record.</li> <li>(c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).</li> </ul>
Corporate Parenting Advisory Committee	<ul style="list-style-type: none"> <li>(a) To actively promote real and sustained improvements in the life chances of Looked After Children, Children in Need, Care Leavers and children and young people in the criminal justice system and to work within an annual programme to that end;</li> <li>(b) To develop, monitor and review a corporate parenting strategy, and ensure its effective implementation through work plans and corporate parenting training programmes;</li> <li>(c) To seek to ensure that the life chances of Looked After Children, Children in Need and care leavers are maximised in terms of health, educational attainment, and access to training and employment, to aid the transition to a secure and productive adulthood;</li> <li>(d) To recommend ways in which more integrated services can be developed across all Council directorates, schools and other</li> </ul>

Committee	Terms of Reference
	<p>stakeholders to lead towards better outcomes for Looked After Children, Children in Need and care leavers;</p> <p>(e) To ensure that mechanisms are in place to enable Looked After Children, Children in Need and care leavers, to play an integral role in service planning and design, and that their views are regularly sought and acted upon;</p> <p>(f) To ensure performance monitoring systems are in place, and regularly review performance data to ensure sustained performance improvements in outcomes for Looked After Children, Children in Need and care leavers;</p> <p>(g) To receive all relevant Children's Services inspection and annual reports, including: Children's Homes Quality of Care Report; Case Practice Reviews, Fostering Annual Quality of Care Report; Adoption Fostering Annual Quality of Care Report; 4C's Commissioning; Out of Area Annual Report; Annual Report of Brighter Futures (with education); Children's Complaints reports; and Advocacy Annual Report;</p> <p>(h) To report to the Cabinet at least twice a year;</p> <p>(i) To make recommendations to the Cabinet where responsibility for that function rests with the Cabinet;</p> <p>(j) To report to the Children and Young People's Scrutiny Committee as necessary;</p> <p>(k) To recommend the appointment of co-opted members to the Committee for approval by Council;</p> <p>(l) To develop and undertake a programme of consultation, listening and engagement events with Looked After Children and care leavers, as well as visits to services providing support and advice to Looked After Children, Children in Need and care leavers;</p> <p>(m) To submit an Annual Report on the work of the Committee to full Council.</p> <p>(n) All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Council Appeals	<p>To hear and determine appeals (other than those appeals which are within the terms of reference of any other Committee) from determinations and decisions of the Authority where there is a statutory requirement for there to be an appeal to Members of the Council or where such appeal is allowed for in any policy or procedure approved by the Council.</p>

Committee	Terms of Reference
	<p>On hearing an appeal the Committee shall be empowered, on behalf and in the name of the Council, to make such order as it considers appropriate, within the range of decisions permissible at law.</p> <p>The Committee, when sitting to hear an appeal, shall not include any Members of the Cabinet, or Members of any Committee principally concerned with the service by which the decision or determination has been made, or Members who have been concerned in any previous consideration of the matter, which has given rise to or from which the appeal arises.</p> <p>At each sitting of the Committee to hear an appeal, the Committee shall, firstly, ensure that the appeal has been properly made and, secondly, that the appellant has been afforded the opportunity of being represented at the hearing of his/her appeal by such friend, lawyer or other representative as he/she may choose.</p> <p>In hearing an appeal the Committee shall conform to the rules of natural justice.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Democratic Services	<p>(a) To carry out the local authority's function of designating the Head of Democratic Services.</p> <p>(b) To keep under review the adequacy of provision of staff, accommodation and other resources made available to discharge the democratic services functions of the Authority.</p> <p>(c) To make reports, at least annually, to the full Council in relation to these matters.</p>
Disciplinary & Grievance Appeals (convened as and when required)	<p>To hear and determine:</p> <p>(a) all appeals by employees of the Council who may have a right to appeal to Councillors in accordance with disciplinary and grievance procedures approved by the Council;</p> <p>(b) all other appeals from disciplinary actions which may be referred to it, whether by the Council or a Committee;</p> <p>(c) grievances by and against the Chief Executive in accordance with grievance procedures approved by the Council; and, with a differently constituted membership, appeals following decisions on such grievances; and</p> <p>(d) in exceptional circumstances, where the Chief Executive cannot address matters because of an associated grievance,</p>

Committee	Terms of Reference
	<p>disciplinary proceedings against the Chief Operating Officer; a Corporate Chief Officer or a Chief Officer; and, with a differently constituted membership, appeals following decisions in such disciplinary proceedings</p> <p>On hearing each case the Committee shall be empowered, on behalf and in the name of the Council, to make such order as it considers appropriate, except where retirement or redundancy is contemplated, when consultation with the Cabinet will take place prior to determination of the matter.</p> <p>The Committee, when sitting to hear an individual case, shall comprise not less than three nor more than five members. From the members appointed to serve on the Committee, those who are to sit to hear any particular matter shall be chosen by rota following consultation with the Group Whips, subject to the exclusion of any member who:</p> <ul style="list-style-type: none"> <li>(i) is a member of the Cabinet or of a Committee principally concerned with the service in which the employee concerned is employed; or</li> <li>(ii) has been concerned in any previous consideration of the matter which has given rise to the disciplinary action, grievance, or decision from which an appeal arises.</li> </ul> <p>At each sitting of the Committee to hear a disciplinary matter or appeal, the Committee shall, firstly, ensure that the matter of complaint has been clearly put to the employee and, secondly, that the employee has been afforded the opportunity of being represented at the hearing by such friend, trade union officer, lawyer or other representative as he/she may choose.</p> <p>In any hearing the Committee shall conform to the rules of natural justice.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Employment Conditions	<ul style="list-style-type: none"> <li>(a) to consider and determine policy and issues arising from the organisation, terms and conditions of Chief Officers and Deputy Chief Officers (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006), together with any other category of employee specified in Regulation from time to time where this is necessary, subject to the approval of Council in respect of any determination or variation of the remuneration of Chief Officers;</li> <li>(b) to decide requests for re-grading of Chief Officers and Deputy Chief Officers (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006), together with any other</li> </ul>

Committee	Terms of Reference
	<p>category of employee specified in Regulation from time to time, whether by way of appeal by an employee against a decision to refuse a re-grading application or to decide applications for re-grading which are supported, subject to the approval of Council in respect of any determination or variation of the remuneration of a Chief Officer.</p> <p>(c) All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Family Absence Appeals Panel	<p>To be the Appeals Panel required pursuant to Regulation 36(1) of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 and any amendment thereof; and to discharge all functions of the Panel pursuant to those Regulations.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Licensing	<p>To be the Council's Licensing Committee as required by the Licensing Act 2003 and Gambling Act 2005 and any re-enactment or modification thereof; and as full delegate of the Council to exercise all the powers and functions permitted under those Acts.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Local Authority Governors Panel	<p>For School Governing Bodies constituted under The Government of Maintained Schools (Wales) Regulations 2005:</p> <p>(a) To advise the Council on appointments and removal of governors to those places allocated to the Local Authority;</p> <p>(b) To consider and make decisions relating to the recruitment, training and vetting of potential governors and any other matters that may be referred to the Panel by the Cabinet for the Constitution Committee; and</p> <p>(c) All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Planning	<p>(a) Those functions listed in Section A of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and any amendments thereto and any matters ancillary thereto as defined in Regulation 3 (2) to (4) of the Regulations.</p>

Committee	Terms of Reference
	<p>(b) Those functions listed in paragraphs 3 and 4 of Section I of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and any amendments thereto and any matters ancillary thereto as defined in Regulation 3 (2) to (4) of the Regulations.</p> <p>(d) All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Public Protection	<p>(a) Those functions listed in Sections B and C, and paragraph 10 of Section I, of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities)(Wales) Regulations 2007 (the Regulations), any amendments thereto and any matters ancillary thereto as defined in Regulation 3 (2) to (4) of the Regulations, except to the extent that such matters fall to the Licensing Committee by virtue of Section 7 of the Licensing Act 2003 or the Gambling Act 2005;</p> <p>(b) In relation to those functions acting as Appeal Committee where appropriate;</p> <p>(c) The discharge of any function relating to the control of pollution or the management of air quality;</p> <p>(d) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area;</p> <p>(e) Any function relating to contaminated land;</p> <p>(f) The service of an abatement notice in respect of a statutory nuisance; and</p> <p>(g) Any function under a local Act of a licensing or regulatory nature,</p> <p>without prejudice to the functions lawfully exercised by the Shared Regulatory Services Joint Committee, pursuant to the Shared Regulatory Service Collaboration Agreement dated 10<sup>th</sup> April 2015.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>

Committee	Terms of Reference
Standards & Ethics	<p>(a) To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of the Authority's services, and to report to the Council on any matters of concern.</p> <p>(b) To advise the Council on the content of its Ethical Code and to update the Code as appropriate.</p> <p>(c) To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application.</p> <p>(d) To consider and determine the outcome of complaints that Councillors and co-opted members have acted in breach of the Code in accordance with procedures agreed by the Standards Committee, including the imposition of any penalties available to the Committee.</p> <p>(e) To oversee and monitor the Council's whistleblowing procedures and to consider ethical issues arising from complaints under the procedure and other complaints.</p> <p>(f) To grant or refuse requests for dispensations in respect of Members' interests under the Members Code of Conduct in accordance with the relevant statutory provisions.</p> <p>(g) To undertake those functions in relation to community councils situated in the area of the Council and members of those community councils which are required by law</p> <p>(h) To recommend to Council and the Cabinet any additional guidance on issues of probity.</p> <p>(i) To hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer, whether on reference from the Ombudsman or otherwise.</p> <p>(j) To recommend the provision to the Monitoring Officer of such resources as he/she may require for the performance of his/her duties.</p> <p>All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
Pensions Committee	<p>To discharge the functions of the authority as Administering Authority of the Cardiff &amp; Vale of Glamorgan Pension Fund ('the Fund') as described in the Local Government Pension Scheme (LGPS) Regulations made under the Superannuation Act 1972 (sections 7,12 or 24) and Section 18(3A) of the Local Government and Housing Act 1989; and</p>



Committee	Terms of Reference
	<p>To discharge the following specific strategic functions with regards to the Fund, taking account of advice from the Corporate Director Resources and the Fund's professional advisers:-</p> <ul style="list-style-type: none"> <li>a) Determining the Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including in relation to the following areas: <ul style="list-style-type: none"> <li>i) Governance – approving the Governance Policy and Compliance Statement for the Fund;</li> <li>ii) Funding Strategy – approving the Fund's Funding Strategy Statement including ongoing monitoring and management of the liabilities, giving due consideration to the results and impact of the triennial actuarial valuation and interim reports;</li> <li>iii) Investment strategy - approving the Fund's investment strategy, Statement of Investment Principles and Myners Compliance Statement including setting investment targets and ensuring these are aligned with the Fund's specific liability profile and risk appetite;</li> <li>iv) Communications Strategy – approving the Fund's Communication Strategy;</li> <li>v) Discretions – determining how the various administering authority discretions are operated for the Fund; and</li> <li>vi) Internal Dispute Resolution Procedure – determining how the Scheme Member disputes are administered.</li> </ul> </li> <li>b) Monitoring the implementation of these policies and strategies as outlined in a) above on an ongoing basis.</li> <li>c) Considering the Fund's financial statements as part of the approval process and agreeing the Fund's Annual Report. Receive internal and external audit reports on the same.</li> <li>d) Receiving ongoing reports from the Corporate Director Resources in relation to the delegated operational functions.</li> <li>e) To provide independent assurance to members of the Fund of the adequacy of the risk management and associated control environment, responsible for the Fund's financial and non-financial performance.</li> <li>f) To adhere to the principles set out in the Pensions Regulator Code of Practice and undertake its duties in compliance with the obligations imposed on it.</li> <li>g) To receive regular training to enable Committee Members to make effective decisions and be fully aware of their statutory and fiduciary responsibilities and their stewardship role.</li> </ul>

Committee	Terms of Reference
	<p>h) Consider any pension compliance matters raised by the Fund's Local Pension Board.</p> <p>i) All Members of the Committee will be required to undertake relevant training to enable them to properly discharge their duties.</p>
<b>SCRUTINY</b>	
Children & Young People	<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 the area of children and young people, including :</p> <ul style="list-style-type: none"> <li>• School Improvement</li> <li>• Schools Organisation</li> <li>• School Support Services</li> <li>• Education Welfare &amp; Inclusion</li> <li>• Early Years Development</li> <li>• Special Educational needs</li> <li>• Governor Services</li> <li>• Children's Social Services</li> <li>• Youth Services and Justice</li> <li>• Children's Play Services</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, joint local government services and quasi-departmental non-governmental bodies 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 Council performance and service delivery in this area.</p>
Community & Adult Services	<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 the area of community and adult services, including:</p> <ul style="list-style-type: none"> <li>• Public and Private Housing</li> <li>• Disabled Facilities Grants</li> <li>• Community Safety</li> <li>• Neighbourhood Renewal and Communities First</li> <li>• Advice &amp; Benefits</li> <li>• Consumer Protection</li> <li>• Older Persons Strategy</li> </ul>

Committee	Terms of Reference
	<ul style="list-style-type: none"> <li>• Adult Social Care</li> <li>• Community Care Services</li> <li>• Mental Health &amp; Physical Impairment</li> <li>• Commissioning Strategy</li> <li>• Health Partnership</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh Government Sponsored Public Bodies and quasi-departmental non-governmental bodies 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 Council performance and service delivery 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>
Economy & Culture	<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 the area of economic regeneration.</p> <ul style="list-style-type: none"> <li>• Cardiff City Region City Deal</li> <li>• Inward Investment and the marketing of Cardiff</li> <li>• Economic Strategy &amp; Employment</li> <li>• European Funding &amp; Investment</li> <li>• Small to Medium Enterprise Support</li> <li>• Cardiff Harbour Authority</li> <li>• Lifelong Learning</li> <li>• Leisure Centres</li> <li>• Sports Development</li> <li>• Parks &amp; Green Spaces</li> <li>• Libraries, Arts &amp; Culture</li> <li>• Civic Buildings</li> <li>• Events &amp; Tourism</li> <li>• Strategic Projects</li> <li>• Innovation &amp; Technology Centres</li> <li>• Local Training &amp; Enterprise</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh Government Sponsored Public Bodies and quasi-departmental non-</p>

Committee	Terms of Reference
	<p>governmental bodies 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 Council performance or service delivery in this area.</p>
Environmental	<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 the area of environmental sustainability, including:</p> <ul style="list-style-type: none"> <li>• Strategic Planning Policy</li> <li>• Sustainability Policy</li> <li>• Environmental Health Policy</li> <li>• Public Protection Policy</li> <li>• Licensing Policy</li> <li>• Waste Management</li> <li>• Strategic Waste Projects</li> <li>• Street Cleansing</li> <li>• Cycling and Walking</li> <li>• Streetscape</li> <li>• Strategic Transportation Partnership</li> <li>• Transport Policy and Development</li> <li>• Intelligent Transport Solutions</li> <li>• Public Transport</li> <li>• Parking Management</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh Government Sponsored Public Bodies and quasi-departmental non-governmental bodies 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 Council performance and service delivery in this area.</p>
Policy Review & Performance	<p>To scrutinise, monitor and review the overall operation of the Cardiff Programme for Improvement and the effectiveness of the general implementation of the Council's policies, aims and objectives, including:</p> <ul style="list-style-type: none"> <li>• Council Business Management and Constitutional Issues</li> <li>• Cardiff Council Corporate Plan</li> <li>• Strategic Policy Development</li> <li>• Strategic Programmes</li> <li>• Community Planning &amp; vision Forum</li> <li>• Voluntary Sector Relations</li> </ul>

Committee	Terms of Reference
	<ul style="list-style-type: none"> <li>• Citizen Engagement &amp; Consultation</li> <li>• Corporate Communications</li> <li>• Contact Centre Services and Service Access</li> <li>• International Policy</li> <li>• Cardiff Local Development Plan</li> <li>• Equalities</li> <li>• Finance and Corporate Grants</li> <li>• Organisational Development</li> <li>• Cardiff Efficiencies Programme</li> <li>• E-Government</li> <li>• Information and Communication Technology</li> <li>• Council Property</li> <li>• Commissioning and Procurement</li> <li>• Carbon Management</li> <li>• Legal Services</li> <li>• Public Services Board</li> </ul> <p>To scrutinise, monitor and review the effectiveness of the Council's systems of financial control and administration and use of human resources.</p> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh Government Sponsored Public Bodies and quasi-departmental non-governmental bodies 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 Council performance and service delivery in this area.</p>

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## **PART 4 – RULES OF PROCEDURE**

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### **COUNCIL MEETING PROCEDURE RULES**

#### **Part 1 – Format and Content of Meetings**

#### **1 BUSINESS OF COUNCIL MEETINGS**

- (a) The agenda and timings for items of business for any Council Meeting shall be agreed by the Chair in consultation with the Leader at least 6 Working Days prior to the date of the Council meeting.
- (b) The Chair may make any amendments to the draft agenda as they see fit.

#### **2 ANNUAL MEETING OF THE COUNCIL**

##### **Timing of the Annual Meeting**

- (a) The Annual Meeting will take place within the following periods:
  - (i) in a year when there is an ordinary election of Members, within 21 days following the retirement of the outgoing Members; or
  - (ii) in any other year, the Annual Meeting will take place in March, April or May or as may be required at law.

##### **Business to be transacted at the Annual Meeting**

- (b) The Annual Meeting will:
  - (i) elect a person to preside at the meeting if the existing Chair or the Deputy Chair is not present;
  - (ii) elect the new Chair;
  - (iii) appoint the new Deputy Chair;
  - (iv) approve the minutes of the last meeting;
  - (v) receive declarations of interests from Members;
  - (vi) receive from Members the Cardiff Undertaking in years where an ordinary election has taken place;
  - (vii) receive any announcements from the Chair (if any);
  - (viii) elect the Leader (where such election falls due);
  - (ix) appoint members of the Cabinet (where such election falls due);
  - (x) receive announcements from the Leader (if any) relating to the coming municipal year;
  - (xi) decide on any amendment to the standing committees of the Council, including amendments to their size and terms of reference;
  - (xii) decide on the allocation of seats on committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989;

- (xiii) receive nominations of members to serve on each of the standing committees and make such appointments;
- (xiv) receive nominations and make appointments to serve on the outside bodies to which the Council may appoint members (except where doing so has been delegated by the Council or where only the Cabinet has authority to do so);
- (xv) elect a chair and a deputy chair for each of the committees;
- (xvi) approve a Scheme of Members Allowances;
- (xvii) approve a programme of ordinary meetings of the Council for the year;
- (xviii) approve a provisional programme of ordinary meetings of committees;
- (xix) agree any changes, amendments or revisions to the Council's scheme of delegation;
- (xx) for any year in which an ordinary election has taken place, receive a report from the Returning Officer of the Members elected; and
- (xxi) consider other matters which the Chair has certified urgent or appropriate.

### **3 ORDINARY MEETINGS**

(a) Ordinary Meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary Meetings will:

- (i) elect a person to preside if the Chair and Deputy Chair are not present (such person not being a member of the Cabinet);
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest (in accordance with the Members Code of Conduct);
- (iv) if relevant, receive through the Chair from relevant Members the Cardiff Undertaking;
- (v) receive any petitions;
- (vi) receive questions from the public and answers in accordance with Rule 18;
- (vii) receive any announcements from the Chair or Leader;
- (viii) receive any reports from the Council's Committees introduced by the relevant Committee chairperson, and deal with questions and answers on any of those reports;
- (ix) receive reports from any of the Council's statutory officers;
- (x) receive any reports about and any questions and answers on the business of joint arrangements and external organisations;
- (xi) consider Ordinary Motions;
- (xii) receive any statements or reports from the Leader and/or Cabinet Members and questions and answers on them;
- (xiii) receive Member questions and answers raised in accordance with Rules 16 and 16;
- (xiv) consider any other business in the summons to the meeting; and
- (xv) consider such other matters as the Chair certifies as urgent or appropriate.



#### **4 EXTRAORDINARY MEETINGS**

- (a) An Extraordinary Meeting of the Council may be called by:
- (i) the Council by resolution; or
  - (ii) the Chair.
- (b) The following persons may require the Chair to call an Extraordinary Meeting of the Council. If the Chair has not called a meeting (to be held within 10 Working Days of the request) within two Working Days of receipt of such a written request, then they may do so themselves:
- (i) the Leader;
  - (ii) the Head of Paid Service;
  - (iii) the Monitoring Officer or section 151 officer; or
  - (iv) any five Members of the Council.
- (c) Any request presented in accordance with this Rule must:
- (i) specify the business to be transacted at the meeting; and
  - (ii) be accompanied by a copy of any report for the meeting.
- (d) Any Extraordinary Meeting will:
- (i) elect a person to preside if the Chair and Deputy Chair are not present;
  - (ii) receive any declarations of interest from Members;
  - (iii) consider the business specified in the request; and
  - (iv) consider such other matters as the Chair considers to be urgent or appropriate.
- (e) For the avoidance of doubt, the business to be transacted at an Extraordinary Meeting may include one or more Ordinary Motions pursuant to Rule 22, subject to variation of the deadline specified in Rule 22(b) as follows:

the words “by 5.00 pm at least 7 Working Days before the date of the meeting” shall be substituted with the words “at the same time as the request for the meeting is presented under Rule 4(b).”

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

- (a) The time and place of meetings will normally be determined by the Council or in the case of an Extraordinary Meeting by the Chair. In the case of meetings called under Rule 4(b) the time and place shall be set by the Proper Officer and notified in the summons.
- (b) The Proper Officer may in case of urgency or at the request of the Chair vary the date, time and place of meetings, subject to reasonable notice of the change having been given.

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

- (a) The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules.
- (b) At least 3 clear days (as required and defined by the relevant legislation and case law) before a meeting, the Proper Officer will send a summons (notice of meeting) by email to every Member. Any Member not wishing to receive the summons by email may request (in writing to the Proper Officer) such other reasonable method of delivery as they may wish.
- (c) The summons will give the date, time and place of each meeting, enclose the agenda and will be accompanied by such reports as are available.

### **Part 2 – Conduct of Meetings**

## **7 CHAIR OF MEETING**

### **Power of person presiding at meeting**

- (a) The person presiding at the meeting may exercise any power or duty of the Chair.

### **Conduct of meeting by Chair**

- (b) The Chair shall have discretion to conduct the meeting to secure proper, full and effective debate of business items. The steps the Chair may take include:
  - (i) allowing more time to any speaker or item of business;
  - (ii) permitting a Member to speak more than once;
  - (iii) allowing officers of the Council to advise the meeting as appropriate; and
  - (iv) refusing any Member the opportunity to speak or restricting their rights to speak.
- (c) The Chair's discretion provided for by Rule 7(b) shall operate in precedence to any other Rule contained in the Council Procedure Rules.

## **8 QUORUM**

- (a) The quorum of a meeting will be one quarter of the whole number of Members (rounded up to the nearest whole number).
- (b) If fewer than the quorum attend the meeting or if during any meeting the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at the next meeting or a time and date fixed by the Chair.

## **9 UNOPPOSED BUSINESS**

- (a) The Chair may specify in the Agenda any business that they consider to be unlikely to be opposed by any Member. For example this would include reports that deal with administrative matters and on which the various political groups have already reached agreement. All business specified in the Agenda as unopposed may be dealt with at the meeting as one agenda item and passed by one resolution.
- (b) If any Member wishes for any agenda item that is noted as being unopposed to be dealt with in the normal way, then that Member may request the Chair to remove that item from the list of unopposed business. In such circumstances the Chair will add that item of business to the agenda as a separate item.

## **10 POINT OF ORDER**

- (a) A Member may raise a point of order at any time by indicating to the Chair that they wish to speak. The Chair will hear them immediately.
- (b) A point of order may only relate to an alleged breach of these Rules or the law. The Member must first state the Rule or law to which he/she is referring and then indicate the way in which they consider it has been broken.
- (c) The ruling of the Chair on the matter will be final. Points of order will only be recorded in the minutes if the Democratic Services Manager considers that such an inclusion would provide greater clarity to the minutes.

## **11 PERSONAL EXPLANATION**

- (a) A Member may make a personal explanation at any time by indicating to the Chair that they wish to speak. A personal explanation may only relate to:
  - (i) some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;
  - (ii) to reply to an allegation of misconduct made against the Member giving the explanation; or
  - (iii) to make an apology to the Council.
- (b) The ruling of the Chair on the admissibility of a personal explanation will be final.
- (c) Points of personal explanation will only be recorded in the minutes if the Democratic Services Manager considers that such an inclusion would provide greater clarity to the minutes.

## **12 DECLARATIONS OF INTEREST**

- (a) A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member stands to make a declaration he/she

shall be heard immediately and shall be allowed to make the declaration without interruption.

## **13 MEMBERS' CONDUCT**

### **Members Speaking at Council**

- (a) When a Member speaks at full Council they must address the meeting through the Chair and should stand (if able) when they are speaking. If more than one Member stands or otherwise indicates their desire to speak, the Chair will ask one to speak and the others must be quiet.
- (b) Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order, a point of personal explanation or to declare an interest.

### **Chair calling the meeting to order**

- (c) When the Chair calls the meeting to order or stands any Member speaking at the time must stop and sit down. The meeting must be silent.

### **Member's to maintain order**

- (d) The Chair is to maintain order in meetings and must call to order any Member who:
  - (i) is engaging in conduct which the opinion of the Chair constitutes criminal behaviour or contempt of court;
  - (ii) is obstructing the business of the meeting;
  - (iii) seeks to raise a matter outside the scope of the matter at hand;
  - (iv) acts in a discourteous way;
  - (v) is using disorderly, discriminatory or offensive language;
  - (vi) refuses to conform to any Rule or other requirement for the conduct of Members; or
  - (vii) disregards the authority of the Chair.

### **Member not to be heard further or to leave the meeting**

- (e) If a Member disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further.
- (f) If the Member continues to behave improperly or offensively or deliberately obstructs business after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period.

## **14 GENERAL DISTURBANCE**

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

## **15 DISTURBANCE BY PUBLIC**

- (a) Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule (b) below.
- (b) If a member of the public interrupts or disrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt or causes disruption, the Chair may order their removal from the meeting room.

## **Part 3 – Procedures and Rules of Debate**

## **16 QUESTIONS AND DEBATE ON REPORTS AND CABINET STATEMENTS**

- (a) On Cabinet Member Statements presented to the Council:
  - (i) A Member may ask the person presenting the report any question or otherwise comment on the subject matter of the statement without notice. Following the Cabinet Members response to such questions, the Member asking the original question shall be allowed to ask a supplementary question to clarify the response to the question.
  - (ii) One minute shall be allowed for each of the question, answer, supplementary question and supplementary answer.
- (b) On Reports presented to the Council
  - (i) The person presenting the report shall have 6 minutes to introduce it. A maximum of 3 minutes will be allowed to each Member to speak in relation to the report. 3 minutes will be allowed for the presenter of the report to make their closing remarks in response to points raised by other Members.

## **17 ORAL AND WRITTEN QUESTIONS BY MEMBERS**

### **General**

- (a) In accordance with this Rule 17, a Member may ask questions of:
  - (i) the Leader or any Cabinet Member;
  - (ii) the chair of any committee or sub-committee; or
  - (iii) nominated members of the Fire Authority.

## **Submission of Questions**

(b) A Member wishing to ask a Written Question should provide the question by email to the Council's mailbox for the submission of questions (as specified by the Democratic Services Manager). In doing so the Member must specify the person to whom the question is addressed.

(c) Oral Questions shall be submitted by (or on behalf of):

- (i) each of the spokespersons for each opposition political group recognised by the Council (or such other Member as the leader of that group may nominate); and
- (ii) a backbench Member of the ruling group(s) nominated to the Democratic Services Manager for such purpose;

by email to the Council's mailbox for the submission of questions (as specified by the Democratic Services Manager). In doing so the Member must specify:

- (i) the name of the Member asking each question; and
- (ii) the order in which the group wishes to ask its questions.

Each such person shall be entitled to submit a maximum of the number of questions that are allocated to their political group calculated in accordance with the following rules:

- (i) Each political group recognised by the Council shall automatically be entitled to 3 Oral Questions; and
- (ii) In addition, a further 15 Oral Questions shall be allocated amongst the political groups in proportion to their representation on the Council.

In addition any Members who are not members of any political group recognised by the Council shall be entitled to submit one Oral Question each. Unless those Members agree otherwise, the order in which they shall be entitled to submit questions shall be determined by rotation.

(d) Questions will be dealt with in accordance with the following procedures.

### **Oral Questions**

Oral Questions will be dealt with in accordance with the following procedure:

<b>Day</b>	<b>Action</b>
12.00 noon, 2 Working Days prior to Council Meeting	Deadline for the Submission of Oral Questions
At Council Meeting questions shall be made available in writing and online at least 30 minutes prior to the start of the meeting and dealt with as set out opposite.	<p>A maximum of 90 minutes shall be allowed for Oral Questions, any questions that are not dealt with in this time limit shall fall.</p> <p>Each Oral Question will be made available in writing and online at the start of the meeting and dealt with in the following order:</p> <ul style="list-style-type: none"> <li>- Oral Questions shall not be read orally, but will be dealt with in rounds. In the first three rounds each political group shall each be entitled to ask one question. In subsequent rounds, only political groups with remaining Oral Questions shall be entitled to ask questions.</li> <li>- In each round the ordering of the questions shall be determined by the size of each of the political groups (with the largest going first) except that the ruling group(s) shall go last.</li> <li>- Questions from Members who are not members of a political group recognised by the council shall be asked at the start of the fourth round.</li> </ul> <p>Each question shall be answered orally by the Cabinet Member that the Cabinet deem most suitable to respond (or by the relevant chair of a committee or nominated member of the fire authority if the question was so addressed). A maximum of one minute shall be allowed for the answering of the question.</p> <p>The Member who submitted the question shall then be allowed one minute to ask a supplementary question.</p> <p>The person to whom the question is addressed shall have one minute to answer the supplementary question.</p> <p>One further supplementary question may be asked by another Member provided that the asker is not a member of the same political group as the Member who submitted the original question. The Member asking the further supplementary question shall be allowed one minute to ask it, and the response shall also be limited to one minute.</p>

## Urgent Oral Questions

- (e) At the end of the period allocated for Oral Questions the Chair may allow Members to ask further Oral Question for which notice under Rule (b) above has not been given if:
- (a) the Chair and the person to whom the question is addressed has been given at least two hours written notice of the question prior to the start of the meeting; and
  - (b) the Chair has confirmed to the Member asking the Question and the person to whom it is addressed that they are satisfied that the question is of urgent public importance and could not be better dealt with under any other Rule or other procedure of the Council.

## Written Questions

- (f) Written Questions may be asked at any time and will be dealt with as set out below:

<b>Day</b>	<b>Action/Comment</b>
9.00am 9 Working Days prior to Council Meetings	<p>Deadline for the submission of Written Questions for an answer to be received at the Council Meeting.</p> <p>If a question is submitted following this deadline it will be answered at the following Council Meeting.</p> <p>If a Member submits more than 5 Written Questions, only 5 of these Questions (which the Member will be invited to prioritise) will be answered at the Council Meeting; and the remaining Questions will be answered at the following Council Meeting.</p> <p>The Monitoring Officer shall have discretion to instruct that a composite answer may be given to Written Questions which are closely related or on the same subject matter, wherever she considers this appropriate.<sup>1</sup></p>
12.00 noon on the day of the Council Meeting	<p>Deadline for answers to Written Questions which are to be answered at the Council Meeting (as referred to above) to be circulated by email to all Members.</p>

A full copy of each Written Question (together with the answers to them) will be attached to the minutes of the meeting.

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<sup>1</sup> This will take effect for the March 2015 Council meeting (as there are no Written or Oral Questions at the February Budget Council); and be trialled up until and including the Council meeting in November 2015, during which time the changes would be monitored and reviewed, and thereafter made permanent or further amended



## **Rejection of Questions**

- (g) The Chair may reject an Oral Question, Urgent Oral Question or a Written Question if in their opinion it:-
- (i) is not in relation to Relevant Business (as defined in Rule 35);
  - (ii) is in relation to Inappropriate Business (as defined in Rule 35);
  - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given; or
  - (iv) is a statement or otherwise is not a genuine enquiry.

## **Withdrawal of questions**

- (h) A question may not be withdrawn except with the consent of the person it is addressed to.
- (i) If the Chair or the Monitoring Officer considers that a response to a question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Member concerned to ascertain whether the Member agrees that the question could be withdrawn.

## **Written record of Oral Questions and Responses**

- (j) A written record of Oral Questions and related supplementary questions that are put at the meeting together with the responses provided, will be circulated by or on behalf of the Democratic Services Manager to all Members and the media noted as having attended the meeting by no later than 5.00pm five Working Days following the day of the Council meeting.
- (k) Prior to issue the written note of a response to a supplementary question must be checked for accuracy by the responding person.
- (l) No written note of a response to a supplementary question will be provided to the media before being provided to Members.

## **18 PUBLIC QUESTIONS**

- (a) A period of up to 15 minutes in each meeting shall be allowed for public questions.
- (b) Any person (other than Members) who resides or works in the area of the City and County of Cardiff may ask questions of Cabinet Members or of the chairpersons of committees of the Council at Ordinary Meetings of the Council.
- (c) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the mailbox set up by the Democratic Services Manager for such purpose no later than 5pm, 6 Working Days before the day of the meeting. Each question must give the name and address of the

questioner and must specify the person to whom it is to be put (by name or title).

- (d) At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.
- (e) The number of questions that an individual can ask in a municipal year shall be limited to two, with any further questions being accepted only at the discretion of the Chair.
- (f) The Chair may reject a question if it:
  - (i) is not related to Relevant Business (as defined in Rule 35);
  - (ii) is in relation to Inappropriate Business (as defined in Rule 35);
  - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - (iv) relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a court or tribunal or to a Government Minister or the National Assembly or an investigation by the Local Government Ombudsman;
  - (v) relates to the activities and aims of a political party or organisation;
  - (vi) relates to a Regulatory Decision or a matter which may result in a Regulatory Decision;
  - (vii) is a statement or otherwise is not a genuine enquiry; or
  - (viii) would require the expenditure of a disproportionate amount of time, money or effort to prepare the answer.

The ruling of the Chair in the above matters shall be final.

- (g) The Proper Officer will make a record of each question received and a copy of the questions to be asked at a meeting will be open to public inspection and circulated to Members prior to the meeting.
- (h) Questions will be asked in the order in which notice of them was received, except that the Chair may group together similar questions.
- (i) If the questioner is absent or fails to identify themselves then the question will be deemed to be withdrawn.
- (j) A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must relate to the original question or the answer given and be limited to one minute. The Chair may reject a supplementary question on any of the grounds set out in (f) above.

### **Answers**

- (k) No more than five minutes will be allowed for a response to any one question.

- (l) Any question which cannot be dealt with during public question time, either because of lack of time or because of the nonattendance of the Member, to whom it was to be put, will be dealt with by a written answer and a copy of the answer will be recorded in the minutes of the meeting.

## **19 GENERAL PROVISIONS RELATING TO ANSWERS TO MEMBER AND PUBLIC QUESTIONS**

(a) An answer may take the form of:

- (i) an oral answer given by the person to whom the question is addressed or another person nominated by them;
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (iii) where the reply cannot conveniently be given orally, a written answer circulated later to Members of the Council.

(b) A person to whom a question is addressed may decline to answer provided that they state the reason for declining to answer.

## **20 PETITIONS**

(a) Where a Member delivers a petition to the Council the Member may outline the request by the petitioners, the reason for the request and the number of the signatories provided that in any event the Member may not speak under this rule for more than one minute.

(b) Petitions shall be divided into three classes and shall be addressed as follows:

- (i) A petition bearing less than 20 signatures shall be dealt with by normal correspondence.
- (ii) A petition bearing 21-50 signatures shall be noted at the meeting and passed to a relevant officer of the Council for a written response.
- (iii) A petition bearing 51 or more signatures shall be noted and passed to the relevant Cabinet Member for consideration and a written response.<sup>2</sup>

## **21 GREEN PAPERS<sup>3</sup>**

### **General**

(a) An opportunity for one Cabinet Member to bring forward a Green Paper will be given at each Ordinary Meeting of the Council (but not the Annual Meeting or the budget meeting of Council).

### **Procedure for the Debate of Green Papers**

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<sup>2</sup> Subject to further review following referral back to Constitution Committee.

<sup>3</sup> Subject to further review following feedback from Cabinet Members.

- (b) Any Cabinet Member bringing forward a Green Paper must provide the Chair and the Democratic Services Manager with a copy of the Green Paper at least 5 Working Days prior to the Ordinary Meeting. A copy of the Green Paper shall be attached to the Agenda for the meeting.
- (c) Members shall be given a chance to respond to the Green Paper at the meeting (as set out below) and the Green Paper must also provide an opportunity for Members to give written comments following the meeting at which the Green Paper is presented.
- (d) In the debate:
  - (i) The Cabinet Member proposing the Green Paper shall be given 15 minutes to speak, but may choose to allocate a proportion of that time to other Members provided that they:
    - (a) indicate to whom they will allocate time and how much time will be allocated to them at the start of the debate; and
    - (b) in doing so a maximum of 5 Members may speak (including the Cabinet Member proposing the Green Paper).
  - (ii) The debate shall then be opened to the floor for Members to give their initial response to and comments on the Green Paper. A maximum of 10 minutes shall be allowed for such debate and no one Member shall be permitted to speak for more than 3 minutes.

## **22 ORDINARY MOTIONS**

### **General**

- (a) No Ordinary Motion moved by notice pursuant to this Rule 22 will be debated at the Annual Meeting of the Council.
- (b) In order to move an Ordinary Motion it must be emailed by the proposer, and seconded by email to the mailbox allocated for that purpose by the Democratic Services Manager by 5.00pm at least 7 Working Days before the date of the meeting.
- (c) Every Ordinary Motion properly delivered will be dated and registered by the Democratic Services Manager in the order in which they were received and open to Members' inspection after the deadline for receipt.
- (d) Ordinary Motions will be listed on the agenda in the order in which the notices were received.

### **Number and Allocation of Ordinary Motions**

- (e) Subject to Rule (f) below, the number of Ordinary Motions shall be limited to a maximum of 20 motions in each municipal year.

- (f) The allocation of Ordinary Motions will be agreed between the political groups. The allocation will be reviewed annually by the leaders of the political groups in consultation with the Chair. No political group recognised by the Council shall be allocated less than two Ordinary Motions in a municipal year. If necessary, the maximum number of Ordinary Motions in a year may be increased to accommodate this.

### **Scope of Ordinary Motions**

- (g) Ordinary Motions must be in relation to Relevant Business and must not be Inappropriate Business (as defined in Rule 35).
- (h) Any Ordinary Motion which requires a change in the budgetary framework may only call for a report on the matter to be prepared for consideration by the Executive and or Council as appropriate.
- (i) If any Ordinary Motion appears to the Chair to be not presently contained within the approved Council Budget for the year in question, it will still be included on the agenda for the meeting. However a statement from the Chair to this effect and stating that the Ordinary Motion shall be deferred to the next ordinary meeting of Council so that written legal and financial advice may be given to Members before the motion is debated.

### **Urgent Ordinary Motions**

- (j) The Chair has the authority to agree to take an urgent Ordinary Motion which is not on the agenda (or to place an urgent Ordinary Motion on the agenda if sufficient notice is received).
- (k) The discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency but an urgent Ordinary Motion should not be taken unless the Chair is satisfied that:
- (i) the proposer of the motion has taken all reasonable steps to notify the Chair and the Monitoring Officer of their desire to raise an Urgent Motion at the earliest opportunity;
  - (ii) and the motion requires an urgent decision in relation to an important public interest matter and it cannot reasonably be dealt with by other means; and
  - (iii) the motion is seconded.
- (l) In all cases, the reason for the urgency shall be clearly stated, and the Chair will explain to the Council the reason why they have accepted an Urgent Ordinary Motion.

### **Withdrawal or alteration of Ordinary Motions**

- (m) No Ordinary Motion can be withdrawn or deferred once it has been delivered except:-

- (i) if prior to the commencement of the meeting notice of withdrawal in writing signed by the proposer, and seconder has been delivered to the Democratic Services Manager; or
  - (ii) a Member may withdraw an Ordinary Motion of which they have given notice at any time after the meeting has commenced provided that they have not moved the motion or spoken on it and they have the consent of the meeting.
- (n) A Member may alter their own motion only with the consent of the meeting. Only alterations which could be made as an amendment may be made.

### **Amendments to Ordinary Motions by other Members**

- (o) An amendment to an Ordinary Motion may not be moved unless notice of the amendment has been given to the Democratic Services Manager by email, and seconded by 5.00pm 2 Working Days before the meeting.
- (p) An amendment to an Ordinary Motion must be relevant to the motion and will be:-
- (i) to leave out words;
  - (ii) to leave out words and insert or add others; or
  - (iii) to insert or add words.
- (q) Any amendments to Ordinary Motions will be called by the Chair in an order determined by the Chair, in consultation with the Monitoring Officer. The ordering shall be selected to facilitate coherent debate and to, wherever reasonably possible, allow each amendment to have the opportunity to be voted upon.
- (r) Each amendment will be proposed and seconded and then put to the vote in the order determined by the Chair.

### **Right of reply and Voting on the Ordinary Motion**

- (s) Once amendments have been put to the vote, the principal motion, as amended if any amendments have been carried, will then be put to the vote.
- (t) The rights of reply before the vote on an Ordinary Motion takes place are as follows:
- (i) Before any amendment is put to the vote, the Member who proposed the Ordinary Motion shall be given an opportunity to respond to the amendment.
  - (ii) If no amendments are proposed or carried to an Ordinary Motion, then the Member who proposed the motion shall be given the right of reply before the Ordinary Motion is put to the vote.

- (iii) If any amendment(s) is carried then the proposer of the amendment shall have the right of reply before the Ordinary Motion (as amended) is voted on. In the event that more than one amendment has been carried, then the Chair shall use their discretion to determine which of the proposers of the amendments shall have the final right of reply.

- (u) A Member exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion.

## **23 AMENDMENT TO MINUTES OF COMMITTEE REFERRED FOR DECISION**

- (a) An amendment to a minute of a Committee or a Sub-committee before the Council for decision can only be moved in the same way as an Ordinary Motion.

## **24 AMENDMENTS TO REGULATORY DECISION**

- (a) No amendment may be moved to a Regulatory Decision.
- (b) No amendment may be moved which would have the effect of disproving the recommendation of a Committee or a Sub-Committee in relation to a Regulatory Decision.
- (c) For the purposes of this Rule a Regulatory Decision is the determination of an application for planning permission or any decision, determination, action, direction, order, approval, refusal or enforcement action in exercise of the powers of the Council as the local planning authority or those powers specified in section B of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007.

## **24a AMENDMENTS TO REPORTS BEFORE COUNCIL**

- (a) An amendment to a report before Council may not be moved unless notice of the amendment has been emailed by the proposer, and seconded by email, to the Democratic Services Manager by 9:00am on the Working Day before the meeting.

## **25 MOTIONS DURING MEETINGS**

- (a) In addition to any other provision of these Rules the following motions may be moved without notice by any Member during a meeting:-
  - (i) to appoint a Member to Chair the meeting if the Chair of Council or the Deputy Chair of Council is not present;
  - (ii) in relation to the accuracy of minutes of the Council;
  - (iii) to change the order of business in the agenda;
  - (iv) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
  - (v) to appoint a Committee or Member arising from an item on the Agenda;

- (vi) to receive reports and/or to adopt recommendations of the Cabinet, committees or officers;
- (vii) to amend a motion except one to which Rule 22 applies;
- (viii) to proceed to the next business;
- (ix) that the question be put to the vote;
- (x) to adjourn a debate or a meeting;
- (xi) to extend the time limit for a speech or item of business;
- (xii) to consider Ordinary Motions submitted under rule 22 in excess of the number specified in Rule 22(e); and
- (xiii) to exclude the public and media in accordance with the Access to Information Procedure Rules, as set out in Part 4 of the Constitution.

## **26 CLOSURE MOTIONS**

- (a) Subject to rule (d) below, a Member may move, without comment, the following motions at the end of a speech of another Member;
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the closure motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will put the closure motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting any amendments which have been seconded and debated and then the substantive motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## **27 GENERAL RULES OF DEBATE**

- (a) Unless matters are otherwise provided for by other procedures contained in these Rules, the following rules of debate shall apply to the conduct of all business of the Council.
- (b) Members may speak in English or Welsh.
- (c) No speeches may be made after the mover has moved a motion until the motion has been seconded. The Chair may allow the mover to explain the purpose of the motion if he/she thinks fit. The proposer of the motion shall



have the right to make the first speech in relation to the motion which he/she has moved.

- (d) When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- (e) Unless notice of the motion has already been given, the Chair may require it to be written down and handed to the Chair before it is discussed.
- (f) Speeches must be directed to the question under discussion or to a personal explanation or point of order and avoid Irrelevant Business (as defined in Rule 35).
- (g) Proposers of motions or movers of reports may speak for up to six minutes. Unless otherwise stated in these Rules, no other speech may exceed three minutes without the consent of the Chair.
- (h) Unless the Chair is of the view that exceptional circumstances exist, a Member who has spoken on a matter may not speak again whilst it is the subject of debate.

## **28 PREVIOUS DECISIONS AND MOTIONS**

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

- (a) 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 twenty one Members.

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

- (b) 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 twenty one Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **Part 4 – General Provisions**

### **29 VOTING**

#### **Majority**

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

### **Chair's casting vote**

- (b) Except in the case of a vote under Rules (e) and (f) below, if there are equal numbers of votes for and against, the Chair will have a second or casting vote.

### **Method of Voting**

- (c) In normal circumstances voting will be carried out electronically and the names of those voting for, against or abstaining from voting will be recorded electronically and entered into the minutes.
- (d) If a matter seems to be uncontroversial (and no objection is received from any Member) the Chair may determine that a vote by a show of hands is sufficient. Where any Member requests it immediately before or after a vote on a show of hands is taken, their vote will be so recorded in the minutes to show whether they voted for or against or abstained from voting.

### **Voting on appointments excluding employee appointments**

- (e) If there is one position (in a body or organisation) to be filled by a nominee of the Council and more than one person is nominated for that position then the position will be filled by the person with the greatest number of votes.
- (f) If there are two or more positions (in a body or organisation) to be filled by nominees of the Council and the number of nominations exceeds the number of such positions each Member of the Council will be able to exercise one vote for each such position (but may vote only once for each nominee) and the persons to whom more votes have been given than other persons up to the number of positions to be filled, shall be appointed.

### **Voting on employee appointments**

- (g) In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote.
- (h) The Chair will have a casting vote only in the circumstances mentioned in the preceding paragraph.

### **30 MINUTES**

#### **Signing the minutes**

- (a) The Chair will sign the minutes of the proceedings at the next meeting (unless it is an Extra-Ordinary Meeting). The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **Form of minutes**

- (b) The form of the minutes will be a matter for the Proper Officer but will include:-
- (i) all motions and amendments in the exact form and order the Chair put them;
  - (ii) replies given to Oral Questions; and
  - (iii) written questions and answers (as referred to at Rule 17).

### **31 RECORD OF ATTENDANCE**

- (a) All Members present during the whole or part of a meeting must accurately record their attendance on the record of attendance provided for that purpose.

### **32 RECORDINGS OF MEETINGS OF THE COUNCIL**

- (a) Council meetings shall be webcast ('the official recording'). Other than the official recording, no recording shall be made of the proceedings of meetings of the Council whether audio or visual and by whatever method except with the express authorisation of the meeting.
- (b) If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the Chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.

### **33 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

#### **Suspension**

- (a) All or any of these Council Rules of Procedure except Rule 29 may be suspended by motion on notice or without notice if at least one half of the whole number of Members is present.

#### **Amendment**

- (b) 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.

### 34 OFFICER ADVICE

- (a) Any report placed for decision before Council should contain all necessary advice to enable Members to take a decision. Reports will be circulated in advance of the meeting and if a Member requires clarification on an issue related to the report, this should be sought prior to the meeting.
- (b) Further officer advice will only be available at the meeting of Council with the consent of the Chair, in consultation with the Head of Paid Service. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned.

### 35 INTERPRETATION

- (a) In these Rules the following words shall have the following meanings.

*“Relevant Business”* means matters for which the Council has a responsibility and which substantially affect the well-being of the administrative area of the Council and/or the citizens (or a significant group of them) of the Council.

*“Inappropriate Business”* means matters that:

- (i) are not in relation to a matter for which the Council has a responsibility and which affects the administrative area or citizens of the Council;
- (ii) are defamatory, frivolous or offensive;
- (iii) require the disclosure of confidential or exempt information; or
- (iv) relate to the personal circumstances or conduct of any officer and Member or conditions of service of employees; or
- (v) relate to an individual, particular group or business or the questioner’s own particular circumstances; or
- (vi) are ultra vires the Council or unlawful.

*“Working Day”* means a normal working day in Wales when banks are open for normal business (for the avoidance of doubt, excluding weekends and public holidays).

- (b) Any reference to “in writing” or “written” shall include email.
- (c) The Chair’s ruling on the interpretation of these terms in relation to the application of these Rules shall be final.

## Council Meeting Timetable Summary (assuming no public holidays)

	Day	General Actions	Oral Question Procedure	Written Questions		Ordinary Motions
	Thu	-10				
	Fri	-9		9am Deadline for asking questions to ensure answer given by meeting.		
WEEKEND						
	Mon	-8				
	Tue	-7				5pm - Deadline for Submission of Ordinary Motions
	Wed	-6	- 5pm - Deadline for Submission of Public Questions			
	Thu	-5	Deadline for submission of Green Papers			
	Fri	-4	Summons and Agenda Circulated			
WEEKEND						
	Mon	-3				
	Tue	-2	12.00 noon – Deadline for submission of Oral Questions			5pm - Deadline for submission of amendments to Ordinary Motions
	Wed	-1	9am - Deadline for submission of amendments to reports			
	<b>Thu</b>	<b>0</b>	<b>Council Meeting</b>	12.00 noon - Written copies of questions and answers circulated by email		
	Fri	1				
WEEKEND						
	Mon	2				
	Tue	3				
	Wed	4				
	Thu	5	Circulation of written copy of Oral Question/Answers			

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## **PART 4 – RULES OF PROCEDURE**

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### **BUDGET MEETING PROCEDURE RULES**

#### **1 BUDGET MEETINGS**

Budget meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Budget meetings will be held in accordance with the Council Meeting Procedure Rules, subject to the variations set out in these Budget Meeting Procedure Rules.

#### **2 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Council or in the case of meetings called under Council Meeting Procedure Rule 4(a)(ii) by the Chair and in the case of meetings called under Rule 4(b) by the Proper Officer and notified in the summons.

The Proper Officer may in case of urgency or at the request of the Chair vary the date, time and place of meetings, subject to proper notice of the change being given.

#### **3 NOTICE OF SUMMONS TO MEETINGS**

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least three clear days before a meeting, the Proper Officer will send a summons (notice of meeting) signed by him or her by post to every Councillor or leave it at their usual place of residence or at some other place specified by notice in writing given by the Councillor to the Proper Officer. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **4 CABINET BUDGET REPORT**

The Cabinet Budget report shall enable the Cabinet:-

- (a) to submit to Council their proposal of the estimates of expenditure and income in order to set the Council Tax in accordance with the Local Government Finance Act 1992;
- (b) to recommend to Council on the strategy and plan for the control of the Authority's borrowing and capital expenditure for the forthcoming year (the Annual Treasury Management Strategy);
- (c) to recommend to Council the adoption of CIPFA's Treasury Management Code of Practice 2009 by formal acceptance of the Four Clauses of Treasury Management and Treasury Management Policy Statement as Council policy;

- (d) to recommend to Council the Prudential Code Indicators and the Council's Minimum Revenue Provision Policy;
- (e) to set the rent levels for Housing Revenue Account properties, service charges and management fees for leaseholders; and
- (f) to agree the rates and Charges for Council services.

## 5 SPEAKING ORDER AND CONDUCT OF DEBATE

A maximum of 45 speakers will be allocated proportionally between political groups. The allocation of speakers will be notified to Whips in advance of the Budget meeting. Any 'independent' Member who is not affiliated to any party or group will also be allowed to speak in the general debate. The speaking order will be as follows:

- (i) Cabinet Proposals (including any alternative proposals as per Rule 25(a)(vi) of the Council Procedure Rules)

Cabinet Member with responsibility for Finance	10 minutes
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Leader of the Council	4 minutes
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- (ii) Party Group Finance Spokespersons/Movers of alternative proposals (as per Rule 24A or Rule 25(a)(vii) of the Council Procedure Rules, as appropriate.

The Finance Spokesperson of each opposition political group and the seconder of any alternative proposal will then be invited to speak in rotation by reference to each of the political groups in size order (largest group first).

**(If more than one amendment is to be moved by one political group then all such amendments will be moved by the relevant Finance Spokesperson at the same time)**

Opposition Group spokesperson:	5 minutes
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Seconder of any alternative proposal:	3 minutes
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- (iii) General Debate on Cabinet proposal and all alternative proposals – including any further alternative proposals moved and seconded. As indicated above the allocation of speakers will be proportionately based per political group and notified to Whips prior to the meeting.

Opposition Group Leaders	4 minutes
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Each other speaker

3 minutes

No Councillor, with the exception of the Councillor with the right of reply at the end of the debate, to speak twice during this item.

The debate will be run in accordance with the rules agreed for the consideration of Notices of Motion, and each amendment will be voted on individually.

(iv) Reserving Right to Speak

Any Member, apart from proposers of the Budget or alternative proposals, may reserve the right to speak later in the debate but any such member will only be entitled to speak for 3 minutes during the general debate.

(v) Right of Reply

The Cabinet Member with responsibility for Finance (or the proposer of an approved alternative proposal) will have the right of reply: 5 minutes

## **6 EXCLUSION OF NOTICES OF MOTION AND FORMAL QUESTIONS**

Formal questions from Councillors and Notices of Motion shall not be received and considered and the respective Council Meeting Rules shall accordingly not apply.

For the avoidance of doubt, public questions may be asked (Council Meeting Procedure Rule 18 applies), other reports may be considered and motions during meetings without notice may be moved (Council Procedure Rule 25 applies).

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## **PART 4 – RULES OF PROCEDURE**

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### **COMMITTEE MEETING PROCEDURE RULES**

#### **1 ESTABLISHMENT OF COMMITTEES AND ALLOCATION OF SEATS**

##### **1.1 Establishment**

The establishment, terms of reference and allocation of seats of Committees will be determined by the Council in accordance with the Council Meeting Procedure Rules.

##### **1.2 Chair and Deputy Chair**

The chair and where the terms of reference allow, the deputy chair, of each committee shall be elected by the Council in accordance with the Council Procedure Rules.

##### **1.3 Period of Office**

The period of office of the chair, deputy chair and members of committee will continue until the first meeting following the Annual Meeting of the Council in any year when no Council elections are held. In a year when Council elections are held the period of office will end on the day of the election.

#### **2 ORDINARY MEETINGS**

Ordinary meetings of each Committee will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings of Committees will (as may be appropriate):-

- (a) elect a person to preside if the chair and deputy chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any petitions and where these Procedure Rules allow hear the address on behalf of any petitioners and any response;
- (d) receive any announcements from the chair;
- (e) deal with any business from the last meeting of the committee;
- (f) receive reports from the Cabinet and from any of the other committees and advice reports from employees of the Council;
- (g) to put questions to the chair or relevant employees of the Council where appropriate on items of business before the committee and to receive responses;
- (h) consider requests from members of the committee for items of business to be considered;
- (i) consider any other business specified in the agenda of the meeting;
- (j) such other matter or matters which the chair has certified as being urgent.

### **3 EXTRAORDINARY MEETINGS**

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

(a) Those listed below may request the proper officer to call a meeting of the committee in addition to ordinary meetings:-

- (i) the Council by resolution;
- (ii) the chair of the committee
- (iii) the Head of Paid Service
- (iv) the Monitoring Officer; and
- (v) one half of the membership of the committee if they have signed a requisition and presented it to the proper officer.

(b) Any request presented in accordance with this Rule must be in writing, specify the business to be transacted at the meeting and be accompanied by a copy of any report of the meeting.

#### **3.2 Business**

Any meeting called in addition to ordinary meetings pursuant to Rule 3.1 will:-

- (a) elect any person to preside if the chair and deputy chair are not present;
- (b) consider the item or items of business specified in the request; and
- (c) such other matter or matters which the chair has certified as being urgent.

### **4 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the proper officer and notified in the agenda.

### **5 NOTICE OF AND AGENDA TO MEETINGS**

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

### **6 CHAIR OF MEETING**

#### **6.1 Chair of the meeting**

The chair of the committee will chair a meeting of the committee and in his or her absence the meeting will be chaired by the deputy chair of the committee (if any). In the absence of the chair and the deputy chair of the committee,

the committee will choose a chair to chair the committee. The person presiding at the meeting may exercise any power or duty of the chair.

## **6.2 Conduct of the meeting by the chair**

The chair shall conduct the meeting to secure a proper, full and effective debate of business items particularly where a decision is required. The steps the chair may take include:-

- (a) allowing more time for the speaker to properly explain the matter;
- (b) permitting a member to speak more than once;
- (c) allowing employees of the Council to advise the meeting as appropriate;
- (d) allowing a full discussion of reports and matters for decision.

## **7 QUORUM**

The quorum of a meeting will be one quarter of the whole number of members (rounded up to the nearest whole number). If fewer than the quorum attend the meeting or if during any meeting the chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8 MOTIONS WHICH MAY BE CONSIDERED**

The following motions may be moved provided that they relate to an item of business on the agenda, concern a matter within the terms of reference of the committee and will not purport to exceed the powers delegated to the committee:-

- (a) to appoint a chair of the meeting;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
- (e) to appoint a sub committee of the committee arising from an item on the agenda for the meeting subject to statutory constraints;
- (f) to receive reports and/or to adopt recommendations of committees or officers;
- (g) to receive reports and/or to adopt recommendations of the Cabinet;
- (h) to delegate powers to an officer of the Council or a sub-committee subject to the constraints in this Constitution and of law.
- (i) to propose a resolution which differs from that recommended in a report;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

(o) to not hear further a member named under Rule 15.3 or to exclude him or her from the meeting under Rule 15.

## **9 RULES OF DEBATE**

### **9.1 Content of speeches/debate**

Speeches, discussion and questions must be directed to the matter under discussion or to a personal explanation or point of order. The period allowed for any speech and the number of times a member may be allowed to speak will be determined by the chair subject to the obligation on him or her under Rule 6.2.

### **9.2 Point of order**

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

### **9.3 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 or comment by the member which may appear to have been misunderstood in the present debate. The ruling of the chair on the admissibility of a personal explanation will be final.

### **9.4 Declarations of interest**

A member may at any time declare a personal interest under the Code of Conduct and when a member stands to make a declaration he/she shall be heard immediately and shall be allowed to make the declaration without interruption.

## **10 PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of the committee within the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of the committee in the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

## 11 **VOTING**

### 11.1 Majority

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

### 11.2 **Chair's casting vote**

Subject to Rule 11.4 if there are equal numbers of votes for and against, the chair will have a second or casting vote. There will be no restriction on how the chair chooses to exercise a casting vote.

### 11.3 **Show of hands/Electronic Voting**

The chair will take the vote by show of hands or by use of an electronic voting system if available, whichever the chair decides, or if there is no dissent, by the affirmation of the meeting.

### 11.4 **Voting on employee appointments**

(a) In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the chair will have a casting vote.

(b) The chair will have a casting vote only in the circumstances mentioned in the preceding paragraph.

### 11.5 **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.

## 12 **MINUTES**

### 12.1 **Signing the minutes**

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

## **12.2 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the chair put them but otherwise the form of the minutes will be a matter for the proper officer.

## **13 RECORD OF ATTENDANCE**

All Councillors present during the whole or part of a meeting must accurately record their attendance on the record of attendance provided for that purpose.

## **14. MEMBERS OF THE PUBLIC**

### **14.1 Exclusion of members of the public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule 16 (Disturbance by Public).

### **14.2 Right of Petitioners to address committee**

(a) When a petition contains signatures of not less than fifty Cardiff electors with their addresses, a substantial proportion of whom could reasonably be expected to be affected by the matter to which the petition relates, one person from amongst those signing the petition may address a committee to which the petition has been referred on the subject matter of the petition for up to three minutes.

(b) In any case where the petitioners object to an application which is to be considered by the Planning Committee or the Licensing Committee the applicant will also be given an opportunity to be heard.

(c) Any petition presented direct to a committee shall be delivered to the relevant Chief Officer at least seven clear days prior to the date of the meeting of the committee at which it is to be presented, to enable the applicant to be notified if appropriate and to be present at the meeting of the committee if the applicant so wishes.

(d) When a petitioner has been heard by a committee under this Committee Meeting Procedure Rule no further petition on the same item shall be considered and no further address shall be heard on that item, within six months of the committee meeting at which the petition was first considered or the petitioner heard.

## **15 MEMBERS' CONDUCT**

### **15.1 Members wishing to speak**

When a member speaks at a committee he or she must address the meeting through the chair. If more than one member speaks, the chair will ask one to



speak and the others must remain silent until invited to speak unless he or she wishes to make a point of order or a point of personal explanation or to declare an interest.

#### **15.2 Chair seeking order**

When the chair asks for order the meeting must be silent.

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

If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair may move that the member be not heard further. If seconded, the motion will be voted on without discussion. If the motion is passed the named member may not discuss or debate any further business whilst it is transacted at the meeting.

#### **15.4 Member to leave the meeting**

If the member continues to behave improperly or offensively or deliberately obstructs business after such a motion is carried, the chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. If the motion is passed the named member must leave the meeting forthwith.

#### **15.5 General disturbance**

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

### **16 DISTURBANCE BY PUBLIC**

#### **16.1 Removal of member of the public**

If a member of the public interrupts or disrupts proceedings of a committee, the chair will warn the person concerned. If they continue to interrupt or causes disruption, the chair will order their removal from the meeting room.

#### **16.2 Clearance of part of meeting room**

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

### **17 COUNCILLORS ATTENDING COMMITTEES OF WHICH THEY ARE NOT MEMBERS**

A Councillor may attend any meeting of a committee or sub-committee of which they are not a member and with the permission of the Chair may speak but may not vote subject to the following:

- (a) where the Councillor is required to declare an interest and withdraw from the meeting under the Code of Conduct;
- (b) where the Licensing Committee, the Disciplinary Appeals Committee or any other committee or sub-committee exercising similar jurisdiction have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;
- (c) where the Chief Officer Legal and Democratic Services or his/her representative advises that as a matter of law non-members of a committee should withdraw.

## **18 RECORDING OF PROCEEDINGS OF COMMITTEES**

No recording shall be made of the proceedings of meetings of committees whether audio or visual and by whatever method except with the express authorisation of the meeting. If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting of the committee except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.

## **19 SUSPENSION OF COMMITTEE PROCEDURE RULES**

All or any of these are Committee Rules of Procedure except Rule 11.5 may be suspended by motion on notice or without notice if at least one half of the whole number of the Councillors are present. Suspension can only be for the duration of the meeting.

## **20 APPLICATION OF COMMITTEE PROCEDURE RULES**

None of the Committee Procedure rules apply to meetings of the Cabinet or to meetings of the Council, but the rules apply to all Committees and all Sub-Committees of the Council.

## **PART 4 – RULES OF PROCEDURE**

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

#### **1 Summary of Rights**

These rules are a written summary of the rights of the public to attend meetings and the rights of the public and Members of the Council to inspect and copy documents. A copy of these rules will be kept at County Hall and the public shall have the right to inspect them at any reasonable time and to take a copy on payment of a reasonable fee.

#### **2 Scope**

These rules apply to all meetings of the Council, Scrutiny committees, the Standards & Ethics Committee and Regulatory Committees (including Planning Committee) and public meetings of the Cabinet (together called meetings).

Each Corporate Director shall be the Proper Officer for the purposes of all statutory and regulatory provisions relating to the identification listing and availability of background papers for any report where such report is within the scope of these Rules and that Corporate Director is the responsible or contributing author.

Each Corporate Director shall be responsible for securing compliance with the requirements of the Data Protection Act 1998 and of the Freedom of Information Act 2000 in relation to the data and information within the purview of those Acts held in his or her Department and shall make all necessary arrangements within the Department for that purpose.

#### **3 Openness Policy**

The Authority wishes to be as open as possible in terms of sharing access to information both with Councillors and with the public, as permitted within the law and with respect to the rights of others. These rules seek to complement and supplement and not detract from any statutory rights to information (for example within the Data Protection Acts and the Freedom of Information Act) which Councillors and the public are afforded from time to time. These rules do not affect any more specific rights to information contained elsewhere in this Constitution. In the case of any omission or conflict between these rules or the Constitution and statutory rights, statutory rights will always prevail.

#### **4 Rights of the Public to attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in these rules. The right to attend meetings does not extend to taking photographs or the making of video or audio transmissions or recordings without consent. The right to attend meetings is subject to the Council's right

to exclude persons if their conduct is disorderly or if they misbehave at the meeting. The Press may attend that part of any meeting open to the public.

## **5 Notices of Meetings**

- (a) The Authority will give at least three clear days notice of any meeting by posting details of the meeting on the public notice board at County Hall, Atlantic Wharf, Cardiff and on the Council's Website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)).
- (b) Special Urgency – 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 3 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 body concerned, the Monitoring Officer is authorised to call such a meeting, subject to the agenda and reports being available to the public at the time at which the meeting is convened.

## **6 Access to Agenda and Reports before a Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection on the Council's Website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)) and at the designated office at least three clear days before a meeting. If an item is added to the agenda later the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

## **7 Supply of Copies**

The Council will supply to any person, on payment of a charge for postage and other justified costs, copies of:

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

## **8 Access to Minutes after a Meeting**

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

- (a) the minutes of the meeting (or record of decisions taken together with reasons, for all meetings of the Cabinet) excluding any part of the minutes or proceedings which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and

(d) reports relating to items when the meeting was open to the public.

## **9 Background Papers**

### **9.1 List of background papers**

The Proper Officer will set out in every report, or part of a report, which is open to public inspection under Rule 6 or 8 above a list of those documents (called “background papers”) relating to the subject matter of the report, or that part of the report, which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) that have been relied on to a material extent in preparing the report.

but not including published works or those that disclose exempt or confidential information (as defined in Rule 10) (and in respect of Cabinet reports, the advice of any political advisor).

### **9.2 Public Inspection of Background papers**

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

## **10 Confidential and Exempt Information**

### **10.1 Confidential Information – Requirement to Exclude Public**

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

### **10.2 Exempt Information – Discretion to Exclude Public**

The public may be excluded from a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. Due regard will be had to the wishes of the individual should they elect that the hearing be held in private where the law so permits.

### **10.3 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department (including the Welsh Assembly Government) on

terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of any enactment or Court Order.

#### 10.4 Meaning of Exempt Information

Exempt information is defined in Schedule 12A, Part 4, of the Local Government Act 1972 as information falling within the following 10 categories (subject to any qualification):

CATEGORY	QUALIFICATION	LEGISLATIVE REFERENCE
1. Information relating to a particular individual	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	Paragraph 12 of Schedule 12A, Part 4 of the Local Government Act 1972
2. Information which is likely to reveal the identity of an individual	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	Paragraph 13 of Schedule 12A, Part 4 of the Local Government Act 1972
3. Information relating to the financial or business affairs of any particular person (including the Council)  <i>Note : 'financial or business affairs' includes contemplated, as well as past or current, activities</i>	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Acts (as defined in Section 2 of the Companies Act 2006) (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 2011	Paragraph 14 of Schedule 12A, Part 4 of the Local Government Act 1972

CATEGORY	QUALIFICATION	LEGISLATIVE REFERENCE
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p> <p><i>Note: 'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 i.e. matters which may be the subject of a trade dispute</i></p>	<p>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</p>	<p>Paragraph 15 of Schedule 12A, Part 4 of the Local Government Act 1972</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>		<p>Paragraph 16 of Schedule 12A, Part 4 of the Local Government Act 1972</p>
<p>6. Information which reveals that the authority proposes –  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment</p>	<p>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</p>	<p>Paragraph 17 of Schedule 12A, Part 4 of the Local Government Act 1972</p>

CATEGORY	QUALIFICATION	LEGISLATIVE REFERENCE
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	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	Paragraph 18 of Schedule 12A, Part 4 of the Local Government Act 1972
<b>In addition to the categories referred to above, the following categories will apply to the proceedings of the Standards and Ethics Committee and its Sub-Committee only in connection with the investigation and consideration of an allegation(s) of a breach of the Council's Member Code of Conduct</b>		
8. Information which is subject to any obligations of confidentiality.	Information is exempt only where a meeting of a Standards and Ethics Committee is convened to consider a matter referred under the provisions of sections 70(4) or (5), or 71(2) of the Local Government Act 2000	Paragraph 18A of Schedule 12A, Part 4 of the Local Government Act 1972 (inserted by the Standards Committees (Wales)(Amendment) Regulations 2007)
9. Information which relates in any way to matters concerning national security.	Information is exempt only where a meeting of a Standards and Ethics Committee is convened to consider a matter referred under the provisions of sections 70(4) or (5), or 71(2) of the Local Government Act 2000	Paragraph 18B of Schedule 12A, Part 4 of the Local Government Act 1972 (inserted by the Standards Committees (Wales)(Amendment) Regulations 2007)
10. The deliberations of the Standards and Ethics Committee or of a Sub-Committee of the Standards and Ethics Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.		Paragraph 18C of Schedule 12A, Part 4 of the Local Government Act 1972 (inserted by the Standards Committees (Wales)(Amendment) Regulations 2007)

Information falling within any of paragraphs 1 – 7 is not exempt if it relates to proposed development for which the Council may grant itself planning permission under Regulation 3 of the Town and County Planning General Regulations 1992.



## 10.5 Disclosure by Members

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

## 10.6 Public Interest

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

The public interest will be assessed on a case by case basis having regard to all relevant factors including but not limited to the following, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.

In making such an assessment the proper officer shall have regard to any relevant prejudice which may be caused to the Council or any other party if the information were disclosed, having regard to the full context of any disclosure. Account may be taken of whether disclosure would breach any obligation of confidence not within Rule 10.3, or the rights of any individual under the Data Protection Act 1998 or the Human Rights Act 1998.

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

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

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

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

#### **10.7 Exclusion of the Public**

A decision to exclude the public from a meeting under this Rule shall be made in accordance with the Council Procedure Rules, the Committee Procedure Rules, or the Cabinet Procedure Rules as appropriate.

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

Prior to a meeting, if the Proper Officer thinks fit, the Council may exclude access by the public to the whole or any part of a report which in his or her opinion relate to items of business during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports or parts of reports will be marked "Not for Publication" together with the category of information likely to be disclosed. After the meeting access to the Report is subject to Rule 8.

Where the decision to exclude access has required a determination of the public interest the Proper Officer shall keep a note of his or her reasons for the decision.

#### **12 Application of Rules to the Cabinet**

- (a) Rules 12 – 18 apply to the Cabinet.
- (b) The Cabinet will not conduct any formal business or take any Executive Decision in private except as permitted under Rule 10 or the law.
- (c) If the Cabinet meets to take an Executive Decision then it must also comply with Rules 1 – 11. For the avoidance of doubt Rules 1 -11 do not apply to meetings of the Cabinet where no Executive Decision is to be taken and the sole purpose of which is:-
  - (i) for employees to brief Councillors, or
  - (ii) for informal deliberations to take place which fall short of formal business or the taking of an Executive Decision, or
  - (iii) to meet with representatives of other bodies to discuss the approach to a particular subject.

#### **13 Record of Decisions**

After any meeting of the Cabinet, whether held in public or private, the Monitoring Officer, the Monitoring Officer's representative or, where no officer

was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as reasonably practicable. The record will include a statement of the date, the reasons for each Executive Decision, details of any alternative options considered and rejected at the meeting either directly or by reference to the report, details of any declaration of interest and details of any consultation that was taken and generally comply with legal requirements as to the recording of the Executive Decision.

A record of a decision to exclude the public in accordance with Rule 10 shall identify the category of exempt or confidential information and, where appropriate, any relevant determination of the public interest.

A record of the decision will be published in the Executive Decision Register and will be circulated to all Members by the Cabinet Business Office. The Register will be available for public inspection at County Hall and on the Council's internet site.

#### **14 Cabinet Meetings relating to matters which are not Executive Decisions**

The Cabinet will decide whether meetings where no Executive Decisions are to be made will be held in public or private. Members of the Cabinet or its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

#### **15 The Forward Plan**

##### **15.1 Period of Forward Plan**

To promote openness and efficiency in decision-making, the Council maintains a Forward Plan of anticipated Executive Decisions. The Forward Plan covers a 12 month period from the date of publication and is updated monthly on a rolling basis.

##### **15.2 Contents of Forward Plan**

The Forward Plan seeks to anticipate all decisions to be made by the Cabinet and by the Chief Executive and Corporate Directors under delegated powers. Each Corporate Director, and/or Chief Officer in partnership with the relevant Cabinet Member is responsible for identifying future decision-making needs and for informing the Cabinet Business Office. The Cabinet Office Manager maintains the Forward Plan which is available for public inspection at County Hall and on the Council's internet site.

It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) the identity of the decision maker;

- (c) a brief summary of the issues;
- (d) a brief summary of the reasons for any recommendation
- (e) a draft of the proposed recommendation;
- (f) the date on which, or the period within which, the decision will be taken;
- (g) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (h) the responsible lead officer;
- (i) a contact officer; and
- (j) the status of the decision where:
  - (i) Green = Decisions of a non-contentious, day to day nature, unlikely to be the subject of call-in.
  - (ii) Amber = Decisions of a more sensitive nature, which could be potentially contentious or not of a routine nature. These would generally flow through to the Cabinet for decision, without prior scrutiny, although a judgement will be made in each case regarding scrutiny consideration before decision, and the possibility of call-in.
  - (iii) Red = Decisions relating to high level functions primarily relating to policy formulation within the Policy and Budgetary Framework where the Cabinet would usually make a proposal to Council. For such decisions, the engagement of scrutiny is required before the Cabinet recommendation is made.

Exempt information need not be included in the Forward Plan and confidential information cannot be included.

### **15.3 Additional Information Relating to Forward Plan Items**

Any person who wishes to:

- (a) make representations to the Cabinet or decision taker about a matter in respect of which a decision is to be made;
- (b) request additional information or documents relating to a proposed decision (if any) as they become available

should contact the nominated contact officer. Inclusion of a matter in the Forward Plan does not create any right of access to information which is confidential or exempt as defined in Rule 10.

## **16 Executive Decisions by individual Members of the Cabinet**

Delegated powers may not be exercised by individual Members of the Cabinet in accordance with the Scheme of Delegations.

### **16.1 Record of individual Decision by employee**

Where a decision is taken by an employee under delegated powers, that employee is responsible for retaining a record of such decision and the reason for such decision sufficient for audit and evidential purposes and for

ensuring that all those that need to know are informed promptly of the decision and that the decision and the record of it accords with the requirements of the relevant scheme of delegations under which it is made, and any guidance on decision making issued by the Monitoring Officer. Decisions made by the Chief Executive or a Corporate Director will be included in the published Executive Decision Register. (See Rule 13).

## **17 Additional Rights of Access by Members of Scrutiny Committees**

### **17.1 Rights to copies**

Subject to Rule 17.2 below, a member of a Scrutiny Committee (including their Sub-Committees and Task groups) will be entitled to copies of any document which is in the possession or control of the Cabinet, or its committees and which contains material relating to:

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

### **17.2 Limit on Rights**

No member of a scrutiny committee shall be entitled to any part of a document that contains exempt or confidential information or the advice of a political advisor or assistant unless that information is relevant to:

- (a) an action or decision that is being reviewed or scrutinised or is intended to be scrutinised by that committee or a sub-committee of that committee or;
- (b) is relevant to any review contained in any programme of work of the scrutiny committee or a sub-committee of that committee.

In case of doubt the Monitoring Officer shall determine whether condition (a) or (b) applies.

### **17.3 Disclosure**

Exempt or confidential information supplied to a Member in accordance with Rule 17.1 remains exempt or confidential and is subject to Rule 10.5.

## **18 Additional Rights of Access for Members**

### **18.1 Material relating to Council and Cabinet Business**

All Councillors will be entitled to inspect any document which is in the possession or under the control of:

- (i) the Council relating to business transacted or to be transacted at a meeting of the council, or a committee or a sub-committee; or

- (ii) (ii) the Cabinet (or its committees) relating to any business transacted at a decision making meeting following the conclusion of that meeting or relating to any decision made by an individual member of the Cabinet where allowed by the Scheme of delegations immediately after the decision has been made

unless either (a) or (b) below applies:-

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information in Rule 10; or
- (b) in respect of Cabinet material it contains the advice of a political adviser.
- (c) Provided that the restriction in rule 18.1(a) above shall not apply to a Councillor who is the Leader of a Political Group in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

## 18.2 Nature of rights

The rights of a Member under Rule 18 are additional to any other right he/she may have, including:

- (a) the common law right to inspect documents where this is necessary for a Member to perform his or her duties. Any Member asserting a 'need to know' in relation to documents not otherwise available under these rules should make application to the Monitoring Officer.
- (b) the statutory rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2005.
- (c) Members' right, under Section 228 of the Local Government Act 1972, to inspect the accounts of the Council and of any proper officer of the Council.

In exercising rights of access to information Members shall have regard to any guidance issued by the Monitoring Officer and the Member / Officer and Member Access to Information protocols.

## 19 Register of Cabinet Members

An up to date register that will be open to the public will be kept at County Hall and published on the Council's website stating:-

- (a) the name and address of every Councillor who is a member of the Cabinet and the ward the Councillor represents;
- (b) the name and address of every member of each committee of the Cabinet;
- (c) the functions of the Cabinet which for the time being are exercised by individual members of the Cabinet; and

(d) as respects each function, the name of the member of the Cabinet by whom it is exercisable.

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## **PART 4 – RULES OF PROCEDURE**

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

#### **1 The framework for Executive Decisions**

- (a) The Council will be responsible for the adoption of the Budget and Policy Framework. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.
- (b) The future business of the Cabinet will be set out in the Forward Plan to be published on a monthly basis.

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

- (a) The Cabinet will publicise by including in the Business Statement 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 Scrutiny Committees will also be notified.
- (b) The Cabinet will then draw up firm proposals having regard to any responses to consultation. If a relevant Scrutiny Committee wishes to respond to the Cabinet in the consultation process then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, they will be referred at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Executive proposals, amend them, refer them back to the Cabinet for further consideration, or 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) A copy of the decision shall be given to the Leader.
- (g) An in-principle decision will automatically become effective five clear working days from the date of the Council's decision, unless (i) the Leader informs the proper officer in writing within that time he/she objects to the

decision becoming effective and provides reasons why and (ii) he/she does so before 8 February of that year.

- (h) In that case, the proper officer will call a Council meeting to take place within a further ten clear working days. The Council will be required to re-consider its decision and the written submission within at that meeting. The Council may:-
- (i) approve the initial Cabinet 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 and shall be implemented immediately.
- (j) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

### 3 Decisions outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 of these Rules (virement) the Cabinet, individual members of the Cabinet and any employees or joint arrangements discharging Executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, individual members of the Cabinet and any employees, or joint arrangements discharging Executive Functions want to make such a decision, they shall take advice from the Head of Paid Service, Monitoring Officer and the Section 151 Officer as to whether the decision they want to make would be in contrary to the Policy Framework, 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 4 of these Rules (urgent decisions outside the budget and policy framework) shall apply.

#### **4 Urgent decision outside the budget or policy framework**

(a) The Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or employees, (area committees) or joint arrangements discharging Executive Functions may take a decision which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget approved by Council if the decision is urgent. However, the decision may only be taken:

- (i) if it is not possible to convene a quorate meeting of the full Council; and
- (ii) if the chair of a relevant Scrutiny Committee agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the relevant Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant Scrutiny Committee, the consent of the Lord Mayor, and in the absence of both, the Deputy Lord 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.

#### **5. Virement**

(a) The Council shall have budget heads reflecting the Council's Service Area arrangements and taking into account recommended accounting practice.

(b) Steps taken by the Cabinet, an individual member of the Cabinet or employees, or joint arrangements discharging Executive Functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads in accordance with Financial Regulations. Beyond that limit, approval to any virement across budget heads shall require the approval of the Council.

#### **6. In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, an individual member of the Cabinet or employees, (area committees) or joint arrangements discharging Executive 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 changes that have been specified or categorised by Council as permissible changes.

#### **7 Call-in of decisions outside the Budget or Policy Framework**

(a) Where a Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then it shall seek advice from

the Head of Paid Service, Monitoring Officer and/or Section 151 Officer, who will report on the matter.

- (b) In respect of functions which are the responsibility of the Cabinet, the report of the Head of Paid Service, Monitoring Officer and/or Section 151 Officer shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Head of Paid Service, Monitoring Officer or the Corporate Director with Section 151 Responsibilities conclude that the decision was a departure from the Budget or Policy Framework, and to the Scrutiny Committees if the Head of Paid Service, Monitoring Officer or the Section 151 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 Head of Paid Service, Monitoring Officer and/or Section 151 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 or ultra vires the power of the Cabinet, the Cabinet or the relevant Scrutiny Committee may refer the matter to the 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 within ten clear working days of the request by the Cabinet or the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive, Monitoring Officer and/or the Section 151 Officer. The Council may either:-
- (i) endorse a decision or proposal 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 Authority's financial procedures or Policy Framework to encompass the decision or 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 or ultra vires the power of the Cabinet, and does not amend the existing Policy Framework to accommodate it or ratify the ultra vires decision., the decision will be a nullity but the Council may require the Cabinet to reconsider the matter in accordance with the advice of either the Chief Executive, Monitoring Officer or Section 151 Officer.

## **PART 4 – RULES OF PROCEDURE**

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### **CABINET PROCEDURE RULES**

#### **1 Executive Functions**

##### **1.1 Executive Decisions**

Part 3 of the Constitution sets out the provision made with respect to the allocation of any functions which are the responsibility of the executive among the following persons—

- (a) the Cabinet,
- (b) any member of the Cabinet,
- (c) any committee of the Cabinet, and
- (d) any officers of the authority.

Where such allocation has been made the body to which or the person to whom a function has been allocated in accordance with that provision may discharge that function and make an Executive Decision in relation to it.

To the extent that the functions which are the responsibility of the executive have not been allocated in accordance with section 15(3) of the Local Government Act 2000 (but not further or otherwise) the Leader will decide how Executive Functions are to be exercised. They may be discharged by:

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an employee of the Council by his or her Office;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

##### **1.2 Delegation of Executive Functions**

To the extent the Leader, the Cabinet, a Cabinet committee or a member of the Cabinet has authority to make arrangements for the exercise of Executive Functions, in any case that person or body will take advice from the Chief Executive, Monitoring Officer and Section 151 Officer before discharging

his/her/its authority. Any arrangements made by the Cabinet, a committee of the Cabinet or a member of the Cabinet for the discharge of Executive Functions which may be discharged by him/her or it must be made in writing and set out the name of the person who may discharge of the function, the nature and extent of any delegation and any limitation on its exercise. A copy of the document containing such arrangements must be delivered by or on behalf of the person or body making such arrangements to the proper officer before the arrangements take effect. Any document containing such arrangements which is delivered to the proper officer shall be open to public inspection.

### **1.3 Changes to the arrangements for the delegation of Executive Functions**

- (a) A person who or a body which has made arrangements for the discharge of any Executive Functions in accordance with paragraph 1.2 above may amend the arrangements at any time . To do so, person or body must give written notice to the proper officer and to the person, or body authorised by such arrangements to discharge the relevant Executive Functions. The notice must set out the extent of the amendment to the arrangements, and whether it entails the withdrawal of delegation from any person, or body. Any notice given to the proper officer under this paragraph will be open to public inspection.
- (b) Where a person or body seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chairperson.

### **1.4 Conflicts of Interest**

- (a) Any body which or person who has a power to discharge an Executive Function and has a personal interest in a matter for decision will act in accordance with the relevant Code of Conduct set out in Part 5 of this Constitution.
- (b) If an Executive Function cannot be discharged under any arrangements made pursuant to paragraph 1.2 above as a result of a personal interest, the person or body which delegated the function will take the decision, or the matter will be referred to Cabinet for decision.

### **1.5 Cabinet meetings**

- (a) The Cabinet will meet at times and dates to be agreed by the Cabinet.
- (b) Those listed below may ask the proper officer to call Cabinet meetings in addition to those agreed by the Cabinet:
  - (i) the Leader;
  - (ii) the Head of Paid Service;

- (iii) the Monitoring Officer;
  - (iv) the section 151 Officer;
  - (v) any three members of the Cabinet.
- (c) Any request presented in accordance with this paragraph must be in writing, must specify the business to be transacted at the meeting and must be accompanied by a copy of any report for the meeting.
- (d) Cabinet meetings will generally be held in public in accordance with the provisions of the Access to Information Procedure Rules.
- (e) A Councillor being the Leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990 shall have the right (such right to be exercised reasonably and not so as to interfere with the proper conduct of business) to speak at any meeting of the Cabinet or a committee of the Cabinet even though he/she is not a member of the Cabinet or Cabinet committee as the case may be. In the absence of the Leader of such political group the Councillor designated as the Leader's deputy may exercise this right. This right may not be exercised in the following cases:
- (f) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;
- (i) where the Cabinet or any committee of the Cabinet exercising a quasi judicial function have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;
  - (ii) where the Monitoring Officer or his/her representative advises that as a matter of law or to protect the Council's interest non-members of the Cabinet or the committee of the Cabinet (as the case may be) should withdraw;
- (g) Provided that nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

## 1.6 **Quorum**

The quorum for a meeting of the Cabinet shall be three.

## 1.7 **Decisions of the Cabinet**

- (a) Executive Decisions which have been allocated or delegated to the Cabinet will be taken by majority vote of those present at a meeting convened in accordance with the Access to Information Procedure Rules, with the person presiding having a second or casting vote.

- (b) Where Executive Decisions are allocated or delegated to a Cabinet committee, the rules shall be the same as those applying to decisions taken by the Cabinet.
- (c) Executive Decisions which have been allocated or delegated to individual Cabinet Members will be taken in accordance with Cabinet Procedure Rules.

## **2 CONDUCT OF CABINET MEETINGS**

### **2.1 Chairing the Meeting**

If the Leader is present he/she will chair the meeting of the Cabinet. In his/her absence, then the Cabinet Member appointed by the Leader to chair Cabinet meetings in his/her absence shall preside. In his/her absence, a person chosen by those present shall preside.

### **2.2 Attendance**

- (a) Meetings of the Cabinet are generally open to any person who wishes to attend in accordance with the Access to Information Procedure Rules.
- (b) Subject to paragraph (c) below only Cabinet Members, employees or persons asked to or with a duty to advise Cabinet or other persons asked by the Cabinet to do so may speak at a Cabinet meeting.
- (c) A Councillor may attend any meeting of the Cabinet or a Cabinet committee (whether or not they are a member of the Cabinet or of the Cabinet committee) and with the permission of the chairperson may speak but may not vote except in the following cases:
  - (i) where the Councillor is required to declare an interest and withdraw from the meeting under the Code of Conduct;
  - (ii) where the Cabinet or a committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;
  - (iii) where the Director of Governance and Legal Services or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.

### **2.3 Business**

- (a) At each meeting of the Cabinet the following business will be conducted:
  - (i) consideration of the minutes of the last meeting;
  - (ii) declarations of interest, if any;



- (iii) 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 Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
  - (iv) consideration of reports from Scrutiny Committees;
  - (v) other matters set out in the agenda for the meeting;
  - (vi) to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules; and
  - (vii) and any matter which the chairperson considers should be considered at the meeting as a matter of urgency by reason of special circumstances or legal requirement.
- (b) The future business of the Cabinet will be set out in the Forward Plan to be published on a monthly basis.

## 2.4 Consultation

All reports regarding issues for an Executive Decision will contain information on the nature and extent of any consultation with stakeholders (including Councillors) and relevant Scrutiny Committees, and the outcome of that consultation. The level of consultation will be appropriate to the nature of the matter under consideration.

## 2.5 Agenda

- (a) Any member of the Cabinet may give notice to the Proper Officer that he/she wishes a matter or an item of business relevant to the functions of the executive to be included on the agenda for a meeting of the Cabinet. On receipt of such request the proper officer will include such matter or item on the next suitable agenda.
- (b) The Head of Paid Service, Monitoring Officer and/or the Section 151 Officer may, in pursuance of their statutory duties, require an item to be included on the agenda of a Cabinet meeting and to have the item discussed. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to consider a matter that requires a decision, they may in pursuance of their statutory duties, jointly require an item to be included on the agenda of a Cabinet meeting and to have the item discussed.
- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny Committees.

(d) The agenda for any relevant meeting will include items determined under the above, unless otherwise required by law.

### **3 CABINET COMMITTEES**

#### **3.1 Chairperson of Cabinet Committees**

The chairperson of a Cabinet Committee shall be such member of the Cabinet Committee as the Cabinet shall appoint. In the absence of the chairperson a person chosen by those present shall preside

#### **3.2 Quorum**

The quorum of a Cabinet committee shall be one quarter of the membership of the committee or three (whichever is larger).

#### **3.3 Conduct of business of Cabinet Committees**

The rules for the calling and conduct of meetings of the Cabinet shall (save to the extent they are inconsistent with paragraphs 3.1 and 3.2) apply to the calling and conduct of meetings of a Cabinet committee provided that any reference in the rules to the Leader shall in the case of a Cabinet Committee be construed as a reference to the chairperson of the Cabinet Committee

## **PART 4 – RULES OF PROCEDURE**

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### **SCRUTINY PROCEDURE RULES**

#### **1 Scrutiny Committees**

The Council will have the five Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Scrutiny Committees will have a membership determined by the Council.

Scrutiny Committees may appoint "Task and Finish" Sub Committees to be established for a fixed period, on the expiry of which they shall cease to exist. These will not exercise the formal powers associated with scrutiny (which are the preserve of the Committees), but can contribute to, or inform, the scrutiny process.

#### **2 Members of Scrutiny Committees**

All councillors, except members of the Cabinet, may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved in taking.

#### **3 Co-opted Members**

The Children & Young People Scrutiny Committee shall include in its membership the following voting representatives:

- (a) 1 Church in Wales diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 parent governor representatives.

When matters unrelated to education functions, which are the responsibility of the executive, fall to be considered by the Children & Young People Scrutiny Committee, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

#### **4 Meetings of the Scrutiny Committees**

Scrutiny Committees shall generally meet on a monthly basis. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny committee meeting may be called by the Chairperson of the relevant Scrutiny Committee if he/she considers it necessary or appropriate.

Scrutiny Committee meetings will generally be held in public in accordance with the provisions of the Access to Information Procedure Rules.

## 5 **Quorum**

The quorum of a meeting will be one quarter of the whole number of members of that Scrutiny Committee/Sub Committee. During any meeting, if the Chairperson declares that 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 Chairperson. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Scrutiny Committee/Sub Committee.

## 6 **Chairperson**

Scrutiny Chairpersons will be appointed on a politically proportionate basis in accordance with the provisions of sections 66 – 75 of the Local Government (Wales) Measure 2011.

## 7 **Scrutiny Role and Conduct of Business**

Within their terms of reference, Scrutiny Committees:-

- (a) Will set their own work programmes and submit Annual Reports for consideration by the Council. Such reports will outline previous, and ongoing, investigations, and set out any known future work programme.
- (b) May make proposals to the Cabinet regarding policy and service development and scrutinise and review decisions made, or actions, taken in connection with the discharge of any Council functions.
- (c) May use the budgets allocated to them, relevant Council employees, advisers and assessors to assist them in fulfilling their role. 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/or expenses for doing so. They must comply with the Council's procedures and keep within the budgets allocated to them in so doing.
- (d) As far as possible, will ensure that the objectives of any proposed business are set out in its programme.

## 8 **Agenda items**

- (a) Any member of a Scrutiny Committee may give notice to the Operational Manager of Scrutiny Services that he/she wishes an item relevant to the functions of that committee to be included on the agenda for a future meeting. On receipt of such a request, the Chairperson will ensure that it is included as an item on the next suitable agenda.

- (b) Scrutiny Committees shall respond, as soon as their work programme permits, to requests from the Council 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, as appropriate.

## **9 Reports from Scrutiny Committees**

- (a) Once it has formed recommendations following the conclusion, or part conclusion, of its deliberations on a particular topic, a Scrutiny Committee will prepare a formal report and submit it for consideration by the Cabinet (if the report relates to a Executive Decision or proposal) or to the Council (if the recommendation would require a departure from, or a change, to the agreed budget and policy framework).
- (b) If a Scrutiny Committee cannot reach unanimous agreement on the content of a report to the Council or Cabinet as appropriate, then any member of the committee may request that the points of difference between their view and that of the majority and the reasons for the difference in view be recorded in the Scrutiny Committee report and submitted for consideration by the Council or Cabinet as appropriate. Where a minority report is requested, it must be requested before the Committee's report on the topic under scrutiny is determined.
- (c) The Council or Cabinet shall give consideration to a formal report of a Scrutiny Committee and any minority report at an appropriate meeting. Where appropriate, the Scrutiny Committee shall receive a written response from the Cabinet to its formal report and any minority report, as soon as is practicable following the consideration of the report by the Cabinet. The appropriate Cabinet Member will also attend a future meeting of the scrutiny committee to present any response.
- (d) Where a scrutiny committee prepares a report for consideration by the Cabinet in relation to a matter where the decision making power has been delegated to an individual member of the Cabinet, then the Scrutiny Committee will submit a copy of their report to him/her for consideration. The member with delegated decision-making power must consider the report and respond in writing to the Scrutiny Committee. The member will also attend a future meeting of the Scrutiny Committee to present their response.

## **10 Rights of Scrutiny Committee members to documents**

Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **11 Hearing evidence and receiving information**

- (a) Scrutiny Committees may receive written submissions or call witnesses to assist them in their examination of topics.
- (b) They may require any Cabinet Member and/or Council officer to attend to explain, in relation to matters within their remit:-
  - (i) any decision or series of decisions;
  - (ii) the extent to which actions taken implement Council policy; and/or
  - (iii) the performance of any Council service within their portfolio or management responsibility
  - (iv) and it is the duty of those persons to attend if so required.
- (c) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chairperson of that Committee, or an officer acting at their behest, will inform the member or officer in writing, giving at least ten calendar days notice of the meeting at which he/she is required to attend, except in cases of urgent necessity, when at least 48 hours notice will be given. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (d) 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, or may seek a written submission.
- (e) A Scrutiny Committee may invite anyone whom it believes can make a useful contribution 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 can invite such people to attend.
- (f) Scrutiny Committees will programme their agendas as effectively as possible and will in particular give any witness called to appear before them a time by which they can expect their contribution to be completed. At the expiry of that time period, the witness can leave unless he/she agrees to remain longer.

## 12 **Call-in Procedure**

- (a) When an Executive Decision is made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive, a Corporate Director or a Director exercising a Corporate Director or a Director delegation, the decision shall be published on the Council's Intranet Site,

and shall be available at the main offices of the Council, normally within two working days of being made. Members of those Committees who request it (in respect of decisions falling within their Committee's terms of reference) and Chairpersons of all Scrutiny Committees will also be sent copies of the records of all such decisions within the same timescale by the proper officer.

- (b) The notice will bear the date on which it is published and will specify that the decision will be implemented on the expiry of seven clear working days after the publication of the decision ("the call-in period"), unless the decision is called in as set out below.
- (c) Any non Cabinet member of the Council (or a co-opted member of the Children and Young People Scrutiny Committee, in the case of a decision relating to an education matter) may call-in a decision of which notice has been given as set out above, by giving notice in writing to the Operational Manager of Scrutiny Services within the call-in period. The Operational Manager of Scrutiny Services shall then notify the Cabinet Office of the call-in. He/she shall call a meeting of the relevant committee on such date as he/she may determine, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in ("the scrutiny period"). At its meeting, the Scrutiny Committee may consider the called-in decision itself or decide to refer the issue to the Council for scrutiny, if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within ten clear working days of this referral ("the Council scrutiny period") unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.
- (d) Having considered the decision, the Scrutiny Committee or the Council (if the decision has been referred to Council) may refer it back to the Cabinet or the decision maker for reconsideration, setting out in writing the nature of its concerns. The Cabinet or decision maker shall then reconsider the matter before adopting a final decision, arranging for the decision to be changed to reflect points made by the Scrutiny Committee, or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate will be advised of the outcome at its next meeting.
- (e) If following a call-in, the matter is not referred back to the Cabinet or decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or Council meeting which considers the issue, or the expiry of the scrutiny period or the Council scrutiny period as appropriate, whichever is the later.
- (f) The role of Scrutiny Committees calling in a decision is:
  - (i) To test the merits of the decision
  - (ii) To consider the process by which the decision has been formulated.

- (iii) To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider).
  - (iv) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision making body).
  - (v) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.
- (g) In calling in a decision it is not sufficient for the Member requesting the call in to state that they wish to test the merits of the decision. A member requesting a call in shall specify precisely which aspects of the decision they wish to question or challenge.
- (h) The Operational Manager of Scrutiny Services may, in consultation with the Monitoring Officer, rule that a call in is not valid if:
- (i) The call in request has not been made within the seven working days allowed for call in;
  - (ii) It is not clear which Executive Decision is being called in;
  - (iii) The decision is exempt from call in on account of urgency provisions;
  - (iv) The call in request provides too little information to enable Committee members or the decision taker to adequately prepare for the call in meeting.
  - (v) The decision being called in, or broadly the same decision, has been called in during the last six months.

### **13 Exceptions: Call-in and Urgency**

- (a) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if either the Head of Paid Service, the Monitoring Officer or the S151 Officer certifies that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest, and the Chair of the relevant scrutiny committee or, in his/her absence, the Chair of the Council, or in both their absences, the Vice-Chair of the Council, agrees that the matter is urgent. The record of the decision and notice by which it is made public shall state whether the decision is an urgent one, and therefore not be subject to call-in. Decisions taken as a matter of urgency must be reported for information to 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.



## 14 **Procedure at Scrutiny Committee meetings**

- (a) Scrutiny Committees shall consider the following business:
- (i) minutes of the last meeting;
  - (ii) declarations of interest (to be made at the commencement of the agenda item in question);
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Cabinet to reports of the Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Scrutiny Committee conducts investigations, the Committee may also invite people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of those invited to give evidence, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  - (iv) that members of the council acting in their constituency representative role be permitted to attend and give evidence in connection with ward specific matters provided they have first given notice to the Chair of the Scrutiny Committee.
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public, except that reports containing confidential or exempt information need not be made public to the extent that such information would be disclosed.

## 15 **Matters within the remit of more than one Scrutiny Committee**

Where a Scrutiny Committee proposes to conduct a review, or scrutinise a matter, which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the arrangements for the future scrutiny of this matter will be agreed by the relevant Scrutiny Chairpersons. This agreement will be reported to the next meeting of the appropriate Scrutiny Committees.



## **PART 4 – RULES OF PROCEDURE**

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### **FINANCIAL PROCEDURE RULES**

#### **1 STATUS**

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

- 1.8 Other related documents approved by the Authority include the Constitution, Delegations, Contract Procedure Rules and Codes of Conduct.
- 1.9 For the purpose of these Financial Procedure Rules, Heads of Service have the same responsibilities as Chief Officers.

## **2 FINANCIAL MANAGEMENT**

### **GENERAL**

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

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

#### **Key Controls**

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

#### **Responsibilities of the Corporate Director, Resources**

- 2.3 To be responsible, for the purposes of Section 151 of the Local Government Act, 1972 and Section 114 of the Local Government Finance Act, 1988, for the proper administration of the Authority's financial affairs.
- 2.4 As the Authority's financial adviser, to:-
- report to the Cabinet and the Council on resource availability and resources allocation.
  - advise the Cabinet and the Council of the financial implications of proposals submitted to them.
  - keep the Cabinet and the Council informed with respect to the Authority's finances and financial performance and other committees informed with respect to financial implications of their activities.
  - advise on financial systems and procedures for all service areas of the Authority including advice to the Cabinet and the Council if inadequate systems exist.
  - advise and participate in all aspects of Value For Money projects.
  - advise the Cabinet and the Council on the financial aspects of all policy matters.
- 2.5 To set the financial management standards and to monitor compliance with them.
- 2.6 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Authority.
- 2.7 To act, under the Trustee Investment Act, as adviser to the Authority in respect of its Pension Fund responsibilities.

## **Responsibilities of Corporate Directors and Chief Officers**

- 2.8 To ensure that that the Financial Procedure Rules are followed and brought to the attention of all employees in their service areas.
- 2.9 To be responsible, in consultation with the Corporate Director, Resources for:
- the financial administration of their service areas, including trading units, in compliance with the Financial Procedure Rules;
  - the monitoring and control of expenditure against their service area capital and revenue budgets.
  - the design and operation of systems of internal control capable of:
    - carrying out the activities of the Authority in an effective and efficient manner;
    - ensuring adherence to the Authority Policy Framework and Budget;
    - safeguarding assets;
    - securing, as far as possible the completeness and accuracy of records;
    - ensuring value for money and preventing waste.
- 2.10 To agree with the Corporate Director, Resources any amendment to financial systems or introduction of new financial systems.
- 2.11 To provide all information required by the Corporate Director, Resources for finance purposes on a timely basis, and to allow him/her or an authorised representative access to all information, records, documents and explanations that he/she requires.
- 2.12 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 2.13 To establish and maintain sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 2.14 To allow the Corporate Director, Resources adequate opportunity to provide written comments for inclusion in all reports for decision by the Council or the Cabinet or for the purpose of exercising delegated powers.
- 2.15 To consult with the Corporate Director, Resources with respect to any matter within his/her purview which is liable to materially affect the finances of the Authority, before any provisional or other commitment is incurred or before reporting thereon to the Cabinet or the Council.
- 2.16 To inform the Corporate Director, Resources when officers intend to meet with representatives of Government Service areas or outside bodies on matters which may involve current or future financial or economic proposals and be given the opportunity of being represented or advised of the proposals as the Corporate Director, Resources considers necessary.

- 2.17 To take action upon any internal audit reports to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 2.18 To ensure that all employees who are responsible for financial administration are issued with appropriate instructions.
- 2.19 To ensure that there is a clear separation of duties within the administration of all systems to ensure adequate controls are in place.
- 2.20 To maintain proper records of authorised signatories for all financial systems and to ensure that only these officers sign key documents such as orders, invoices, claims and payroll records.
- 2.21 To immediately notify the Audit Manager whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.
- 2.22 To liaise with the Audit Manager in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud, Anti-Corruption & Bribery Policy and Procedure.
- 2.23 To ensure that all employees comply with the Financial Procedure Rules and any instructions issued under them or any arrangements made for the purposes of them.
- 2.24 To ensure that any arrangements made under or for the purposes of the Financial Procedure Rules should be in writing and where necessary conveyed in writing to relevant employees.
- 2.25 To promote the financial management standards set by the Corporate Director, Resources in their service areas, and to monitor adherence to the standards and practices, liaising as necessary with the Corporate Director, Resources.
- 2.26 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.
- 2.27 To ensure that there is compliance with the Council's Charging and Trading Policy.

## **MANAGING EXPENDITURE**

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

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

- 2.28 The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the full Council, and therefore to optimise the use of resources.

#### **Key Controls**

- 2.29 Key controls for the scheme of virement are:

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

#### **Responsibility of the Cabinet**

- 2.30 To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has been amended or in any case where arrangements have not been made for discharge of the function by an officer of the Authority and within the Policy and Budgetary Framework.

#### **Responsibility of Officers - Capital Expenditure**

##### **Corporate Directors**

- 2.31 In consultation with the Corporate Director, Resources, to vary within service areas the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £250,000 to or from another project but subject to the Policy and Budgetary Framework.



- 2.32 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the Corporate Director, Resources.

### **Chief Officers**

- 2.33 In consultation with the Corporate Director, Resources, to vary within service areas the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £100,000 to or from another project subject to the Policy and Budgetary Framework.

### **Corporate Director, Resources**

- 2.34 To consult with the appropriate Corporate Directors or other Chief Officer, to vary within their service areas, the approved programme of capital expenditure, within the limits as outlined in these Financial Procedure Rules.
- 2.35 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the Corporate Director, Resources.
- 2.36 To approve the use of reserves and to commit expenditure in future years up to a total in the year of up to £1m and to ensure that the appropriate records are kept and maintained.
- 2.37 The Council sets a multi year capital programme, with the latter years indicative only. In order to ensure an effective capital programme, expenditure can be brought forward only with the approval of the Corporate Director, Resources. The possibility of delaying spend into future years may be required in some cases and should be observed following any request from the Corporate Director, Resources.

### **Responsibility of Officers - Revenue Expenditure**

#### **Corporate Directors**

- 2.38 In consultation with the Corporate Director, Resources to vire, within service areas, sums not exceeding £250,000 provided under specific published revenue budget heads to other purposes (revenue only).
- 2.39 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the Corporate Director, Resources.
- 2.40 No virement may be approved if the total cash limited budget of the Council or service area is likely to be overspent.

## **Chief Officers**

- 2.41 In consultation with the Corporate Director, Resources to vire, within service areas, sums not exceeding £50,000, provided under specific published revenue budget heads to other purposes (revenue only).

## **Corporate Director, Resources**

- 2.42 To consult with the appropriate Corporate Director or other Chief Officer, to vire sums, within their service area and within the limits as outlined in these Financial Procedure Rules.
- 2.43 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the Corporate Director, Resources.
- 2.44 To approve the use of reserves and to commit expenditure in future years up to a total in the year of up to £1m and to ensure that the appropriate records are kept and maintained.
- 2.45 No virement may be approved if the total cash limited budget of the Council or service area is likely to be overspent.

## **TREATMENT OF YEAR END BALANCES**

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

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

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

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

## **Responsibilities of Chief Officers**

- 2.51 Internal trading unit surpluses may be carried forward to the following year subject to approval by the Corporate Director, Resources.

## **ACCOUNTING POLICIES**

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

- 2.52 The Corporate Director, Resources is responsible for the preparation of the Authority's statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice on local authority accounting in the United Kingdom, for each financial year ending 31st March.

### **Key Controls**

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

## **Responsibilities of the Corporate Director, Resources**

- 2.54 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:
- separate accounts for capital and revenue transactions;
  - the basis on which debtors and creditors at year end are included in the accounts;
  - details on substantial provisions and reserves;
  - fixed assets;
  - depreciation;
  - financial instruments;
  - work in progress;
  - stocks and stores;
  - deferred charges;
  - accounting for value added tax;
  - government grants;
  - leasing

## **Responsibilities of Chief Officers**

- 2.55 To adhere to the accounting policies and guidelines approved by the Corporate Director, Resources.

## **ACCOUNTING RECORDS AND RETURNS**

## **Why is this Important?**

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

## **Key Controls**

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

## **Responsibilities of the Corporate Director, Resources**

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

- 2.63 To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement.
- 2.64 To determine the retention period of financial records where there are no requirements prescribed by statutory or other external regulations.

### **Responsibilities of Chief Officers**

- 2.65 To consult and obtain the approval of the Corporate Director, Resources before making any changes to accounting records and procedures.
- 2.66 To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
  - employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 2.67 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 2.68 To ensure that the retention periods of financial records, as determined by the Corporate Director, Resources, are complied with. Where retention periods are prescribed by statutory or other external regulations, the Chief Officer should ensure that these are complied with.
- 2.69 To ensure that financial records are not disposed of other than in accordance with prescribed statutory requirements (as advised by the Council's Information Manager) and as approved by the Corporate Director, Resources.
- 2.70 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Corporate Director, Resources.

## **ANNUAL STATEMENT OF ACCOUNTS**

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

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

### **Key Controls**

- 2.72 The key controls for the annual statement of accounts are:
- the Authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the Corporate Director, Resources;

- the Authority's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom.

### **Responsibilities of Corporate Director, Resources**

- 2.73 To select suitable accounting policies and to apply them consistently.
- 2.74 To make judgements and estimates that are reasonable and prudent.
- 2.75 To comply with the Statement of Recommended Practice.
- 2.76 To sign and date the statement of accounts, stating that it presents fairly the financial position of the Authority at the accounting date and its income and expenditure for the year ended 31st March.
- 2.77 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### **Responsibilities of Chief Officers**

- 2.78 To comply with accounting guidance provided by the Corporate Director, Resources, and to supply the Corporate Director, Resources with information in the format, and by the date, requested.

### **3 FINANCIAL PLANNING**

#### **PERFORMANCE PLANS**

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

- 3.1 The Authority has a statutory responsibility to publish various performance plans, including Wales Programme for Improvement. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. External audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and publication of the Programme for Improvement.

##### **Key Controls**

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

##### **Responsibilities of the Corporate Director, Resources**

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

##### **Responsibilities of Chief Officers**

- 3.6 To contribute to the development of performance plans in line with statutory requirements.
- 3.7 To contribute to the development of corporate and service targets and objectives and performance information.
- 3.8 To indicate to the Corporate Director, Resources the Financial Information required and to agree the methodology for calculation.

- 3.9 To ensure that adequate systems are in place to measure activity and collect accurate and timely non financial information for use as performance indicators.
- 3.10 To advise and supply, as appropriate and in conjunction with the Corporate Director, Resources, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

## **REVENUE BUDGETING AND MONITORING**

### **Budget Format**

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

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

#### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 3.13 To advise the Cabinet on the format of the budget that is approved by the full Council.

### **Responsibilities of Chief Officers**

- 3.14 To comply with accounting guidance provided by the Corporate Director, Resources.

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

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

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



- 3.16 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for a local authority to budget for a deficit.
- 3.17 In considering the affordability of its capital plans the Council is required to consider all the resource currently available, and for the future together with an estimate of its requirements for the following year and each of the following two years. The Council is also required to consider known significant changes beyond this timeframe. This requires the development of rolling 3-year forecasts.

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 3.19 To prepare a report annually on a budget strategy for the following financial year for consideration by the Cabinet. This will take account of the Policy Framework, commitments, resource constraints and shall include medium term prospects. It will cover all the services of the Authority. The report shall be made in accordance with the Budget and Policy Framework Rules. The Cabinet having considered the report of the Corporate Director, Resources and having consulted upon any proposals in accordance with the Budget and Policy Framework Procedure Rules the Cabinet will then agree a budget strategy.
- 3.20 To prepare, after the budget strategy has been agreed by the Cabinet, in conjunction with the Corporate Directors and Chief Officers, estimates of the income and expenditure of the various service areas and submit them to the Cabinet. The Cabinet shall consider the aggregate effect of these estimates upon the Authority's financial resources and, subject to any other considerations of policy and to any amendments which it proposes to make, shall draw up proposals for the Budget and the amount of Council Tax and Housing Rents to be levied for the ensuing financial year to be referred to the Council. The inclusion of items in approved revenue estimates shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.
- 3.21 To prescribe the Budget format required.

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

### **Responsibilities of Chief Officers**

- 3.26 To provide the Corporate Director, Resources with information to complete the medium term plan.
- 3.27 To prepare, in conjunction with the Corporate Director, Resources, estimates of income and expenditure.
- 3.28 To prepare budgets consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Cabinet. The budget format will be prescribed by the Corporate Director, Resources.
- 3.29 To integrate financial and budget plans into service planning and for them to link in with the Corporate Plan.
- 3.30 When drawing up draft budget requirements, to have regard to:
- spending / income patterns and pressures revealed through the budget monitoring process;
  - legal requirements;
  - policy requirements as defined by the full Council in the approved policy framework;
  - initiatives already under way;
  - Areas where savings/efficiencies can be made.

### **Resource Allocation**

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

- 3.31 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal

responsibilities. Resources may include staff, money, equipment, goods, property and materials.

### **Key Controls**

3.32 The Key controls for resource allocation are:

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

### **Responsibilities of the Corporate Director, Resources**

3.33 To advise on Resources such as grants or the affordability of borrowing.

3.34 To advise on the suitability of proposals to introduce/modify financial procedures to control resources (e.g. stock control systems).

3.35 To assist in the allocation of resources to budget managers.

### **Responsibilities of Chief Officers**

3.36 To work within cash limits and to utilise resources allocated, and furthermore to allocate resources, in the most efficient, effective and economic way.

3.37 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

### **Revenue Budget Monitoring and Control**

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

3.38 Proper budget management ensures that, once the budget has been approved by the full Council, resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

3.39 By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource requirements at the earliest opportunity. The Authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Authority, in total does not overspend, each service area is required to manage its own expenditure within the cash limited budget allocated to it.

- 3.40 Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.
- 3.41 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or profit centre. However, budgetary control may take place at a more detailed level if this is required.

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 3.43 To establish an appropriate framework of budgetary management and control that ensures that:
- budget management is exercised within annual cash limits unless the full Council agrees otherwise;
  - all Corporate Directors and Chief Officers are furnished with periodical statements of receipts and payments and such other relevant information as he/she has which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - in consultation with Corporate Directors and Chief Officers, reports are submitted, as determined by the Corporate Director, Resources, to the Cabinet, monitoring expenditure and comparing anticipated outturn with estimates;
  - each profit centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision making processes that commits expenditure;
  - significant variances from approved budgets are investigated and reported by budget managers regularly.

- 3.44 To submit reports to the Cabinet and to the full Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.
- 3.45 To establish procedures for the monitoring of prudential indicators.

### **Responsibilities of Corporate Directors and Chief Officers**

- 3.46 To be responsible for keeping strict supervision of the expenditure of their respective service areas and for drawing the attention of the Corporate Director, Resources and the Cabinet and the Council to any contemplated expenditure not provided for in the estimates or which, if incurred, would exceed the amount allocated for the purpose in the estimates or not be in line with the Budget or the Policy Framework.
- 3.47 To maintain budgetary control within their service areas, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.
- 3.48 To ensure that budgetary provision is identified for all expenditure incurred.
- 3.49 To ensure that officers responsible for committing expenditure comply with relevant guidance and financial regulations.
- 3.50 To ensure, after consultation with the Corporate Director, Resources that there is prior approval by the full Council or Cabinet ( as appropriate) for new proposals, of whatever amount, that:
- create financial commitments in future years;
  - change existing policies, initiate new policies or cease existing policies;
  - materially extend or reduce the authority's services.
- 3.51 To ensure compliance with procedures regarding virement.

### **CAPITAL BUDGETING AND MONITORING**

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

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

## **Key Controls**

3.54 The Key Controls for capital programmes are:

- specific approval by the full Council for the programme of capital expenditure;
- a scheme and estimate, including project plan, options, progress targets and associated revenue expenditure is prepared for each capital project, for appraising by the Corporate Director, Resources;
- proposals for improvements and alterations to buildings must be approved by the appropriate Chief Officer in accordance with the Asset Management Plan;
- schedules for individual projects within the overall budget approved by the Council must be approved by the appropriate Chief Officer;
- accountability for each proposal is accepted by a named project manager;
- progress and expenditure should be monitored and compared to the approved budget.

## **Responsibilities of the Corporate Director, Resources**

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

expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.

### **Responsibilities of Chief Officers**

- 3.61 To comply with guidance concerning capital projects and controls issued by the Corporate Director, Resources.
- 3.62 To carry out an option appraisal before bidding / incurring capital expenditure to determine alternative methods of need.
- 3.63 To consider the revenue implications of Capital Projects over the whole life of projects and notify the Corporate Director, Resources when planning to undertake such schemes which do commit the authority to additional Revenue expenditure.
- 3.64 To submit a prioritised list of bids as part of the Medium Term capital budgeting process representing the schemes required to deliver Service and Corporate strategy.
- 3.65 To ensure that approvals for all capital expenditure proposals are obtained from the Corporate Director, Resources prior to a schemes commencement.
- 3.66 To prepare returns of projected estimated final costs of schemes, in the approved capital programme profiled annually, for submission to the Corporate Director, Resources.
- 3.67 To ensure that adequate records are maintained for all capital contracts and the preparation of grant claims.
- 3.68 To ensure compliance with the Authority's scheme of virement.
- 3.69 To report to the Corporate Director, Resources as soon as it becomes apparent that the total cost of a scheme including variations will or is likely to exceed £50,000 above the capital budget available. This report should cover the reasons for increased cost, an analysis of options considered to reduce cost to budget and the funding options considered to meet any budget shortfall.
- 3.70 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Corporate Director, Resources and, if applicable, approval of the scheme through the capital programme.
- 3.71 To consult with the Corporate Director, Resources where the Chief Officer proposes to bid for Capital Funding to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme.

- 3.72 To ensure all expenditure charged against capital budgets meets the definition of capital expenditure in accordance with the Local Government Act 2003 and recommended accounting practice.

## **MAINTENANCE OF RESERVES**

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

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

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 3.77 To advise the Cabinet and/or the full Council on prudent levels of Reserves for the Authority.

### **Responsibilities of Chief Officers**

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



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

### **RISK MANAGEMENT**

#### **Why is this important?**

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

#### **Key Controls**

- 4.2 The key controls for risk management are:

- procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Authority;
- a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- managers apply a standard approach to risk identification and recording, using the Risk Management Improvement Guide;
- provision is made for losses that might result from the risks that remain;
- procedures are in place to investigate claims within required timescales;
- acceptable levels of risk are determined and insured against where appropriate;
- the Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### **Responsibilities of the Corporate Director, Resources**

- 4.3 To develop risk management controls in conjunction with Corporate Directors and other Chief Officers.
- 4.4 To ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.
- 4.5 To affect insurance cover, and to arrange for the negotiation of claims in consultation with other Chief Officers, where necessary.

- 4.6 To hold in safe custody all insurance policies of the Authority, arrange for payment of premiums by the due date, and manage the Authority's own Insurance Fund.
- 4.7 To prescribe procedures for dealing with claims on the Authority's own Insurance Fund.
- 4.8 To make arrangements to ensure that insurance records relating to liability policies and related correspondence must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be retained for six years. All employees will adhere to the requirements of the Corporate Director, Resources as to the retention of any documents of the nature referred to in this rule.

#### **Responsibilities of Chief Officers**

- 4.9 To take responsibility for risk management, having regard to advice from the Corporate Director, Resources, and other specialist officers (e.g. risk management champions, crime prevention, fire prevention, health and safety).
- 4.10 To ensure that there are regular reviews of risk within their service areas.
- 4.11 To ensure that risk management is brought to the attention of relevant staff in their service areas.
- 4.12 To notify the Corporate Director, Resources immediately in writing of any loss, liability or damage, or any event likely to lead to a claim by or against the Authority, and inform the Police, where necessary.
- 4.13 To submit claims in such a form as prescribed from time to time by the Corporate Director, Resources.
- 4.14 To arrange for the identification of all appropriate employees of the Authority who should be included in a suitable fidelity guarantee insurance, and shall make arrangements through the Corporate Director, Resources for such inclusion.
- 4.15 To notify the Corporate Director, Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 4.16 To notify the Corporate Director, Resources promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase.
- 4.17 On a regular basis, the Corporate Director, Resources will forward to Chief Officers, schedules of assets covered by insurance. Chief Officers must examine the schedules and ensure that the details of those assets are

correctly recorded and that the scope and level of insurance cover are adequate, and consistent with the Authority's corporate insurance arrangements.

- 4.18 To provide the Corporate Director, Resources with any information that he/she needs and in the timescale that he or she sets, to enable him or her to manage the Authority's insurances effectively.
- 4.19 To consult with the Corporate Director, Resources and the Director of Governance and Legal Services on the terms of any indemnity that the Authority is requested to give.
- 4.20 To ensure that officers, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice cover under the council's insurance policy and the assessment of liability in respect of any insurance claim.

## **INTERNAL CONTROLS**

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

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

### **Key Controls**

- 4.25 The key controls are:
  - key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;
  - managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these

systems is to promote ownership of the control environment by defining roles and responsibilities;

- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, and CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, and with any other statutory obligations and regulations;
- an effective Audit Committee which meets on a regular basis to consider internal control and auditing matters.

### **Responsibilities of the Corporate Director, Resources**

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

### **Responsibilities of Chief Officers**

- 4.27 To establish sound arrangements, consistent with guidance given by the Corporate Director, Resources, or the Audit Manager, for planning, appraising, authorising, and controlling their operations, in order to achieve:
- continuous improvement;
  - economy;
  - efficiency;
  - effectiveness;
  - the proper use of resources;
  - the achievement of objectives;
  - the management of risks.
- 4.28 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Audit Manager. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.
- 4.29 To ensure staff have a clear understanding of the consequences of lack of control.

## **INTERNAL AND EXTERNAL AUDIT**

### **Internal Audit**

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

- 4.30 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'. The Accounts and Audit Regulations, more specifically, require that a 'relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems'.
- 4.31 Internal audit is an independent and objective appraisal function established by the Authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

#### **Key Controls**

- 4.32 The key controls for internal audit are:
- that it is independent in its planning and operation;
  - the Audit Manager has direct access to the Chief Executive, all levels of management and directly to elected members;
  - internal auditors comply with the Auditing Practices Board's guideline Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom;
  - that it reports to an Audit Committee.

#### **Responsibilities of the Corporate Director, Resources**

- 4.33 To maintain a continuous and independent internal audit of the Authority's accounting, financial and other operations of the Authority.
- 4.34 To ensure that all employees carrying out auditing duties comply with the current CIPFA Code of Practice for Internal Auditors in Local Government in the UK.
- 4.35 To make arrangements for there to be undertaken a cyclical review of all financial systems throughout the Authority and to determine the appropriate level of audit coverage.
- 4.36 To ensure that internal auditors have the authority to:
- access authority premises at reasonable times, subject to the Audit Manager being satisfied as to any risk to health and safety;
  - access all assets, records, documents, correspondence and control systems;

- receive any information and explanation considered necessary concerning any matter under consideration;
- require any employee of the Authority to account for cash, stores or any other authority asset under his or her control;
- access records belonging to third parties, such as contractors, when required;
- review, appraise and report on the adequacy and application of financial and other controls, and on the protection of the Authority's property and assets against loss due to fraud or wasteful practices.

4.37 To approve the strategic and annual audit plans prepared by the Audit Manager, which take account of the characteristics and relative risks of the activities involved.

4.38 To ensure that the Audit Manager has the right to report independently to the Council, the Audit Committee or an appropriate committee, in his/her own name.

4.39 To ensure that the Audit Manager provides an annual opinion on the Council's internal control environment as part of his annual report.

#### **Responsibilities of Chief Officers**

4.40 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

4.41 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

4.42 To consider and respond promptly to recommendations in audit reports.

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

4.44 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Audit Manager prior to implementation.

#### **External Audit**

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

4.45 Under section 13 of the Public Audit (Wales) Act 2004, the Auditor General for Wales is responsible for appointing external auditors to each local authority in Wales. The external auditor has rights of access to all documents and information which in his/her opinion are necessary to carry out his/her statutory functions.

4.46 The basic duties of the external auditor are defined in the Public Audit (Wales) Act 2004 and the Local Government Act 1999. In particular, section

16 of the 2004 Act requires the Auditor General for Wales to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice sets out the auditor's objectives to review and report upon the audited body's:

- arrangements to secure economy efficiency and effectiveness in its use of resources
- financial statements
- compliance with statutory requirements in respect of the preparation and publication of its Improvement Plan.

4.47 The Authority's accounts are scrutinised by the external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Authority and its income and expenditure for the year in question and complies with the legal requirements.

### **Key Controls**

4.48 External auditors are appointed by the Auditor General for Wales, normally for a minimum period of five years. The Auditor General for Wales has prepared a code of audit and inspection practice, which external auditors follow when carrying out their audits.

4.49 The external auditor attends all the meetings of the Audit Committee.

### **Responsibilities of the Corporate Director, Resources**

4.50 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

4.51 To ensure there is effective liaison between external and internal audit.

4.52 To work with the external auditor and advise the full Council, Executive and Chief Officers on their responsibilities in relation to external audit.

### **Responsibilities of Chief Officers**

4.53 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets, which the external auditors consider necessary for the purposes of their work.

4.54 To ensure that all records and systems are up to date and available for inspection.

4.55 To ensure that all employees have proper regard to the guidance issued by the Corporate Director, Resources in connection with any external audits, and any reports of the external auditor.

## **PREVENTING FRAUD AND CORRUPTION**

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

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

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 4.60 To develop and maintain an anti-fraud, anti-corruption & bribery policy and procedure.
- 4.61 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 4.62 To ensure that all suspected financial irregularities are reported to the Audit Manager. The Audit Manager shall take steps as he/she considers necessary by way of investigation, in liaison with service area management where appropriate, and in line with the Authority's Anti Fraud, Anti-Corruption & Bribery Policy and Procedure. Where sufficient evidence exists to believe that a criminal offence may have been committed by an external



party, the matter will be referred in conjunction with the Audit Manager to the police.

### **Responsibilities of Chief Officers**

- 4.63 To review existing controls in the light of changes affecting the Authority and to establish and maintain new controls where appropriate.
- 4.64 To immediately notify the Audit Manager whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.
- 4.65 To liaise with the Audit Manager in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud, Anti-Corruption & Bribery Policy and Procedure.
- 4.66 Where sufficient evidence exists to believe that a criminal offence may have been committed by a member of staff, to call a Police Referral Panel. Where a decision is taken by this Panel to refer the matter to the Police, the Chief Officer shall do so without delay.
- 4.67 To instigate the Authority's disciplinary and suspension procedures where the outcome of an investigation indicates improper behaviour by a member of staff.
- 4.68 To ensure that employees comply with Council guidance regarding the acceptance of hospitality, gifts and other benefits.

### **SECURITY OF ASSETS**

#### **Why is this important?**

- 4.69 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.
- 4.70 Obsolete, non-repairable or unnecessary assets should be disposed of in accordance with the regulations of the Authority.
- 4.71 Misuse of computer resources can seriously affect the business interests of the Authority.
- 4.72 Intellectual property is a generic term that includes inventions and writing. If these are created by an employee or consultant during the course of employment, then, as a general rule, they belong to the employer. Various acts of Parliament cover different types of intellectual property. Certain

activities undertaken within the Authority may give rise to items that may be patentable, for example, software development.

### **Key Controls**

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

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

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

### **Responsibilities of the Corporate Director, Resources**

- 4.74 To maintain a terrier of all properties owned by the Authority and an asset register for all 'material' fixed assets, in accordance with good practice.
- 4.75 To receive information required for accounting and costing in order to calculate capital charges and depreciation for all properties, and to maintain the asset management revenue account.
- 4.76 To ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom.
- 4.77 To determine arrangements for the acquisition and disposal of land and buildings.
- 4.78 To advise on the financial implications of any purchase, sale or holding of property on the Authority's behalf.

### **Responsibilities of the Director of Governance and Legal Services – Land and Buildings**

- 4.79 To ensure the safe custody of all title deeds under arrangements agreed with the Corporate Director, Resources.

### **Responsibilities of Chief Officers - Land and Buildings**

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

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

### **Responsibilities of the Corporate Director, Resources**

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

4.85 To agree procedures for the disposal of lost property.

#### **Responsibilities of Chief Officers - Vehicles, Furniture and Equipment**

4.86 To ensure the proper security and safe custody of all vehicles, equipment and furniture, belonging to or under the control of the Authority, and shall make contingency plans for the continuity of service in the event of disaster or system failure.

4.87 To maintain inventories of furniture, equipment, vehicles and plant, including items leased by the Authority. This shall be kept up to date and shall be in a form approved by the Corporate Director, Resources and in accordance with the authority's guidance. Chief Officers shall make arrangements to ensure that inventories shall include for each item, information relating to date of purchase, cost, location and any technical features, which might affect its value or usefulness.

4.88 To make arrangements to ensure that an annual, independent, check of all items on the inventory is carried out, in order to verify location, review, and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders shall be identified with security markings as belonging to the Authority.

4.89 To ensure that the Authority's property shall not be removed from its ordinary location otherwise than in accordance with the ordinary course of the Authority's business except in accordance with specific directions issued by the Chief Officer concerned or used otherwise than for the Authority's purposes. A record should be kept of all authorised removals.

4.90 To ensure that no Authority asset is subject to personal use by an employee without proper authorisation.

4.91 To make arrangements to ensure that any disposal of any vehicle, furniture, fittings, equipment, plant and machinery is in accordance with the Authority's procedure for Disposals.

4.92 Before disposal to check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease.

4.93 To ensure that income received for the disposal of an asset is properly banked and coded.

4.94 If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory.

4.95 To notify the Corporate Director, Resources of the purchase or disposal of any material asset, to enable the asset register to be updated.

- 4.96 Any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the Audit Manager.

### **Security of Assets - Stocks and Stores**

#### **Responsibilities of the Corporate Director, Resources**

- 4.97 To issue guidance to service areas on the maintenance of stock and stores.
- 4.98 To approve the write off of stock and stores in accordance with the Scheme of Delegations.
- 4.99 To ensure that appropriate accounting entries are made in relation to stock balances and write offs.

#### **Responsibilities of Chief Officers**

- 4.100 To make arrangements for the recording of and the care and safe custody of the stocks and stores held by their service area.
- 4.101 To make arrangements to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check, at least annually. Each Chief Officer must make arrangements for discrepancies to be investigated and pursued to a satisfactory conclusion.
- 4.102 To advise the Audit Manager immediately of any significant discrepancy in stocks.
- 4.103 To approve the write off of stock and stores up to the value of £5,000 in accordance with the Scheme of Delegations.
- 4.104 To provide the Corporate Director, Resources with such information as he/she requires in relation to stores for accounting and costing purposes.

### **Security of Assets - Cash**

#### **Responsibilities of the Corporate Director, Resources**

- 4.105 To issue guidance to service areas on cash handling.
- 4.106 To agree, in consultation with the appropriate Chief Officer, the maximum limits for cash holdings.
- 4.107 To approve the write off of stolen cash, not covered by insurance.
- 4.108 To authorise the depositing of unofficial funds or valuables in a safe.

#### **Responsibilities of Chief Officers**

- 4.109 To agree with the Corporate Director, Resources, the maximum limits for cash holdings and to ensure that these limits shall not be exceeded without his /her permission.
- 4.110 To ensure that cash holdings are kept to a minimum, and do not exceed the insurance limit for that safe.
- 4.111 To ensure that cash handling is carried out in line with the authority's guidance.
- 4.112 To notify the Audit Manager and the Insurance Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the Corporate Director, Resources.
- 4.113 To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Authority.
- 4.114 To ensure that a schedule is kept of the officers who hold keys to safes and similar receptacles.
- 4.115 To ensure that the keys to safes and similar receptacles are held securely at all times. Arrangements shall be made for the nomination (from amongst employees) of key holders and substitute key holders who must be available in the absence of the principal key holder(s). The loss of any such keys must be reported by the key holder, or nominated substitute, to the relevant Chief Officer forthwith, who shall take appropriate steps to protect the interests of the Authority.
- 4.116 To ensure that safe key holders do not accept unofficial funds or valuables for depositing in the safe unless authorised by the Corporate Director, Resources. In such circumstances, it must be made clear by the key holder to the depositor, that the Authority is not to be held liable for any loss, and the key holder must obtain an acknowledgment to that effect before accepting the deposit.

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

### **Responsibilities of Head of ICT**

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

## **Responsibilities of Chief Officers**

- 4.121 To ensure that all equipment connected to the Authority's voice and data network infrastructure meets the standards identified by the Head of ICT. Any requirement to add or make alterations to this network must be approved by the Head of ICT.
- 4.122 To ensure that that the provisions of the Authority's IT Security Policy are applied to all employees of the Authority, as appropriate to their use of information technology.
- 4.123 To make arrangements to implement and monitor the procedures contained in the Authority's IT Security Policy. All employees must be familiar with, and comply with, the principals of the Data Protection Legislation, the Copyright, Designs and Patents Act 1988, the Computer Misuse Act 1990, and any other legislation or Authority policy which may apply to all employees at any time.
- 4.124 To agree, in advance, with the Head of ICT, a requirement to use specialist IT goods and services that might not meet the standards identified by the Head of ICT, but are necessary to perform particular business activities. The Chief Officer will be responsible for ensuring that such acquisitions do not compromise their corporate, financial and legal obligations, as defined by the Authority.
- 4.125 To ensure that all employees are aware that misuse of technology and associated systems can seriously affect the business interest of the authority. Such misuse or any breach of security policy will result in disciplinary action being taken.
- 4.126 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

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

### **Responsibilities of the Corporate Director, Resources**

- 4.127 To develop and disseminate good practice.

## **Responsibilities of Corporate Directors and Chief Officers**

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

## **Security of Assets - Clients Private Property**

### **Responsibilities of Chief Officers**

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

## **Security of Assets - Treasury Management And Trust Funds**

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

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

### **Key Controls**

- 4.133 Compliance with the CIPFA Treasury Management Code of Practice and the Authority's Treasury Management policy statement and strategy. This provides assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.

## **Responsibilities of the Corporate Director, Resources**



- 4.134 To prepare a Treasury Management Policy and Annual Report.
- 4.135 To maintain prudential indicators in accordance with the Prudential Code of Capital Finance for Local Authorities.
- 4.136 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in Local Government, which has been adopted by the Authority.
- 4.137 To set an investment strategy in accordance with WAG investment guidance.
- 4.138 To ensure that all investments of money under its control shall be made in the name of the Authority or in the name of nominees approved by the Cabinet or the Council within their respective responsibilities: bearer securities shall be excepted from this rule.
- 4.139 To hold all securities, the property of, or in the name of the Authority, or its nominees, or otherwise as the Corporate Director, Resources may specifically direct.
- 4.140 To ensure that all borrowings shall be effected in the name of the Authority.
- 4.141 To be the Authority's Registrar of loan instruments and to maintain records of all borrowings of money by the Authority.
- 4.142 To report in accordance with the Treasury Management practices of the Authority.
- 4.143 To hold all Trust Fund securities etc, where Members or employees act as Trustees by virtue of their official position, unless the deed otherwise provides; or as otherwise directed by the Chief Executive.
- 4.144 To arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain records of all transactions.
- 4.145 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

#### **Responsibilities of Chief Officers**

- 4.146 To notify the Capital Manager of planned monetary receipts or payments in excess of £0.5 million at an early stage.

## **5 FINANCIAL SYSTEMS AND PROCEDURES**

### **GENERAL**

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

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

#### **Key Controls**

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

#### **Responsibilities of the Corporate Director, Resources**

- 5.4 To make arrangements for the proper administration of the Authority's financial affairs, including to:
- issue advice, guidance and procedures for officers and others acting on the Authority's behalf;
  - determine the accounting systems, form of accounts and supporting financial records;
  - establish arrangements for audit of the Authority's financial affairs;
  - to determine the accounting procedures, records and controls for any new financial systems to be introduced;
  - approve in advance any changes to be made to existing financial systems.

#### **Responsibilities of Chief Officers**

- 5.5 To consult with and gain the approval of the Corporate Director, Resources before changing any existing system or introducing new systems.

- 5.6 To ensure that accounting records are properly maintained and held securely.
- 5.7 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Corporate Director, Resources.
- 5.8 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 5.9 To incorporate appropriate controls to ensure that, where relevant:
- all input is genuine, complete, accurate, timely and not previously processed;
  - all processing is carried out in an accurate, complete and timely manner;
  - output from the system is complete, accurate and timely;
  - data is backed up on a regular basis.
- 5.10 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 5.11 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 5.12 To ensure that systems are documented and staff adequately trained.
- 5.13 To establish a scheme of service area authorisations identifying officers to act upon his or her behalf in respect of placing orders, payments and income collection, including variations, and showing the limits of their authority.
- 5.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 5.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 5.16 To ensure that the Council's information security standards and internet security policy are complied with.
- 5.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

5.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:

- only software legally acquired and installed by the Authority is used on its computers;
- staff are aware of legislative provisions;
- in developing systems, due regard is given to the issue of intellectual property rights.

## **INCOME**

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

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

### **Key Controls**

5.20 The key controls for income are:

- all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
- all money received by an officer on behalf of the Authority is properly recorded and promptly banked;
- the responsibility for cash collection should be separated from, that for identifying the amount due, and that for reconciling the amount due to the amount received;
- effective action is taken to pursue non-payment within defined timescales;
- formal approval for debt write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate and timely accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the Corporate Director, Resources;
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

### **Responsibilities of the Corporate Director, Resources**

5.21 To agree arrangements for the collection of all income due to the Authority, and to approve the procedures, systems and documentation for its collection.

5.22 To ensure that all electronic monies are properly received, assigned and reconciled.

- 5.23 To set and approve the arrangements for the writing off of irrecoverable debts, and to write off such debts for the Authority, in accordance with Executive Delegations.
- 5.24 To use debt recovery procedures to collect any income due to the Authority which has not been paid within specified time limits.
- 5.25 To ensure that appropriate accounting adjustments are made following any write-off action.
- 5.26 To advise the Director of Governance and Legal Services of debts that have remained unpaid with a view to the institution of legal proceedings in appropriate cases.
- 5.27 To ensure that any sum due to the Authority shall only be discharged by payment or write off.
- 5.28 To ensure that cash payments totalling €15,000 or more (or equivalent in £), are not accepted in return for the supply of goods by the Council, in accordance with the Money Laundering Regulations.

#### **Responsibilities of Chief Officers**

- 5.29 To consult with the Corporate Director, Resources before any proposal to introduce or revise scales of charges for services is submitted to the Cabinet or the Council as the case may be.
- 5.30 To ensure that all such charges are reviewed at least once a year in consultation with the Corporate Director, Resources.
- 5.31 To ensure that no agreements are put in place (legal or otherwise) that preclude the Council from reviewing its charges on an annual basis.
- 5.32 To ensure that new charges are promptly implemented following appropriate approval.
- 5.33 To ensure that where possible, income is received in advance of the service being provided.
- 5.34 To ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and promptly banked.
- 5.35 To ensure that income collected and deposited is reconciled to the ledger on a regular basis.
- 5.36 To ensure that there is clear separation of duties within income procedures to ensure that adequate controls are in place.
- 5.37 To ensure that all income is correctly coded to the appropriate financial code.

- 5.38 To maintain such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, to record correctly all sums due to the Authority and to ensure the prompt rendering of accounts for the recovery of income due.
- 5.39 To notify the Corporate Director, Resources promptly in writing of all money due to the Authority, and of contracts, leases and other agreements and arrangements entered into, which involve the receipt of money by the Authority.
- 5.40 To designate employees to receive monies due and to make arrangements to ensure that appropriate records are maintained.
- 5.41 To make arrangements to ensure that employees responsible for receiving income are issued with written instructions on cash handling and till operation procedures and that such employees have signed to acknowledge that instructions have been received and understood prior to commencing such duties.
- 5.42 To ensure that all employees use official receipts or tickets for all income received on behalf of the Authority and ensure that all chargeable VAT is accounted for. To seek approval from the Audit Manager for alternative receipting arrangements, where it is considered inappropriate to issue an official receipt or ticket, in advance of implementing such arrangements.
- 5.43 To ensure that all official receipt forms, books, tickets and other such items are ordered and supplied to service areas by the Audit Manager or under arrangements approved by him/her.
- 5.44 To ensure that all financial stationery is securely held and accounted for at all times.
- 5.45 To ensure that the opening of incoming mail is undertaken by at least two responsible officers designated for that purpose. In exceptional circumstances where this is considered impractical alternative arrangements must have the approval of the relevant Chief Officer, and the relevant Chief Officer will arrange for the Audit Manager to be advised accordingly.
- 5.46 To ensure that upon opening of incoming mail, all income is immediately recorded by the employee concerned either by way of receipt, remittance record or by another means, approved by the Audit Manager.
- 5.47 To ensure that all cheques received in the incoming mail are immediately stamped upon opening by the relevant employee, in preparation for banking.
- 5.48 To ensure that keys entrusted to employees are held securely at all times and are kept under their personal control. To ensure that employees understand their responsibilities as key holders, and of insurance requirements.

- 5.49 To ensure that income held by the Authority is not used to cash personal cheques or make personal loans or other payments.
- 5.50 To establish proper accountability wherever money is being handled. To ensure that every transfer of the Authority's money from one employee to another is evidenced in the records of the service area concerned. This may be by way of an official receipt being issued by the receiving employee, or if not, a record shall be maintained detailing the amount transferred, the date and the signature of both employees.
- 5.51 To ensure that when income is due to the Authority and the payment is not to be made at the time, all amounts due are claimed on official invoices or by arrangements approved by the Audit Manager. Instructions for the cancellation or reduction of invoices for income must be authorised by the appropriate Chief Officer or such member of staff specifically designated by him/her for that purpose.
- 5.52 To make every reasonable effort to recover a debt before write off is considered. Once a debt is judged irrecoverable, write off procedures must commence promptly and adhere to the requirements of the relevant part of the scheme of delegations. Chief Officers must make arrangements in their respective service areas to ensure that correct procedures, for writing off debts, as prescribed by the Corporate Director, Resources, have been adhered to and that adequate documentation exists for each case.
- 5.53 To ensure that credit notes to replace a debt are only raised to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 5.54 To ensure that proper procedures are followed for checking and authorisation for write off, prior to submission to the Corporate Director, Resources for approval.
- 5.55 To seek to achieve payment by direct debit or standing orders in situations where regular payments are due to the Authority.
- 5.56 To authorise an adjustment to the accounts, in consultation with the Corporate Director, Resources, if a mistake has been made in raising an invoice.
- 5.57 To consult the Corporate Director, Resources about any proposal to arrange to accept payments by credit cards, debit cards, switch cards, internet, or similar means.
- 5.58 To notify the Corporate Director, Resources of outstanding income (reserved debtors) relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Corporate Director, Resources.

- 5.59 To ensure that cash payments totalling €15,000 or more (or equivalent in £), are not accepted in return for the supply of goods by the Council in accordance with the Money Laundering Regulations.
- 5.60 To notify the Capital Manager of planned monetary receipts in excess of £0.5 million.

## **BANKING**

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

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

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 5.63 To make or approve all arrangements with the Authority's bankers.
- 5.64 To open and operate bank accounts as are considered necessary.
- 5.65 To ensure that all bank accounts operated by or on behalf of the Authority shall bear an official title and in no circumstances shall an account be opened in the name of an individual.
- 5.66 To approve the use of any direct debit/standing order on the Authority's accounts.
- 5.67 To arrange the reconciliation of the main bank account with the Authority's cash accounts.
- 5.68 To ensure that all cheques, excluding those drawn on authorised imprest accounts, are ordered only on his/her authority.
- 5.69 To make proper arrangements for the safe custody of cheques.
- 5.70 To ensure that cheques on the Authority's main bank accounts shall bear the facsimile signature of the Corporate Director, Resources or be signed by him/her or another officer authorised to do so.
- 5.71 Request for payments by alternative methods must first be approved by the Corporate Director, Resources.
- 5.72 Personal cheques of Councillors or employees are not to be cashed.



- 5.73 To ensure that proper procedures are followed for receiving income through touch tone telephone banking systems.

### **Responsibilities of Chief Officers**

- 5.74 To ensure that all income collected is promptly banked. This is particularly important where large sums are involved that impact on the authority's cash flow.
- 5.75 To ensure that all income received by an officer, on behalf of the Authority, is paid in direct to the Authority's bank, or transmitted directly to any other body or person entitled thereto. No deduction may be made from any money held, save to the extent that the Audit Manager may specifically authorise.
- 5.76 To ensure that, in accordance with the relevant Accounts and Audit Regulations, each employee who banks money, enters on the paying in slip, a reference to the related debt (such as the receipt number or the number or the name of the debtor) and indicate its place of origin on the reverse of each cheque.
- 5.77 To ensure that all income received on behalf of the Authority is properly safeguarded from the time it is received until the time that it is banked (e.g. kept in a safe or locked receptacle).
- 5.78 To ensure that in the transport of money by any employee for banking, or other purpose, that employee and his or her supervisor have due regard for the safety of employees (including the employee transporting such money), and for the proper security of cash. The Chief Officer shall ensure arrangements are made which incorporate the necessary safeguards.
- 5.79 To ensure that bank accounts do not become overdrawn.
- 5.80 To ensure that payments made through the Council's bank account are properly authorised, correctly calculated, valid and in accordance with Council's procurement and payment procedures.

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

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

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

#### **Key Controls**

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

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

### **Responsibilities of the Corporate Director, Resources - Procurement**

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

### **Responsibilities of Chief Officers - Procurement**

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

### **Responsibilities of the Corporate Director, Resources - Ordering**

- 5.90 To approve the format of official orders and arrangements for placing orders under Enterprise Buyer Professional (EBP) and SAP R/3.
- 5.91 To determine order approval levels.
- 5.92 To approve the format and use of emergency order books and to order, control and issue these to service areas.

- 5.93 To agree arrangements for all limit orders in consultation with the appropriate Chief Officer.
- 5.94 To arrange for the despatch of all orders that cannot be sent electronically, excluding emergency orders.
- 5.95 To approve all exceptions to the use of official orders.
- 5.96 To approve any arrangements for the use of credit and procurement cards.

### **Responsibilities of Chief Officers – Ordering**

#### General

- 5.97 To ensure that official orders are raised in EBP or SAP R/3 for all works, goods and services supplied to the Authority except for internal services, periodical payments (e.g. utility payments), and for petty cash purchases, or such other exceptions as the Corporate Director, Resources may approve.
- 5.98 In cases of urgency, a verbal order may be issued, using an order number from a valid emergency order book. An official order must be raised on SAP within three working days.
- 5.99 To ensure that employees do not use official orders to obtain goods or services for their private use.
- 5.100 To ensure that each order conforms to the directions of the Authority with respect to any policy on central purchasing, computer purchasing, standardisation, quality and Environmental Strategy as may from time to time be adopted by the Authority. Chief Officers shall make arrangements to ensure that all purchases comply with any legal or health and safety requirements.
- 5.101 To ensure that credit and procurement cards are only used under arrangements approved by the Corporate Director, Resources.
- 5.102 To make arrangements to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Corporate Director, Resources. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

#### EBP and SAP R/3

- 5.103 To ensure that where manual requisitions are used for notification to a central order point, the information is promptly entered onto EBP/ SAP R/3.
- 5.104 After due consideration, to arrange for nominations for officers for the role of requisitioner and approver. EBP will allow a requisitioner to fulfil the approver role, but will prevent an officer approving their own requisition.

- 5.105 All requisitions above £10K must be approved by an Operational Manager (PO grade in exceptional circumstances) and Chief Officers shall authorise all such approvers. An Operational Manager may authorise a requisitioner, or approver up to £10K.
- 5.106 To maintain an up to date list of requisitioners, approvers/substitutes within their service area. No officer shall process or approve an order, or purport to do so, unless he/she is duly authorised for that purpose.
- 5.107 Where a requisition on EBP is forwarded for approval to any other officer, this must be a nominated approver, and for spend above £10K, must be an Operational Manager (or PO grade in exceptional circumstances).
- 5.108 To ensure that the requisitioner enters the following details on the shopping cart on EBP:-
- a full description of the item required;
  - an accurate price, where appropriate, as quoted by catalogue or supplier;
  - the required quantity;
  - an appropriate product category (which will generate the appropriate financial code);
  - the correct VAT suffix;
  - the delivery address;
- 5.109 To ensure that, prior to approving a requisition on EBP/SAP R/3, the approving officer checks that:-
- all relevant details have been entered and are correct;
  - there is adequate provision in the budget;
  - the items are appropriate for the purpose intended;

#### Emergency Orders

- 5.110 To make arrangements to ensure the control and safe custody of all emergency order books and that they are only used for goods and services provided to the service area.
- 5.111 To ensure that emergency order books are only used for cases of emergency or for any exceptions approved by the Corporate Director, Resources.
- 5.112 To ensure that emergency orders are promptly (within 3 days) input onto EBP/SAP R/3 by the requisitioner.

#### **Responsibilities of Chief Officers - Goods Received**

- 5.113 To make arrangements to ensure that goods, services and works are checked on receipt to verify that they are in accordance with the order. This check shall, where possible, be carried out by a different officer from the

officer who approved the order. The officer carrying out the check shall make appropriate entries in inventories or stores records.

- 5.114 To ensure that goods received details are entered promptly on EBP by the requisitioner or the nominated goods recipient.
- 5.115 To ensure that service entry details are entered promptly on SAP R/3 by the requisitioners or nominated service recipient.
- 5.116 To ensure that service entry details particularly those in respect of evaluated receipt settlement (ERS) vendors are correct as this will result in an automated payment to the vendor.
- 5.117 To ensure that where invoice plans exist the correct amount of service has been received prior to the removal of the billing block which releases an automated payment.

### **Responsibilities of the Corporate Director, Resources - Payment**

- 5.118 To make payments on behalf of the Authority with the exception of disbursements from petty cash imprests and from subsidiary bank accounts which have been authorised by the Corporate Director, Resources. The normal method of payment of money due from the Authority shall be by cheque, BACS or other instrument drawn on the Authority's bank account. The use of direct debit/standing order requires the prior agreement of the Corporate Director, Resources.
- 5.119 To make safe and efficient arrangements for all payments. All cheques shall be despatched by the Corporate Director, Resources direct to the recipient and not returned to the originating service. In the exceptional circumstances when cheques do need to be returned to a service area for despatch with associated documents, this must be approved in advance by the relevant Operational Manager, and the cheque must not be passed to the initiating officer.
- 5.120 To ensure that payments made to a sub-contractors in the construction industry, are made in accordance with the Construction Industry Scheme, and the authority's procedures.
- 5.121 To make payments to contractors on an approved certificate, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments are to be made to contractors using authenticated receipts raised by service areas.
- 5.122 To provide advice on making payments by the most economical means.
- 5.123 To set tolerance levels for cost and quantity variations.
- 5.124 To agree any exceptions to payment by EBP/SAP R/3.
- 5.125 To approve all arrangements for direct payments. (These relate to payments which do not have an associated order, such as utility payments).

- 5.126 To approve the format of Payment Request forms.
- 5.127 To periodically check that Payment Requests and direct payment invoices have been certified for payment by an authorised signatory.
- 5.128 To consider Payment Requests and direct payment invoices to the extent that he/she considers necessary, to make such enquiries and to receive such information and explanation as he/she may reasonably require.

### **Responsibilities of Chief Officers - Payment**

#### General

- 5.129 To make arrangements for the submission of accounts for payment in accordance with arrangements made by the Corporate Director, Resources.
- 5.130 To ensure that payment is made only against a supplier's invoice or Payment Request, not on statements of account, or a photocopy or faxed copy invoice, except where a service order or invoice plan is used.
- 5.131 To notify the Corporate Director, Resources at 1<sup>st</sup> April, or as required, of all outstanding expenditure relating to the previous financial year, and shall comply with any instruction issued in connection with the year-end accounting arrangements.

#### EBP

- 5.132 To ensure EBP is used for all payments and any exceptions have been agreed by the Corporate Director, Resources.
- 5.133 To ensure that there is a segregation of duties between the officers requisitioning, approving and inputting invoices for payment. Where limited resources do not allow a full segregation of duties, special arrangements can be put in place to enable a nominated requisitioner to process invoices. These exceptional circumstances require the approval of the Chief Officer and an officer nominated by the Corporate Chief Officer – Corporate Services.
- 5.134 To arrange for officers to be nominated as invoice clerks and a list of these maintained on EBP and kept up to date. Operational Managers may nominate invoice clerks.
- 5.135 To ensure that invoices are input to the system without delay, in the manner specified by the Corporate Director, Resources.
- 5.136 To ensure that invoices that do not meet the set tolerance levels are promptly dealt with. Where there is no match to order and delivery note, any

further approval has to be given by a nominated approver/substitute (Operational Manager or PO grade, if above £10K).

- 5.137 To ensure that invoices are not processed until the inputting officer is satisfied that delivery details have been entered.
- 5.138 To ensure that all invoices input for payment are filed and stored securely in the manner prescribed by the Corporate Director, Resources.

Payment Requests/Direct Payments (Non Order Payments)

- 5.139 To ensure that all Payment Requests are completed on a form approved by the Corporate Director, Resources. These must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor, and relevant supporting documentation must be attached to support the payment.
- 5.140 To ensure that before a direct payment invoice (e.g. utility invoice), or a Payment Request is authorised, an employee undertakes the following checks:-
- the payment is properly the liability of the Authority;
  - the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);
  - the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - the expenditure has been properly coded;
  - expenditure is within budget;
  - where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:-
    - the invoice is a tax invoice;
    - for construction industry payments, an authenticated receipt will be obtained, or;
    - for payments made in advance of services/goods being received, a tax receipt will be obtained.
- 5.141 To ensure that an authorisation slip is completed in respect of a direct payment invoice. The officer completing the slip must initial that the above checks have been undertaken. The authorisation slip must be certified by a different officer, authorised to do so. Before certifying a direct payment invoice, the authorised signatory must be satisfied that the above checks have been undertaken, as evidenced on the authorisation slip.



- 5.142 To ensure that a Payment Request is completed by a designated officer and then passed to an authorised signatory for certification (Operational Manager or PO grade if spend is above £10K).
- 5.143 To ensure that their respective service area retains lists with the names of employees authorised to approve Payment Requests and invoice authorisation slips. A copy shall be sent to the Finance, Property and ICT Payments Team by each Chief Officer together with specimen signatures and shall be amended on the occasion of any changes therein. Authorised signatories shall sign in their own name and not sign in the name of their Chief Officer or use rubber facsimile signature stamps.
- 5.144 To ensure that a relevant Operational Manager approves in advance where a cheque is required to be returned to a service area for despatch with associated documents. This should only happen in exceptional circumstances, and the cheque must not be passed to the initiating officer.
- 5.145 To ensure that payment in advance of the receipt of goods or services is only made where it is essential in order to secure the particular supply required or where a beneficial discount would otherwise be lost.
- 5.146 To ensure that duly certified Payment Requests and direct payment invoices are passed without delay to the Corporate Director, Resources.

## **IMPREST ACCOUNTS**

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

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

### **Key Controls**

- 5.148 The key controls for the operation of Imprest Accounts are:-
- all Imprest Accounts should be operated in accordance with guidance issued by the Corporate Director, Resources;
  - regular reconciliations between the imprest sum advanced and imprest records are undertaken.

### **Responsibilities of the Corporate Director, Resources**

- 5.149 Where he/she considers it appropriate to open an account with the Authority's bankers for use by the imprest holder.
- 5.150 To determine the imprest level.
- 5.151 To periodically review the arrangements for the safe custody and control of Imprest accounts.

- 5.152 To reimburse imprest holders as often as necessary to restore the imprests and to keep a record of such advances.
- 5.153 To provide guidance on how imprest accounts are to be operated and how records are to be kept of payments and reimbursements.

#### **Responsibilities of Chief Officers**

- 5.154 To ensure that all imprest accounts are maintained in accordance with the authority's procedures.
- 5.155 To maintain a list of officers in their service areas who are authorised to hold imprest accounts.
- 5.156 To notify the Corporate Director, Resources when an imprest holder leaves the service area and to ensure that the imprest advanced is accounted for to the Corporate Director, Resources, unless responsibility for the imprest is transferred to a different officer, in which case the Corporate Director, Resources should be notified of the new account holder.
- 5.157 To agree with the Corporate Director, Resources the procedure for reimbursing expenditure imprest accounts.
- 5.158 To ensure that officers:
- do not, under any circumstances, allow personal cheques to be cashed, or personal loans to be made, from monies held in an imprest account;
  - obtain and retain a receipt to substantiate each payment from the imprest, which should be attached to a voucher and authorised. Particular care shall be taken by the employee to obtain a VAT invoice when this tax is charged;
  - restrict the amount of each separate payment to such limit as may be prescribed from time to time by the Corporate Director, Resources;
  - maintain records and operate the account in accordance with the Corporate Director, Resources instructions;
  - maintain the safe custody of imprest cash by keeping it securely locked away preferably in a safe; guidance on this matter can be obtained from the Audit Manager;
  - produce, upon demand, to the Corporate Director, Resources or his/her representative cash and/or vouchers to the total of the imprest;
  - record transactions promptly;

- when requested, give to the Corporate Director, Resources a certificate as to the state of his/her imprest advance;
- where an imprest is operated through a bank account, ensure that the account remains in credit, and that the procedures set out under banking arrangements in the Financial Procedure Rules are followed. It shall be a standing instruction to the Authority's bankers that the amount of any overdrawn balance on an imprest holder's account shall be reported forthwith to the Corporate Director, Resources;
- do not make salaries or wages payments to employees from an imprest account; No payment must be made to sub-Contractors for building work unless authorised by the Corporate Director, Resources;
- reconcile and balance the account to the total of the sum advanced, at least monthly, with a copy of the reconciliation sheet signed and retained by the imprest holder. Periodic checks shall be made by a senior officer to ensure that this is being properly carried out;
- on leaving the employment of the Authority, or otherwise ceasing to be entitled to hold an imprest advance, account to the relevant Chief Officer for the amount advanced.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

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

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

### **Key Controls**

- 5.160 The key controls for payments to officers and Members are:
- proper authorisation procedures are in place, and that there is adherence to corporate timetables in relation to starters, leavers, variations and enhancements, and that payments are made based on timesheets or claims where appropriate;
  - names on the payroll are checked at regular intervals to verify accuracy and completeness;
  - frequent reconciliation of payroll expenditure against approved budgets;
  - all appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the Corporate Director, Resources;
  - all expenditure, including VAT, is accurately recorded against the right service area;

- HM Revenue and Customs Regulations are complied with.

### **Responsibilities of the Corporate Director, Resources**

- 5.161 To arrange, control and make accurate and timely payment of:
- salaries and wages;
  - pensions;
  - tax and national insurance;
  - car mileage, travel, subsistence and other incidental allowances/expenses.
- 5.162 To approve, in consultation with the appropriate Chief Officer, the form of all timesheets, overtime forms, car mileage and travel and subsistence claims, and any other payroll related records.
- 5.163 To maintain an up to date list of all officers authorised to approve timesheets, overtime forms, car mileage and travel and subsistence claims, and all other payroll related records.
- 5.164 To check periodically that all officer claims for salaries, wages, overtime, travel, subsistence and other allowances/expenses are correctly certified by an authorised signatory before payment is made.
- 5.165 To maintain all necessary personal records concerning pay, pension, national insurance contributions and income tax and make all relevant payments on behalf of both employees and the Authority to the appropriate Government agencies.
- 5.166 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 5.167 To issue guidance to service areas on the retention of payroll records. All payroll records relating to Income Tax and National Insurance are to be retained for six years plus the current year, to satisfy the requirements of the Taxes Management Act. Records relating to pensions should be retained for six years following the cessation of any liability.
- 5.168 Where Finance, Property and ICT staff have access to the Authority's computerised payroll system, names of all officers authorised to do so shall be retained and kept up to date. Each officer shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).
- 5.169 To ensure that Finance, Property and ICT staff do not have update access to the personnel screens on the Authority's personnel and payroll system without approval from the Corporate Director, Resources. These will only be officers from within the Payroll Control Team and Payroll Super Users.

### **Responsibilities of the Democratic Services Manager**

- 5.170 To make arrangements for paying Members' allowances, travel, and subsistence upon receiving the prescribed form, duly completed and authorised. All claims will be examined and checked for reasonableness with respect to the amounts claimed. A record of authorised signatories shall be retained and kept up to date.
- 5.171 To ensure that Democratic Services Manager staff only have update access to the payroll screens relating to Members on the Authority's computerised personnel and payroll system.

#### **Responsibilities of the Corporate Chief Officer - Shared Services**

- 5.172 To ensure that the appointment of officers is made in accordance with the Procedure Rules of the Council and the approved establishments, grades and rates of pay.
- 5.173 To approve the format of all records relating to the notification of appointments, terminations, sickness, special leave and any other personnel matter.
- 5.174 To maintain all necessary records relating to the appointment, termination and all other personnel matters.
- 5.175 To issue on a quarterly basis to each staffing budget holder, a listing of all employees within the budget holder's area of responsibility for verification.
- 5.176 Where People and Organisational Development staff have access to the Authority's computerised personnel system, names of all officers authorised to do so shall be retained and kept up to date. Each employee shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).
- 5.177 To ensure that People and Organisational Development staff do not have update access to the payroll screens on the Authority's computerised personnel and payroll system without the expressed approval of the Corporate Director, Resources.

#### **Responsibilities of Chief Officers**

- 5.178 To furnish the Corporate Director, Resources with all documents that are required to arrange payment by the due date and any documentation required for pension, income tax and national insurance purposes.
- 5.179 To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 5.180 To ensure that time sheets, overtime forms or other payroll related records are in a form prescribed or approved by the Corporate Director, Resources. All such records shall be appropriately certified in manuscript, by an authorised signatory.

- 5.181 To make arrangements to ensure that the Corporate Chief Officer - Shared Services and the Corporate Director, Resources, as appropriate, are notified promptly, and in the approved format, of all matters affecting the remuneration of officers within their service area, and in particular:
- appointments, resignations, dismissals, suspensions, secondments and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - information necessary to maintain records of service for pension, income tax, national insurance and the like.
- 5.182 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees;
  - payments are only made where there is a valid entitlement;
  - conditions and contracts of employment are correctly applied;
  - employees' details listed on the payroll are checked at regular intervals to verify accuracy and completeness;
  - the same person does not both complete and authorise a timesheet, overtime form or other claim for payment;
  - persons involved in the different processes of completing and authorising a timesheet, overtime form or other claim for payment are clearly identifiable on the relevant document;
  - adequate supporting records are maintained to back up summary timesheet entries, completed by an individual on behalf of a group of employees. The supporting records must show the start and finish times of each employee each day, and should be signed by the employee concerned;
  - no employee may certify or authorise a payment or other benefit to himself/herself or any document which would lead to a payment or other benefit to himself/herself.
- 5.183 To ensure that the service area maintains and reviews periodically a list of officers approved to authorise timesheets, overtime forms and other payroll related records together with specimen signatures, and to ensure that only authorised officers authorise payments. A copy of the list should be sent to the Corporate Director, Resources.
- 5.184 To ensure that the service area reviews the establishment list issued by Corporate Chief Officer - Shared Services on a quarterly basis and confirms the accuracy of the report.
- 5.185 To ensure that payroll transactions are processed only through the payroll system. "Cash in hand" and other non PAYE payments are not permitted. Chief Officers shall give careful consideration to the employment status of

individuals employed on a self-employed, consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice shall be sought from the Corporate Director, Resources.

- 5.186 To ensure that all claims for the payment of car mileage, travel and subsistence, and incidental expenses are submitted promptly by officers in the approved format each month.
- 5.187 To arrange for the correct certification of claims for car mileage, travel and subsistence, and incidental expenses. Certification by the Chief Officer or an officer authorised by him/her shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred in connection with the Authority's business, the most cost effective route and means of transport was used and that the allowances claimed are properly payable by the Authority. The names of officers authorised by Chief Officers to approve such records shall be retained in each service area, together with specimen signatures and this shall be amended on the occasion of any change. The accuracy of the information contained in a claim shall be the responsibility of the employee concerned. Due consideration should be given to tax implications and that the Corporate Director, Resources is informed where appropriate.
- 5.188 To ensure that claims for travel, subsistence and other allowances are paid through the payroll system wherever possible to ensure the correct treatment for Tax and National Insurance purposes. Imprest accounts should only be used to process minor payments, where there are no tax implications.
- 5.189 To ensure that the Corporate Director, Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 5.190 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with guidance issued by the Corporate Director, Resources.

### **Responsibilities of Members**

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

### **INTERNAL CHARGES**

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

- 5.192 Service Areas often undertake work for other service areas. The charge for such work is recovered either by way of a journal, or via the Internal Trading Solution (internal purchase orders).
- 5.193 It is important that the basis of charge is agreed between the client and provider, and the financial transaction is accurately recorded in the Council's accounts.
- 5.194 The use of journals will cover Service Level Agreements, reallocation of costs and charges that are considered appropriate for the Internal Trading Solution. The Internal Trading Solution will be used for those services where it is considered to be cost effective. The Internal Trading Solution can only be considered where it is practical to raise a purchase order.

### **Key Controls**

- 5.195 The key controls for internal charges are:
- all income and expenditure arising from an internal recharging relationship is correctly recorded and accounted for in a robust manner;
  - each charging activity will have a clear basis on which it will be recharged;
  - each charging activity will include the cost of the provision of the service plus an appropriate level of overhead;
  - no significant surplus should be made by the provider at the expense of the internal customer unless there are contrary policies in place as approved by the Corporate Director, Resources.
  - all providers ensure that all internal customers are provided with the information reasonably required to accompany the journal charge;
  - all charges must be challenged within an appropriate timescale (two months from being informed of charge). The provider must ensure all challenges are considered and where appropriate resolution is made by clarifying query or amending the charge made by journal.
  - there will be an arbitration process to clear disputes promptly.

### **Responsibilities of the Corporate Director, Resources**

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

### **Responsibilities of Chief Officers**

- 5.199 To comply with guidelines and procedures issued by the Corporate Director, Resources on the administration of the internal charging systems.



## **TAXATION**

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

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

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

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

### **Responsibilities of Chief Officers**

- 5.206 To ensure that where VAT is accounted for in respect of a payment, in accordance with HM Revenue and Customs regulations, the following conditions are satisfied:-
- the payment relates to a supply of goods or services to Cardiff Council or to some other body covered by the Council's VAT registration;
  - unless otherwise authorised, a VAT invoice (or receipt) is held in respect of the payment;
  - where a payment is made to a contractor in the construction industry on the authority of an architect's certificate, an authenticated receipt is obtained as soon as possible;
  - the VAT identified on the VAT invoice is identified and coded correctly;

- that VAT invoices are processed expeditiously and are not unduly delayed.
- 5.207 To ensure that VAT is accounted for, in the correct tax period, on all supplies of goods and services made by the Council that are subject to VAT.
- 5.208 To ensure that a VAT invoice (or receipt) is issued upon request by any person to whom taxable supplies of goods or services have been made by the Council, showing the VAT charged.
- 5.209 To ensure that all VAT invoices are raised and processed expeditiously.
- 5.210 To ensure that documents identifying VAT transactions, including proof of payment and banking records, are retained for the period specified by HM Revenue and Customs.
- 5.211 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 5.212 To ensure that all persons employed by the Authority are added to the Authority's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 5.213 To follow the guidance on taxation issued by the Corporate Director, Resources in the tax guidance manual.
- 5.214 To ensure that arrangements are in place for all relevant staff to be informed about the correct VAT treatment of all transactions and of changes to this as notified by the Corporate Director, Resources.

## **6 EXTERNAL ARRANGEMENTS**

### **PARTNERSHIPS**

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

- 6.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 6.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### **General**

- 6.3 The main reasons for entering into a partnership are to share risk, to access new resources, to provide new and better ways of delivering services and to forge new relationships.
- 6.4 A partner is defined as either:
- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - a body whose nature or status give it a right or obligation to support the project.
- 6.5 Partners have common responsibilities:
- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
  - to acknowledge that the best interest of the partnership is more important than the best interest of each participating group;
  - to acknowledge that the partnerships require a level of flexibility which may require non compliance with the Authority's Financial and Procurement & Contract Rules. Where this arises it should be formally approved by the Audit Manager;
  - to act in good faith at all times and in the best interests of the partnership's aims and objectives;
  - to be open about any conflict of interests that might arise;
  - to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
  - to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
  - to act wherever possible as ambassadors for the project.

## **Key Controls**

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

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

## **Responsibilities of the Corporate Director, Resources**

6.7 To advise on the use of effective and waiving of ineffective controls within the partnership in order to ensure that resources are not wasted.

6.8 To advise, as appropriate, on the key elements of funding a project, including:

- a scheme appraisal for financial viability in both the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues;
- audit, security and control requirements;
- carry-forward arrangements.

6.9 To ensure that the accounting arrangements are satisfactory.

## **Responsibilities of Chief Officers**

6.10 To consult with the Corporate Director, Resources, as necessary, on a scheme's appraisal for financial viability in both the current and future years.

- 6.11 To ensure that risk management processes are in place to identify, assess and management processes are in place to identify, assess and mitigate all known risks without affecting the ability of the partnership to effectively function.
- 6.12 To ensure that such agreements and arrangements do not impact adversely upon the services provided either by the Authority or the partnership.
- 6.13 To ensure that all agreements and arrangements are properly documented.
- 6.14 To provide appropriate information to the Corporate Director, Resources to enable a note to be entered into the Authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

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

- 6.15 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of authorities. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

### **Key Controls**

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

### **Responsibilities of the Corporate Director, Resources**

- 6.17 To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- 6.18 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future capital and revenue budgets reflect these requirements.

- 6.19 To ensure that audit requirements are met.
- 6.20 Where he or she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.

### **Responsibilities of Chief Officers**

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

### **WORK FOR THIRD PARTIES**

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

- 6.25 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the Authority's legal powers.

#### **Key Controls**

- 6.26 The key controls for working with third parties are:
- to ensure that proposals are costed properly in accordance with guidance provided by the Corporate Director, Resources;
  - to ensure that contracts are drawn up using guidance provided by the Corporate Director, Resources and that the formal approvals process is adhered to;
  - to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

#### **Responsibilities of Corporate Director, Resources**

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

#### **Responsibilities of Chief Officers**

- 6.28 To ensure that appropriate insurance arrangements are made.
- 6.29 To ensure that the Authority is not put at risk from any bad debts.

- 6.30 To ensure that, wherever practicable, payment is received in advance of the delivery of the service.
- 6.31 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 6.32 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- 6.33 To ensure that all contracts are properly documented.
- 6.34 To provide appropriate information to the Corporate Director, Resources to enable a note to be entered into the statement of accounts.

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## PART 4 – RULES OF PROCEDURE

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### CONTRACT STANDING ORDERS AND PROCEDURE RULES

#### 1 Introduction

- 1.1 Procurement is 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.
- 1.2 The Council spends in the region of £300 million per annum on the external procurement of Goods, Services and Works. It is important that the Council strategically manages this spend both to ensure that it maximises value for money through its economies of scale and achieves the vision for Procurement as contained within the Council's Commissioning and Procurement Strategy (2011-15), which aims to:
- Establish a clear strategic direction and priorities for change
  - Establish key commissioning and procurement policy principles
  - Set out what we are going to do and how it will support delivery of our vision
  - Provide a framework to plan and deliver the changes required to meet the vision
- 1.3 These Contract Standing Orders and Procurement Rules provide a corporate framework for the procurement of all Goods, Services and Works for the Council. The Rules are designed to ensure that the Council obtains value for money and the required level of quality and performance in all contracts let and that all procurement activity is conducted with openness, probity and accountability.
- 1.4 In all its procurements the Council must comply with the EU Treaty based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality and these rules are designed to ensure compliance with the same.

#### 2 Definitions and Interpretations

- 2.1 In these Rules the following definitions apply:

**Authorised Officer** 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.

**Chief Officer** means any officer in the following categories of officer, Chief Executive, Corporate Director, Chief Officer and/or, Head of Service.

<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>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>Framework Agreement</b>	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>Grant and Grants</b>	a sum of money paid or to be paid by the Council to a third party, and in respect of which the Council does not require the grantee to provide the Council with any Services, or Goods or carry out any Works for the Council's direct benefit. The Grant may be conditional (i.e. obligation to spend the Grant in a particular manner, to account for that spend and repay the Grant if the Grant conditions are breached).
<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 Guidance</b>	means the Guidance issued/to be issued from time to time by the Procurement Manager.
<b>Procurement Manager</b>	means the Operational Manager – Commissioning and Procurement Services or any officers under his/her supervision or management who are given delegated authority to carry out any of the obligations, duties or activities required to be performed by him/her under these Rules or to act in his/her absence.

<b>Procurement Process</b>	the procurement process 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>Rules</b>	means these Contract Standing Orders and Procurement Rules.
<b>Services</b>	includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency staff etc.
<b>Single Tender and Reduced Number of Tenders</b>	means where these Rules allow (and for good reason and subject to a proper business case), the Council limits the minimum number of Tenderers to be invited to tender to one or a lesser number than would otherwise normally be required by these Rules given the estimated value of the Contract concerned.
<b>Negotiated Procedure</b>	whereby the Council has negotiated the terms of the Contract with one or more providers, Contractors or suppliers selected by it.
<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>Variant Bid</b>	means an offer/bid which contains variants on the requirements specified by the Council in its procurement documentation.
<b>Variation and Variations</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 Contract Regulations 2006.

2.2 All values referred to in these Rules are exclusive of VAT.

2.3 Any dispute regarding interpretation of these Rules shall be referred to the Director of Governance and Legal Services and Corporate Director, Resources for resolution.

- 2.4 These Rules shall 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.
- 2.5 The Procurement Manager shall undertake a formal review of these Rules at least every two years.

### **3 Compliance with these Rules**

- 3.1 These Rules must be followed when dealing with any Council Procurement except for those Procurements and other matters referred to in Rule 3.5.
- 3.2 Every Procurement undertaken by the Council or any other party on its behalf must comply with:
- (a) all relevant statutory provisions, and to the extent of any conflict, such statutory provisions shall prevail;
  - (b) all European Union procurement directives and the Regulations that implement them in the UK;
  - (c) the EU Treaty based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, which principles apply to all the Council's procurements (even when the procurement is not subject to European Union procurement directives and the Regulations that implement them in the UK );
  - (d) the Council's Constitution; and
  - (e) the Council's strategic objectives and policies including the Commissioning and Procurement Strategy (2011-15).
- 3.3 The Procurement Manager may from time to time issue procurement guidance. Chief Officers must ensure that employees in their service area are aware of such guidance and should encourage compliance.
- 3.4 Any failure by an officer to comply with any provision of these Rules may result in disciplinary action.

#### **Exceptions to the Rules**

- 3.5 These Rules do not apply to:-
- (i) the acquisition or disposal of land (see Procedural Rules for the Acquisition or Disposal of Land);
  - (ii) contracts of employment which make an individual a direct employee of the Council;
  - (iii) use of the Council's in-house services;

- (iv) Grants (Grants are not regulated by public procurement law as they are not public contracts. However, they are regulated by the rules on state aid and by general public law controls relating to fiduciary duty and proper spending of public money. Advice should be obtained from the Council's grant officer);
- (v) individual orders placed under contracts which provide for orders to be placed against agreed schedules of rates, or under a measured term contract or under a Framework Agreement, provided that such contracts or Framework Agreement have been let by the Council in accordance with these Rules. The Procurement Manager must be consulted before any such order is placed;
- (vi) individual orders placed under Office of Government Commerce and or Value Wales let Framework Agreements. The use of such Framework Agreements must be approved by the Procurement Manager before any such order is placed;
- (vii) contracts for services entered into in pursuance of powers under the National Health Services and Community Care Act 1990 and the Children Act 1989 for the benefit of an individual;
- (viii) instructions and briefings issued by or on behalf of the Director of Governance and Legal Services to Counsel. The Director of Governance and Legal Services will make arrangements to ensure that a record is kept of all such instructions or briefs together with a record of Counsel's fee;
- (ix) Goods, Services and Works procured by another public body on behalf of or for the joint benefit of the Council and other parties (i.e. a collaborative procurement arrangement such as contracts awarded via the Welsh Purchasing Consortium etc) and provided that in such case, the other public body's procurement / contract rules, all EU and UK procurement law requirements, and the fundamental principles of the EC Treaty have been complied with. The advice of the Procurement Manager must be sought before placing reliance on any such arrangement.

When placing reliance on the exemptions stated above the Authorised Officer should ensure that the best possible value for money is obtained for the Council.

#### **4 In-House Services / Council-wide Framework Arrangements**

- 4.1 Before any external procurement is considered, it is important to ensure that no existing in-house provision exists for the Goods, Services or Works required. In-house services must be used unless the Chief Officers of the procuring service area and the in-house services provider agree otherwise, evidenced in writing.

- 4.2. If it is determined necessary to proceed with an external procurement, then where available, use must be made of the Council's existing corporate purchasing and Framework Agreements let in accordance with these Rules, unless in exceptional circumstances the Procurement Manager has agreed otherwise. Commissioning and Procurement Services maintain a register of such agreements in the Cardiff Council Supply Directory and can provide advice on their use.
- 4.3 All computer and information technology Goods and materials will be purchased in accordance with specifications as laid down by the Corporate Director, Resources.

## **5 Estimating the Contract Value**

- 5.1 All Procurements (Goods, Services, and Works) above £10,000 will be managed in accordance with the direction of the Procurement Manager and must be referred to him/her to determine, in consultation with the relevant Authorised Officer, the most appropriate Procurement Process to be followed.
- 5.2 No Works or requirements for Goods or Services may be artificially split to avoid consulting with the Procurement Manager or avoid compliance with EU procurement law or these Rules.
- 5.3 The estimated value of a Contract/procurement exercise shall be the value of the total consideration, net of value added tax, which the Council expects to be payable under the Contract.
- 5.4 In determining the value of the total consideration, which the Council expects to pay, the Council shall, where relevant, take account of:-
- (i) any form of option
  - (ii) the term/period of the proposed Contract
  - (iii) any rights to renew the Contract/extend the Contract period
  - (iv) any prize, payment, premium, fees, commission, interest or other form of remuneration payable under the proposed Contract or in respect of the proposed procurement
- 5.5 In determining the value of any Contract for the hire of Goods, if the term of the Contract is indefinite or uncertain at the time the Contract is entered into, then the value shall be taken as equating to the value of the monthly consideration multiplied by 48.
- 5.6 In determining the value of any Contract for the provision of Services or carrying out of Works, if the term of the Contract is indefinite or uncertain at the time the Contract is entered into then the value shall be taken as equating to the value of the monthly consideration multiplied by 48.

- 5.7 Where the Council has requirements over a period of time for Goods and Services where the contracts have similar characteristics and the Goods and Services are of the same type, and enters into a series of contracts or a contract which is renewable, then the estimated value shall be calculated by the total spend on such matters over the last 12 months or projected estimated spend for next 12 months, whichever is the greater. In estimating this value the advice of the Procurement Manager must be sought and regard had to provisions of Regulation 8 of the Public Contract Regulations 2006.
- 5.8 For Framework Agreements, or similar, without a known annual expenditure but with duration exceeding one year, the number of years duration will be multiplied by the likely annual expenditure and must be determined in consultation with the Procurement Manager. The maximum period now permitted under the EU Procurement Rules for Framework Agreements being 4 years.

## **6 Contracts under £10,000 / Low Value Procurement (Quotations)**

- 6.1 Where possible, Goods, Services and Works **must** be obtained via existing approved arrangements including:

- (a) In-house services provision (see Rule 4)
- (b) Established corporate Framework Agreements and consortia arrangements (see Rule 4).

- 6.2 Where there are no existing approved arrangements, the following number of quotations must be obtained and evidenced in accordance with rules 6.3 and 6.4:

6.2.1 Up to £2,999.99 require only one quotation

6.2.2 Between £3,000 and £9,999.99 require two quotations unless and in exceptional circumstances the Operational Manager with responsibility for the procurement has authorised that only a single quote be obtained and a written record of such decision is maintained by the service area concerned. A note to such effect must also be recorded on the Council's procure to pay system (SAP) when the order is placed.

The selection of contractors who are to quote must comply with these Rules, in particular Rule 3.2 and Rule 10.

- 6.3 For Procurements up to £2,999.99, the quotation obtained must be in writing in order that best value and the integrity of the process can be demonstrated. This information must be retained by the service area.
- 6.4 For Procurements of £3,000 to £9,999.99 records will be kept detailing which Contractors were selected to quote, to whom the Contract was awarded and the reasons for so doing (lowest price or offer which represents best value to

the Council and why), so that best value and the integrity of the process can be demonstrated. The confidentiality of quotes will be maintained until the Contract has been awarded. This information must be retained by the service area. It is important to appreciate that Contractors must be informed of how their quotations will be evaluated and this information should be set out when Contractors are asked to quote.

- 6.5 Where Goods, Services or Works are regularly required, and arrangements described in Rule 4 are not available, consideration must be given to awarding a framework arrangement and the advice of the Procurement Manager must be obtained.
- 6.6 All orders must be placed using purchase orders outputs in either electronic or paper form from the Council's electronic procure to pay system (SAP) which contain reference to the Council's standard terms and conditions, unless otherwise agreed with the Procurement Manager.
- 6.7 It is essential that the Goods, Services or Works are procured on the Council's standard terms and conditions and not those submitted by the Contractor.
- 6.8 When carrying out any Procurement (even those under £10,000), regard should be had to the whole of these Rules.

## **7 Contracts Valued £10,000 to below £100,000 (Tenders)**

- 7.1 All procurements (Goods, Services, and Works) valued £10,000 or above will be managed in accordance with the direction of the Procurement Manager and must be referred to him/her to determine in consultation with the relevant Authorised Officer the most appropriate Procurement Process to be followed.
- 7.2 For procurements valued from £10,000 to below £100,000, consideration should be given to advertising the procurement opportunity, and in any event, at least three written tenders must be invited. In exceptional circumstances the Operational Manager (or a more senior officer) responsible for the procurement, subject to the agreement of the Procurement Manager, may determine that a Reduced Number of Tenders, including a Single Tender, may be sought. Any decision to accept a Reduced Number of Tenders must be demonstrably in the best interests of the Council and documented on the Council's prescribed form (i.e. single tender form).
- 7.3 For the rules as to: Pre-qualification, Invitation to Tender, Receipt of Tenders, Custody and Opening of Tenders, Tender Evaluation, Post Tender Negotiation, Evaluation Team, Risk and Awarding Contracts, see rules 10 to 18.
- 7.4 Commissioning and Procurement Services shall maintain a Corporate Contract Register which will record to whom contracts are awarded and the procurement route followed in each case. The Authorised Officer must



provide Commissioning and Procurement Services with all required information to facilitate this.

- 7.5 Where Goods, Services or Works are regularly required, and arrangements described in Rule 4 are not available, consideration must be given to awarding a framework arrangement and the advice of the Procurement Manager must be obtained.
- 7.6 All orders (Contracts) must be placed using:- (i) purchase orders output in either electronic or paper form from the Councils electronic procure to pay system (SAP) which contains reference to the Council's standard terms and conditions, or (ii) using contract terms and conditions approved by the Chief Officer – Legal and Democratic Services (see Rule 23), unless otherwise agreed with the Procurement Manager.
- 7.7 When carrying out any Procurement regard should be had to the whole of these Rules.

## **8 Contracts over £100,000 (Tenders)**

- 8.1 All procurements (Goods, Services, and Works) of £100,000 or above will be managed in accordance with the direction of the Procurement Manager and must be referred to him/her to determine, in consultation with the relevant Authorised Officer, the most appropriate procurement process to be followed. Regards should be had to the Commission's interpretative communication on contract awards not or not fully subject to the EU public procurement directives.
- 8.2 Subject to those contracts to which the European Union procurement directives and the Regulations that implement them in the UK apply, for procurements valued over £100,000, consideration should be given to advertising the procurement opportunity, and in any event, at least four written tenders must be invited. In exceptional circumstances the Chief Officer (or a more senior officer) responsible for the procurement may, subject to the agreement of the Procurement Manager, determine that a Reduced Number of Tenders including a Single Tender may be sought.

Any decision to accept a Reduced Number of Tenders must be recorded in writing and such decision must be demonstrably in the best interests of the Council, represent best value and must set out how the matters set out in Rule 3.2 are complied with. Such information must be set out in the Council's prescribed form (i.e. the Pre-Tender Report).

- 8.3 For the rules as to: Pre-qualification, Invitation to Tender, Receipt of Tenders, Custody and Opening of Tenders, Tender Evaluation, Post Tender Negotiation, Evaluation Team, Risk and Awarding Contracts, see rules 10 to 18.
- 8.4 Commissioning and Procurement Services shall maintain a Corporate Contract Register which will record to whom contracts are awarded and the

procurement route followed in each case. The Authorised Officer must provide Commissioning and Procurement Services with all required information to facilitate this.

- 8.5 Where Goods, Services or Works are regularly required, and arrangements described in Rule 4 are not available, consideration must be given to awarding a framework arrangement and the advice of the Procurement Manager must be obtained.
- 8.6 All orders must be placed using (i) purchase orders output in either electronic or paper form from the Council's electronic procure to pay system (SAP) which contain reference to the Council's standard terms and conditions, unless otherwise agreed with the Procurement Manager or (ii) using contract terms and conditions approved by the Chief Officer – Legal and Democratic Services (See Rule 23).

## **9 Contracts to which the European Union procurement directives apply.**

9.1 In the case of procurements that fall to be dealt with under the European Union procurement directives and the Regulations that implement them in the UK:-

- (i) the advice of the Procurement Manager and Director of Governance and Legal Services must be sought at the outset and at all subsequent stages of the Procurement Process;
- (ii) tenders will be invited in accordance with the requirements of the said directives and Regulations for the time being in force; and
- (iii) such directives and Regulations will take precedence over these Rules.

9.2 Advice and guidance on whether a particular procurement is subject to the EU procurement directives can be obtained from the Procurement Manager and Director of Governance and Legal Services. The current thresholds, which apply to procurement procedures that commence on or after 1<sup>st</sup> January 2018 are: -

Services	£181,302 (Light Touch Regime for Services £615,278)
Supplies	£181,302
Works	£4,551,413

Concessions contracts (Works or Services)	£4,551,413
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The thresholds change every two years and are due to change again on the 1st January 2020.

## **10 Pre Qualification (Applies to all)**

- 10.1 The Council shall only enter into a Contract with a Contractor if it is satisfied as to the Contractor's competencies. The criteria for selecting Tenderers may include, but need not be limited to: -
- (a) Technical or professional competence and experience including qualifications;
  - (b) Health and Safety;
  - (c) Quality including certification by official quality control institutes or agencies of recognised competence and or attesting conformity to quality assurance standards and or measures;
  - (d) Financial and economic standing including appropriate insurance provisions;
  - (e) Sustainability, including environmental management measures and
  - (f) Evidence as to whether they are unsuitable on grounds, e.g., of bankruptcy, criminal conviction or failure to pay taxes.
- 10.2 The Procurement Manager is responsible for the administration and maintenance of the Corporate Supplier Directory that holds certain key information on Contractors and the Cardiff Council Supply Directory which provides details of the Council's existing corporate purchasing and Framework Arrangements in accordance with these Rules.
- 10.3 All procurements (Goods, Services, and Works) of £100,000 or above will be managed in accordance with the direction of the Procurement Manager. When advertising and determining the most appropriate direction to follow, including determining which Tenderers are to be invited to tender, regard will be had to the Commission's interpretative communication on contract awards not or not fully subject to the EU public procurement directives.
- 10.4 The Contractor must be assessed prior to commencement of the Works or Services, unless agreed otherwise by the service area Chief Officer in consultation with the Procurement Manager.

## **11 The Invitation to Tender (All procurements above £10,000)**

- 11.1 The invitation to tender must include details of the Council's requirements for the particular contract including:
- (a) a specification of the Services, Goods or Works being procured and instructions on whether any variants are permissible;
  - (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
  - (c) the Council's terms and conditions of contract;

- (d) the evaluation criteria including attached weightings;
- (e) the Form of Tender;
- (f) pricing mechanism and instructions for completion;
- (g) whether the Council is of the view that TUPE will apply;
- (h) form and content of method statements to be provided;
- (i) rules for submitting of tenders;
- (j) any further information which will inform or assist Tenderers in preparing tenders.

11.2 Every Tenderer submitting a tender will be required to sign a declaration to the effect that:

- (a) they have not and will not inform any other person of the amount of their tender;
- (b) they have not fixed the amount of any tender in accordance with a price fixing arrangement;
- (c) they accept that the Council is entitled to cancel the contract and to recover from them the amount of any loss resulting from such cancellation if it is discovered that there has been any corrupt or fraudulent act or omission by them which in any way induced the Council to enter into the contract;
- (d) acknowledging that the Council is not bound to accept the lowest or any tender submitted, that the tender exercise may be aborted at any stage during the tender process and that they tender at their own cost and expense.

## **12 Receipt, Custody and Opening of Tenders (Above £10,000)**

12.1 Invitations to tender must clearly set out the latest tender return date and time.

12.2 Tenders with an estimated value below £100,000 (if received by post in the official envelope or using the official tender return label) will be returned to either the Procurement Manager or the Chief Officer of the relevant service area at the discretion of the Procurement Manager. Tenders will be opened in the presence of two employees designated by the Procurement Manager or the Chief Officer of the relevant service area as the case may be. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated officers present at the time. A copy of such record shall be sent to the Procurement Manager.

- 12.3 Tenders with an estimated value above £100,000 must be addressed to the Director of Governance and Legal Services by post enclosed in the official envelope or using the official tender return label provided by the Council. The Director of Governance and Legal Services will be responsible for the receipt, custody and opening of such tenders. Tenders for the same procurement will be opened consecutively at the same session in the presence of two employees designated for the purpose. One employee will be nominated by the Director of Governance and Legal Services and the other employee will be nominated by the Procurement Manager. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated employees present at the time. The opened tenders will then be sent to the evaluation officer.
- 12.4 Tenders received after the date and time for receipt of tenders may only be opened and considered with the agreement of the Director of Governance and Legal Services and the Procurement Manager. Any such decisions must demonstrate good reason why it is considered appropriate to accept the late tender.

### **13 Electronic Tendering**

- 13.1 With the agreement of the Procurement Manager, the tender process including invitation and receipt of tenders may be conducted electronically and the provisions of Rules 11 and 12 may be modified to facilitate this, provided that the electronic system used is approved by the Audit & Risk Manager.

### **14 Tender Evaluation**

- 14.1 Tenders shall be evaluated in accordance with the evaluation criteria and weightings set out in the invitation to tender. All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents best value for money to the Council (most economically advantageous tender) having regard to the evaluation criteria and weightings set. The evaluation criteria and weightings must be predetermined and approved by the Procurement Manager and listed in the invitation to tender documentation. In addition, the criteria and weightings shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Guidance and assistance on relevant evaluation criteria can be obtained from Corporate Procurement Services and Director of Governance and Legal Services.
- 14.2 If, after the tenders have been opened and examined, an error in computation of the tender is detected, the Tenderer will be given details of the error and the opportunity to confirm the tender submission as corrected, or withdraw their tender.

## **15 Post Tender Negotiation**

- 15.1 Where the Procurement is conducted pursuant to the EU Procurement Directives and UK Regulations that implement them, there are restrictions on the use of post tender negotiation and legal advice must be sought before determining whether any such negotiation would be appropriate.
- 15.2 The Authorised Officer, following consultation with the Procurement Manager and in accordance with any requirements set by the Procurement Manager (regarding records to be kept) may seek **clarification** from Tenderers in respect of their tenders provided this does not involve discrimination.
- 15.3 Subject always to compliance with these Rules, where Procurements are conducted outside the EU Procurement Directives, the Authorised Officer may, after consulting with the Procurement Manager, authorise negotiations if he or she considers that it is in the Council's interest to do so and provided this does not involve discrimination. If post tender negotiations are necessary then such negotiations shall be conducted with all Tenderers, unless the Procurement Manager determines otherwise. Negotiations shall be conducted on behalf of the Council by at least two officers, one of which will be nominated by the Procurement Manager. The Director of Governance and Legal Services must be informed of any proposals to carry out negotiations and shall be invited to send a representative to the negotiation meetings. A full written record shall be kept of the results of the negotiations.
- 15.4 At all times during any such negotiation or clarification process the Council shall consider and comply with the EU Treaty based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, principles which apply to all the Council's Procurements.

## **16 Evaluation Team**

- 16.1. For each Contract above the £10,000 threshold, the Authorised Officer shall form an evaluation team ('Evaluation Team') with responsibility for evaluating tenders. Written records of the evaluation must be kept.
- 16.2 Where the Contract exceeds the £100,000 threshold, the Director of Governance and Legal Services and the Corporate Director, Resources shall be consulted and where they consider it appropriate, representatives of those officers shall be included on the Evaluation Team. Consideration should also be given to including service users on the Evaluation Team.

## **17 Risk**

- 17.1 For Procurements over £10,000, the Authorised Officers shall carry out a risk assessment at the outset and thereafter maintain and update the same throughout the Procurement Process. The decision maker must be informed of any risks identified.

## **18 Awarding Contracts**

- 18.1 A Contract may only be awarded by an officer with the requisite delegated authority to award contracts in accordance with the Council's Scheme of Delegations. For all Procurements valued at above £10,000 per annum, the decision to award a Contract shall be made using the Council's pro forma Contract Award report unless the decision is to be made by a Corporate Director or the Cabinet, in which case the Council's standard reporting forms for such decisions shall be used. The Authorised Officer must ensure, prior to seeking such a decision that sufficient funds are in place to meet all contract payments and if any funding is being obtained from third parties that any conditions attaching to such funding have been complied with.
- 18.2 The Council shall only award a Contract where it represents best value for money. A Contract shall only be awarded using the pre-determined tender evaluation criteria and weightings. Where a tender is to be evaluated on price only, the Contract must be awarded to the Tenderer submitting the lowest price.
- 18.3 Letters of intent shall only be used with the agreement of and in a form approved by the Director of Governance and Legal Services. Letters of intent should only be used in exceptional circumstances.
- 18.4 Save for exceptional circumstances, no Contractor should be asked to provide any Services, supply any Goods or carry out any Works (including preliminary Works) until the Contract is concluded or the Services, Goods or Works concerned are covered by a letter of intent. Any decision to the contrary must be made by the Chief Officer for the service area concerned and such decision shall contain a full risk assessment as to the possible implications to the Council of the Contractor being allowed to start before the contract terms and conditions have been finalised or a letter of intent issued.
- 18.5 In the event of the withdrawal of tender after official notification (whether conditional or otherwise) to the Tenderer of the acceptance or proposed acceptance of the tender, no other tender submitted to the Authority by the person so withdrawing will be considered for two years from the date of withdrawal without approval from the Procurement Manager.

## **19 Contract Management**

- 19.1 Once the Contract has been awarded the Authorised Officer must identify and nominate an individual who will manage the day to day aspects of the Contract for its term and if requisite to plan what will happen once the Contract comes to an end (plan for any new procurement exercise required).
- 19.2 The day to day management of the Contract shall include monitoring in respect of:-
- (i) performance
  - (ii) compliance with specification and contract terms
  - (iii) cost

- (iv) any value for money/best value requirements
- (v) user satisfaction and
- (vi) risk management.

19.3 Where the total value of the Contract exceeds £250,000, the Authorised Officer must make a written report to the Chief Officer evaluating the extent to which the Contract is meeting the objectives set. This should be done normally when the Contract is completed but for term contracts such report should be prepared annually.

## **20 Notification of Results and De-briefing Alcatel Standstill Period**

20.1 Once the contract award decision has been made, then save for the successful Tenderer, all those expressing an interest will receive a standard regret letter containing details of:

- The award criteria and weightings
- The score that the Tenderer obtained against those award criteria and weightings (where relevant)
- The score the winning Tenderer obtained; and
- The name of the winning Tenderer

20.2 If any additional information is to be disclosed to Tenderers, this must be agreed in advance with the Procurement Manager, taking into account the requirements of any legislation relating to the disclosure of information.

20.3 De-briefing is recommended in public purchasing policy guidelines as a means of assisting Tenderers to improve their competitive performance.

20.4 For all Procurements over £100,000, de-briefing will be conducted by the Authorised Officer with support/input being provided by the Procurement Manager.

20.5 The list of points where de-briefing is required or may be appropriate includes:-

20.5.1 selection: where the candidate is not selected (short listed) to take part in the tender process

20.5.2 award: where the Tenderer was not awarded the Contract after evaluation of proposals/tender. Such de-briefing should never be conducted before the contract award decision is made and all unsuccessful Tenderers have been formally notified of the same. It should be made clear that the de-briefing process cannot be used to change the choice of a Contractor or to re-open the selection process.

20.5.3 if any potential supplier is asked to withdraw or withdraws during the Procurement.

De-briefing will only be conducted at the request of the Contractor.



20.6 If the award of a Contract is subject to the EU Public Sector Procurement Directive, there must be a standstill period of a minimum of 10 calendar days between communicating the award decision to all Tenderers and conclusion of the Contract.

## **21 Contract Award Notice – EU Procurements**

21.1 Where Procurement is conducted pursuant to the EU Procurement Directives and UK Regulations that implement them the Council shall publish a contract award notice in the Official Journal of the European Union no later than 48 days after the date of award of the Contract.

## **22 Contract Terms and Conditions**

22.1 The Authorised Officer shall ensure that Contracts are entered into on the Council's terms and conditions as approved by the Director of Governance and Legal Services, which terms shall be included with each purchase order or invitation to tender or negotiate. Where this is not appropriate and a Contractor has been asked to submit their terms and conditions, those terms and conditions must be approved by the Director of Governance and Legal Services.

## **23 Completion of Contracts**

23.1 With the exception of any Contract formed using a purchase order output from the Council's electronic procure to pay system (SAP) (which contains reference to the Council's standard terms and conditions) and any Contract under £30,000 in value (see Rule 23.3), all Contracts entered into by the Council must be:-

- (i) in writing,
- (ii) on terms and conditions approved by the Director of Governance and Legal Services, and
- (iii) be made under the Council's seal and attested by at least one employee authorised by the Director of Governance and Legal Services or be made under hand and signed by at least two employees authorised by the Director of Governance and Legal Services.

23.2 All Contracts entered into using the Council's electronic procure to pay process (SAP) must, for the avoidance of any doubt, comply with the provisions of these Rules and the Financial Procedure Rules.

23.3 Contracts not exceeding £30,000 in value must be made using:-

- (i) a purchase order output from the Council's electronic procure to pay system (SAP) (which contains reference to the Council's standard terms and conditions)

- (ii) be on an official order form produced by the Council that contains or refers to the terms and conditions of contract approved by the Director of Governance and Legal Services and signed by a duly authorised officer. Chief Officers must maintain a listing of those officers who have the authority to sign the Authority's official order form, or
- (iii) a Contract prepared by the Council's Legal Services and signed or sealed in accordance with the provisions of Rule 23.1(iii).

## **24 Extension of Contract Period / Term - Variation**

- 24.1 A decision to extend the contract period (term) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original Contract and contemplated by the original procurement exercise. To determine which officer is authorised to extend contract terms the value of the extended term shall be assessed and the provisions of the relevant table in Rule 25 shall apply, but for the avoidance of doubt, where a decision to award a Contract expressly authorises a specified officer to extend that Contract then, provided the extension is within the budget and scope of the original Contract award decision, no further authority shall be required for the extension (but the specified officer must ensure the extension is properly granted and maintain an appropriate record of the same for management and audit purposes).
- 24.2 The decision to extend a Framework Agreement may only be made before the original expiry date, where the extension is in accordance with the terms and conditions of the original Contract and contemplated by the original procurement exercise. The Procurement Manager must take all such decisions to extend framework arrangements. The aggregate term of the Framework Agreement must not exceed 4 years.
- 24.3 Where the terms of the Contract and or original procurement exercise do not expressly provide for extension then such Contract may only be extended in exceptional circumstances, where legislation permits and best value issues have been addressed. Such decision shall be made by the relevant Corporate Director in consultation with the Monitoring Officer and Corporate Director, Resources.

## **25 Variations Other than Extension of Contract Period / Term**

### **25.1 Works Contracts managed by the Council's in-house Design & Construction Services**

25.1.1 This rule 25.1 applies where:-

- (i) the Operational Manager (Design & Construction) acts on behalf of an internal client who has approved the design and agreed the budget;
- (ii) the Contract is within scope;

- (iii) the Contract is within the estimated budget;
- (iv) the proposed variation is within the approved budget for the project;
- (v) variations of the type proposed were contemplated at the time the original procurement exercise was carried out; and
- (v) the variation is permitted under the terms and conditions of the Contract.

25.1.2 Where rule 25.1 applies then decisions to make any variations to the Contract shall be made by:-

<b>Operational Manager (Design &amp; Construction) (in consultation with the Client Officer )</b>	Variation (or aggregate value of all variations made to the Contract ) of up to £250,000 or 25% of the original contract price (whichever is deemed lower)
<b>Chief Officer (Client)</b>	Variation (or aggregate value of all variations made to the Contract) of £250,001 to £500,000
<b>Chief Operating Officer (Client) Corporate Chief Officer (Client)</b>	Variation (or aggregate value of all variations made to the Contract) of £500,001 up to £1 million
<b>Cabinet Decision</b>	Variation (or aggregate value of all variations made to the Contract) of over £1 million

25.1.3 For the avoidance of doubt, no variation may be made to a Contract to which this rule 25.1 applies 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.

25.1.4 The reason this rule 25.1 provides for higher value variations to be authorised by the officers designated (compare with other types of variation) is that the project structure provides for a high level of segregation of duties within the Council, with the project manager reporting to the Operational Manager (Design & Construction) and there being a separate client service area Authorised Officer.

## 25.2 Variations – within budget and original contract scope

25.2.1 This rule 25.2 applies where

- (i) the Contract is within scope;
- (ii) the proposed variation is within the approved budget for the project;

- (iii) variations of the type proposed were contemplated at the time the original procurement exercise was carried out;
- (iv) the variation is permitted under the terms and conditions of the Contract; and
- (v) Rule 25.1 does not apply.

25.2.2 Where rule 25.2 applies then decisions to make any variations to the Contract shall be made by:

<b>Principal Officer</b>	Variation (or aggregate value of all variations made to the Contract ) of up to £30,000 or 20% (whichever is deemed lower)
<b>Operational Manager</b>	Variation (or aggregate value of all variations made to the Contract ) of £30,001 to £100,000
<b>Chief Officer</b>	Variation (or aggregate value of all variations made to the Contract ) of £100,001 to £250,000
<b>Chief Operating Officer Corporate Chief Officer</b>	Variation (or aggregate value of all variations made to the Contract ) of £250,001 to £500,000
<b>Cabinet decision</b>	Variation (or aggregate value of all variations made to the Contract) above £500,001

25.2.3 For the avoidance of doubt, no variation may be made to a Contract to which this rule 25.2 applies 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.

25.3 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 Authorised Officer. The Authorised Officer will keep detailed records of any such variation which shall be open to inspection by the Corporate Director, Resources. The authorisation will be issued before the variation is placed.

25.4 For variations approved by a Principal Officer, the Operational Manager shall monitor at least monthly the overall level of variations approved to gain assurance that they are correct and appropriate.

25.5 As soon as it becomes known or apparent (which ever 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% or £5000, whichever is the greater, the

Financial Services Group Accountant must be informed for financial monitoring purposes and may inform the Authorised Officer of any further financial requirements to be complied with. Where the excess sum involved exceeds £50,000 a report must be prepared which must address the reasons for increased cost, an analysis of options considered to reduce cost to budget and the funding options considered to meet any budget shortfall.

- 25.6 Any variation to the original Contract must be in the best interests of the Council and of continued delivery of services.

## **26 Termination of Contract**

- 26.1 For any Contract exceeding £100,000 in value, early termination shall be approved by the appropriate Chief Officer in consultation with the Director of Governance and Legal Services. Contracts of a lesser value may be terminated early (prior to the expiry date) by agreement with the Contractor or in accordance with the termination provisions set out in the Contract. Legal advice should be sought as appropriate. The Authorised Officer must inform the Procurement Manager when any Contract is terminated and the reasons for the same.

## **27 Payments on Account**

- 27.1 Payments on account will be made only upon certification by the person designated under the Contract for that purpose or in any other case by an employee appointed for that purpose or a person engaged under a Contract for Services by the Authority under which Contract he/she is duly authorised to issue such certificates (together hereafter referred to as 'the appropriate person'). The appropriate person will keep detailed records of any such payment which shall be open to inspection by the Corporate Director, Resources. The Chief Officer of the relevant service area shall make arrangements to retain adequate details relating to all contract payments made to allow for a proper audit of all such payments. All payments made must comply with the process as set out in Financial Procedure Rules.

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## **PART 4 – RULES OF PROCEDURE**

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### **PROCEDURE RULES FOR THE ACQUISITION OR DISPOSAL OF LAND**

#### **1 GENERAL**

1.1 These Rules will be followed when dealing with all acquisitions and disposals of land, whether freehold, leasehold or by grant of a tenancy, except as provided below.

1.2 In the Procedure Rules for the Acquisition or Disposal of Land,

‘CP&EM’ shall mean the Corporate Property & Estates Manager or another qualified valuer with similar duties.

‘Land’ shall mean any interest in land (including buildings), or any right in, on, over or under land.

‘Operational Land or Property’ shall mean Council land and property held to facilitate the delivery of Council services to include without limitation land and properties such as offices, schools and associated playing fields, nurseries, youth centres, caretakers houses, libraries, community centres and halls, sports/other leisure outdoor centres and pools, residential homes, day and training centres, enterprise centres, housing area offices, depots, civic amenities sites, cemeteries, crematoria, laboratories, animal pounds, public conveniences, theatres and concert halls, historic buildings and civic residences, parks and recreation grounds, sports pitches, play areas and all associated buildings, changing rooms and ancillary residential accommodation, but excluding land held for investment or development purposes. In the case of doubt, the Section 151 Officer and the Monitoring Officer shall determine the issue.

‘Non-Operational Land or Property’ shall mean any Land not falling within the definition in these Rules of Operational Land or Property.

‘Designated Body’ shall mean:-

- (a) the Council exercising non-executive functions; or
- (b) an employee to whom powers (being non-executive functions) have been delegated by the Council; or
- (c) the Leader, the Cabinet or an officer exercising Executive Functions in accordance with the Cabinet Procedure Rules.

‘Relevant Cabinet Member/s’ shall mean the Cabinet Member for Finance as well as any other Cabinet Member with relevant portfolio responsibility.

- 1.3 These Rules apply to:-
- (a) the freehold acquisition or disposal of Land;
  - (b) the grant of a lease or tenancy exceeding 7 years in duration; and
  - (c) the taking of a lease or tenancy of any duration.
- 1.4 The Procedure Rules for the Acquisition or Disposal of Land do not apply:-
- (a) to disposals under the Leasehold Reform Act 1967 or under "Right to Buy" legislation;
  - (b) to the renewal or restructuring of an existing lease or tenancy;
  - (c) to the sub-letting or assignment of an existing lease or tenancy granted by the Authority;
  - (d) where the Cabinet and the Council decides they will not apply in certain cases.
- 1.5 In any dealings with Land, proper regard will be had to the professional advice from a qualified Valuer at all relevant stages during the process.
- 1.6 The Council's Corporate Property and Estates Manager (or another qualified valuer with similar duties) shall be designated as the Valuer for the purposes of paragraph 1.5 of the Procedure Rules for the Acquisition or Disposal of Land and no disposal shall be proposed except in consultation with him/her.
- 1.7 Procedures will be followed precisely so that due probity and accountability can be demonstrated and value for money achieved.

## **2 ACQUISITIONS, DISPOSALS AND LEASES - AUTHORITY**

- 2.1 Under the Scheme of Delegations, authority for approving disposals, acquisitions and leases shall be vested in:
- (a) The Director of Economic Development (or the Chief Executive), in the case of disposals where the value is not more than £1,000,000 and where:
    - (i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;
    - (ii) The offer represents the best price reasonably obtainable; and
    - (iii) The offer so accepted is on price alone,

Provided that this power may not be sub-delegated other than pursuant to the following paragraph (b).



- (b) The CP&EM (pursuant to sub-delegated powers from the Director of Economic Development), in the case of disposals where the value is not more than £100,000 and where:
- (i) The offer represents the best price reasonably obtainable;
  - (ii) The offer so accepted is on price alone; and
  - (iii) The offer is greater than that estimated by a qualified valuer or no more than 10% below that estimate.
- (c) The Director of Economic Development (or the Chief Executive), in the case of acquisitions where the value is not more than £1,000,000 and where:
- (i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;
  - (ii) The Council's offer represents no more than market value as determined by a qualified valuer; and
  - (iii) The amount offered is on price alone,

Provided that this power may not be sub-delegated other than pursuant to the following paragraph (d).

- (d) The CP&EM (pursuant to sub-delegated powers from the Director of Economic Development), in the case of acquisitions where the value is not more than £100,000 and where:
- (i) The Council's offer represents no more than market value; and
  - (ii) The amount offered is on price alone.
  - (iii) The Director of Economic Development (or the Chief Executive), in the case of the grant or taking of a lease at a rent not exceeding £1,000,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £1,000,000, where:
    - (iv) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation; and
    - (v) In the case of a grant, the offer represents the best rent reasonably obtainable by the Council as approved by a qualified valuer; or
    - (vi) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer,

Provided that this power may not be sub-delegated other than pursuant to the following paragraph (f).

- (e) The CP&EM (pursuant to sub-delegated powers from the Director of Economic Development), in the case of the grant or taking of a lease at a rent not exceeding £100,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £100,000, where:
  - (i) In the case of a grant, the offer represents the best rent reasonably obtainable by the Council as approved by a qualified valuer; or
  - (ii) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer.
- (f) The Cabinet, for a disposal, acquisition or lease in any case where arrangements have not been made for discharge of that function by an officer of the Council, pursuant to the Cabinet's reserved powers 16, 17 or 42 or where a reference to Cabinet is appropriate following Member consultation under paragraph 2.2 below.

2.2 The exercise of officer delegations under paragraph 2.1 above shall be subject to the following consultation requirements:

- (i) Relevant Cabinet Member/s and Ward Members shall be consulted on Operational Land disposals valued up to £1,000,000, except for routine transactions valued up to £100,000;
- (ii) Relevant Cabinet Member/s shall be consulted on Non-Operational Land disposals and any land acquisitions, except for routine transactions valued up to £100,000;
- (iii) The Cabinet and Ward Members consulted (under sub-paragraphs (i) and (ii) above) shall be given a 7 working day consultation period, during which they may object and request that the matter be referred to Cabinet; and
- (iv) All land transactions, except for routine transactions valued up to £100,000, shall require advice from the Section 151 Officer and the Monitoring Officer.

### **3 SURPLUS LAND**

The following process shall apply to Operational Land and Property and Non-Operational Land and Property which may be surplus to the Council's requirements:

3.1 Where a service area no longer requires Operational Land or Property, the service area will prepare a report to be approved by the relevant Director in consultation with the relevant Cabinet Member which states that the property or land is surplus to its requirements. Ward Members will be advised that consideration is being given to declaring the identified property or land as surplus to the service area's requirements.

3.2 Alternatively, where the Council's Corporate Property & Estates Manager ("CP&EM") (or another qualified valuer with similar duties) identifies opportunities for development or disposal of Operational Land or Property following a property review or an external enquiry, the CP&EM will discuss this with the relevant service area, identify any scope for service area re-provision/relocation if required, and institute consultation as set out in paragraph 3.1 above.

3.3 Where the CP&EM proposes the disposal of Non-Operational Land or Property, the business case and options for disposal will be discussed at regular frequency with the CP&EM and the Cabinet Member for Finance Business & Local Economy (or other Cabinet Member with similar duties) and appropriate actions agreed in individual cases.

3.4 A schedule of surplus and potentially surplus land and properties will be maintained by the CP&EM and reviewed regularly by the Asset Management Working Group (or other working group or officer with similar duties). Where alternative service area interest arises, this must feature in the relevant service area's property plan, and proposals for a re-use will be considered by the Asset Management Working Group. The relevant Director, and Relevant Cabinet Members will consider the business case for a re-use of land and property for alternative Council purposes.

3.5 The schedule of surplus and potentially surplus properties will be circulated to all members of the Council twice a year for information. Where questions or comments arise these will be referred to the CP&EM for a response.

3.6 At the earliest possible opportunity the ward Members will be advised of the proposed disposal strategy in individual cases, including planning considerations, re-development and disposal timescales. In accordance with delegated power DE4 , if no ward Member objection is received, the Director of Economic Development may declare the land or property as surplus to the Council's requirements; however where a ward Member objection is received the matter will be referred to the Cabinet for a decision.

3.7 Where any proposed declaration of a property as surplus (under delegation DE4) relates to a property providing direct services to the public then the decision shall be referred to the Cabinet for its approval under its reserved power 42.

3.8 The future of Non-Operational Land will be considered by the Asset Management Working Group (or other working group or officer with similar duties) and the relevant service area who may identify future operational use and, as per the procedure set out in paragraph 3.2, such use will be determined in a similar manner. The sale of Non-Operational Land may involve freehold reversions, ground leases as initiated by tenants, or sales as an investment subject to a sitting tenancy or to third party investors if it is determined that the Council no longer has a strategic need for the property for social, economic, employment or regeneration purposes.

3.9 Marketing arrangements - determining the most appropriate marketing methodology and co-ordinating all negotiations shall be determined by the CP&EM for all property sales and major property related projects taking proper account of the statutory obligation to demonstrate best consideration.

#### **4 INVITATION OF OFFERS - DISPOSALS OF LAND**

- 4.1 No offers for the disposal of Land will be invited except with the prior approval of a Designated Body.
- 4.2 Only a Designated Body will determine on the advice of the Corporate Property & Estates Manager (where he/she is not the Designated Body) whether disposals will be by way of sealed offer, private treaty or auction and such determination will be made so as to achieve the best price reasonably obtainable.
- 4.3 There will be no disposal of Land by private treaty or where an offer has been received from only one person except where it is determined by a Designated Body, that there is only one party who could acquire the interest because, for example:-
- (a) the physical characteristics of the land so dictate, or
  - (b) there is only one response following prolonged marketing of the land;
- 4.4 The Corporate Property & Estates Manager will advertise any proposed disposal by public notice in at least one local newspaper and, if appropriate, in specialist journals, setting out a description of the land, the terms and conditions upon which offers are to be submitted, where further particulars may be obtained and the last date and time when offers will be received. It need not be advertised when 2.2 above applies or if it can be demonstrated to the satisfaction of the Corporate Property & Estates Manager Corporate Services that the nature of the demised land is such that to do so would serve no useful purpose.
- 4.5 Offerors will be provided with a Form of Offer based upon a Model prepared by the Corporate Property & Estates Manager and with the official pre-addressed envelope bearing the word "Offer" followed by the subject to which the offer relates and pre-addressed to the Corporate Property & Estates manager.
- 4.6 The confidentiality of identity of offerors will be maintained until an offer has been accepted, subject to any legal obligation to disclose.
- 4.7 No offeror will be favoured with information that is not made available to the others.
- 4.8 Every person submitting an offer to the Authority will be required to sign a declaration to the effect that:-

- (a) they have not and will not inform any other person of the amount of their offer; and
- (b) they have not fixed the amount of any offer in accordance with a price fixing arrangement; and
- (c) they accept that the Authority is entitled to cancel the contract and to recover from them the amount of any loss arising from such cancellation if it is discovered that there has been any corrupt or fraudulent act or omission by them which in any way induced the Authority to enter into the contract.

## **5 RECEIPT, CUSTODY AND OPENING OF OFFERS**

- 5.1 It will be a condition of every invitation that each offer must be sent in the official envelope provided, which must be sealed.
- 5.2 All offers must be delivered to the address shown on the official envelope.
- 5.3 Delivery by hand will be acceptable only in exchange for an official receipt. The receipt will clearly record the time and date of receipt.
- 5.4 All offers will be kept in safe custody until the appointed time of opening when they will be opened consecutively during the same session.
- 5.5 All offers will be opened by two employees designated for the purpose by the Director of Economic Development, at least one of whom will have had no involvement in the invitation of offers.
- 5.6 When opened, all offers will be recorded in a register and initialled and dated by the designated employees present at the time.
- 5.7 Any offer received after the time and date specified in the invitation will not be considered unless there are exceptional circumstances and it is agreed by the Director of Economic Development and the County Solicitor.

## **6 EXAMINATION OF OFFERS**

- 6.1 If, after the offers have been opened and examined, an error in computation of an offer is detected the offeror will be given details of the error and the opportunity of confirming the total offer sum or withdrawing his/her offer.
- 6.2 An offer, which attempts to qualify certain aspects of the proposals, and which would require the Authority to acquiesce, other than as planning authority, will not be considered. An offeror who submits a qualified offer will be given the opportunity to withdraw the qualification without amendment to his/her offer and if he/she does so it will be considered but if he/she fails to do so it may be rejected.

- 6.3 An offer which is conditional solely upon the outcome of matters which would not require the Authority to acquiesce, other than as planning authority, will be considered.
- 6.4 No post-offer negotiations will take place with an offeror unless the scope and principles of the negotiations have been approved in writing by an employee of not less than Operational Manager level; and no fewer than two employees are present at all times during the negotiations.
- 6.5 A written record of all verbal communications with an offeror together with the time and date thereof will be made contemporaneously (or as near as possible) and signed by the relevant employee and an employee of not less than Operational Manager level.

## **7 EVALUATION AND ACCEPTANCE OF OFFERS**

- 7.1 The offer that represents the best price reasonably obtainable by the Council will be accepted.
- 7.2 Offers may only be accepted by a Designated Body.
- 7.3 There will be no disposal at less than the best price reasonably obtainable without compliance with relevant statutory provisions, on the advice of the County Solicitor.
- 7.4 Nothing in these Rules binds the Council to accept any offer.

## **8 NOTIFICATION OF RESULTS**

Once an offer has been accepted the unsuccessful offerors will be informed that their offers are no longer being considered.

## **9 COMPLETION OF CONTRACTS**

- 9.1 Contracts and transfers will be in writing and executed in accordance with Article 13 of the Constitution and as may be required in law to give effect to the transaction.
- 9.2 Only the Designated Body may issue instructions to the County Solicitor for the preparation and completion of documentation in respect of any transaction in land, except as authorised in advance by the Cabinet and the Council.
- 9.3 Every contract will comply with the EC Treaty and any Directives of the European Union for the time being in force in the United Kingdom.

## **10 RETENTION OF DOCUMENTS**

- 10.1 Deeds, title documents, leases, charges on land, guarantees and documents of a similar nature may only be destroyed with the consent of the County Solicitor.

10.2 Details of all offers will be retained for a period of three years.





## **PART 4 – RULES OF PROCEDURE**

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### **EMPLOYMENT PROCEDURE RULES**

#### **Interpretation**

For the purposes of these Rules:

“Chief Officer” has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006, namely, the Head of Paid Service; the Monitoring Officer; a statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the Local Government and Housing Act 1989 (which includes the Chief Finance Officer); or a non-statutory chief officer within the meaning of section 2(7) of the same 1989 Act.

“Deputy Chief Officer” has the same meaning as in Section 2(8) of the Local Government and Housing Act 1989, being a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers (except for secretarial, clerical and support staff).

#### **1 Recruitment and appointment**

These rules do not apply to school-based employees, who are subject to separate procedures.

##### **(a) Declarations**

- (i) With the intention of ensuring that employment processes are fully informed and transparent, the Council requires any candidate for appointment as an officer to state in writing whether they are related to or have any close personal association with any member or senior employee of the Council.
- (ii) Deliberate omission to make such a disclosure would disqualify the candidate, and if the omission is discovered after appointment, the candidate will be liable to dismissal.

##### **(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 or employee for any appointment with the Council. The content of this paragraph 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. A member or an employee will not try to improperly influence the choice of a candidate for any appointment

- (iii) The impartiality of employees must be preserved. Accordingly Members must not give written references to support a candidate seeking employment with the Council.

## **2 Recruitment of Chief Officers**

- (a) A vacancy for the post of Chief Officer must be reported to the Council or body delegated to do so which will consider whether the post should be filled, and if so, subject to Rule 2A, the terms and conditions of employment and method of appointment.
- (b) Where the proposed remuneration of the Chief Officer post is £100,000 or more per annum, the Council will arrange for the following to be prepared:-
  - (i) A statement of the duties of the officer concerned and the required qualifications or qualities to be sought in the person appointed, which is sent to any person on request; and
  - (ii) Public advertisement of the post to bring it to the attention of people who are qualified to apply, unless the proposed appointment is for a period of 12 months or less.
- (c) Following advertisement, the Council will arrange for either all qualified candidates to be interviewed; or a shortlist to be prepared of qualified applicants and those candidates interviewed. If no suitably qualified person has applied, or if the Council decides to re-advertise the appointment, the post will be re-advertised in accordance with paragraph (b) above.

## **2A Remuneration of Chief Officers**

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

## **3 Appointment or Dismissal of Chief Officers, Deputy Chief Officers, Monitoring Officer and Head of Democratic Services**

- (a) The appointment or dismissal of a Chief Officer, a Deputy Chief Officer, the Monitoring Officer or Head of Democratic Services will be made by the Council or by a Committee of Members delegated by the Council to make the appointment or dismissal, which Committee must contain at least one Cabinet member, but not more than half of the members of that Committee shall be Cabinet members.
- (b) Where a committee is considering on behalf of the Council the appointment or dismissal of the Chief Executive, the Council shall 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.

### **3A Joint Arrangements**

Where the duties of a Chief Officer or a Deputy Chief Officer include the discharge of functions of two or more local authorities:

- (a) the steps taken under paragraph 2 above may be taken by a joint committee of those authorities, a sub-committee of that committee or a Chief Officer of any of the authorities concerned; and
- (b) any Chief Officer or Deputy 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 authorities.

### **4 Other appointments**

- (a) **Officers below Deputy Chief Officer.** Subject to Rule 3(a), the appointment of officers below Deputy Chief Officer (other than assistants to political groups) must be discharged by the Chief Executive or by an officer nominated by the Chief Executive. All Council employees shall be appointed in accordance with the Councils Recruitment and Selection Policy.
- (b) **Assistants to political groups.** Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **5 Disciplinary Action**

#### **5.1 Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

- (1) No disciplinary action in respect of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services (a "relevant officer"), except action described in (2) below, may be taken by the Council or on its behalf, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 9 of the Local Authorities (Standing Orders)(Wales) Regulations 2006.
- (2) The action mentioned in the above paragraph is suspension of the relevant officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension will be on full pay and will terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (3) Where it appears that an allegation of misconduct which may lead to disciplinary action has been made against a relevant officer, the Council shall appoint a committee ("an investigation committee") to consider the alleged misconduct.

- (4) The investigation committee must consist of a minimum of 3 members of the Council, be politically balanced (in accordance with section 15 of the Local Government and Housing Act 1989); and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
- (5) For the purpose of considering the allegation of misconduct, the investigation committee may make such enquiries of the relevant officer or any other person it considers appropriate; 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 may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- (6) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it shall appoint a person ("the designated independent person") for the purposes of these Rules.
- (7) The designated independent person who is appointed shall 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 where there is no such agreement, shall be such person as is nominated for the purpose by the Welsh Ministers.
- (8) 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 referred to in paragraph (2) above);
    - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
    - (iv) that no steps by the Council or on its behalf 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 possession of the Council, or which the Council has power to authorise the designated independent person to inspect;

- (c) may require any Member or members of staff of the Council to answer questions concerning the conduct of the relevant officer;
  - (d) shall 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) shall 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.
- (9) Subject to paragraph (10), the relevant officer and the Council shall, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- (10) Where there is no agreement under paragraph (9), the designated independent person shall set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- (11) The Council shall consider the report prepared under paragraph (8)(d) within 1 month of receipt of that report.
- (12) The Council shall pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this Rule.
- (13) For the purpose of this rule, any officer who was a relevant officer at the time of the alleged misconduct or when the reason for the proposed dismissal occurred (but is no longer so), shall be regarded as a relevant officer.

## **5.2 Dismissal and or Disciplinary Action - Other Employees**

- (a) Subject to Rules 3(a) and 5.1, the Chief Executive, or an officer nominated by the Chief Executive, is responsible for the dismissal of, and taking disciplinary action against, employees below Deputy Chief Officer (other than assistants for political groups), in accordance with any relevant Council policy and procedure.
- (b) Councillors will not be involved in any disciplinary action of any officer other than the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services, as set out above, except where such involvement is necessary for any

investigation or inquiry into alleged misconduct, or where a right of appeal to members is allowed in respect of dismissal or demotion.

## **6 Right of Appeal**

Any employee who has been dismissed with or without notice or relegated must be informed immediately of the right of appeal, in line with the Council's agreed Disciplinary Policy and Procedures, which may confirm the action taken, withdraw it or substitute another disciplinary penalty.

## **PART 4 – RULES OF PROCEDURE**

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### **PLANNING COMMITTEE PROCEDURE RULES**

#### **1 ESTABLISHMENT OF PLANNING COMMITTEE AND ALLOCATION OF SEATS**

##### **1.1 Establishment**

The establishment, terms of reference and allocation of seats for the Planning Committee will be determined by the Council in accordance with the Council Meeting Procedure Rules.

##### **1.1A Size and Composition**

- (i) The planning committee must contain no fewer than 11 members and no more than 21 members, but no more than 50% of the authority members (rounded up to the nearest whole number).
- (ii) Where wards have more than one elected Member, only one Member may sit on the planning committee, in order to allow other ward Members to perform the representative role for local community interests.

##### **1.1B Substitute Members**

The use of substitute members in the absence of appointed members on the Planning Committee is prohibited.

##### **1.2 Chair and Deputy Chair**

The chair and deputy chair of the Planning Committee shall be elected by the Council in accordance with the Council Procedure Rules.

##### **1.3 Period of office**

The period of office of the chair, deputy chair and members of the Planning Committee will continue until the first meeting following the Annual Meeting of the Council in any year when no Council elections are held. In a year when Council elections are held the period of office will end on the day of the election.

#### **2 ORDINARY MEETINGS**

Ordinary meetings of the Planning Committee will take place every 4 weeks, subject to bank holiday provision, in accordance with a calendar of committee meetings approved at the Council's Annual Meeting. Ordinary meetings of the Planning Committee will (as may be appropriate):-

- (a) elect a person to preside if the chair and deputy chair are not present;

- (b) approve the minutes of the last meeting;
- (c) receive any petitions and where these Procedure Rules allow hear the address on behalf of any petitioners and any response;
- (d) receive any announcements from the chair;
- (e) deal with any business from the last meeting of the committee;
- (f) put questions to the chair or relevant employees of the Council where appropriate on items of business before the committee and to receive responses;
- (g) consider requests from members of the committee for items of business to be considered;
- (h) consider any other business specified in the agenda of the meeting including 'late representations' relating to planning applications which have been received at least 24 hours prior to the scheduled start of the meeting; and
- (i) such other matter or matters which the chair has certified as being urgent.

### **3 ADDITIONAL (EXTRAORDINARY) MEETINGS**

#### **3.1 Calling additional (extraordinary) meetings**

- (a) Those listed below may request the proper officer to call an additional meeting of the committee in addition to ordinary meetings:-
  - (i) the Council by resolution;
  - (ii) the chair of the committee;
  - (iii) the Head of Paid Service;
  - (iv) the Monitoring Officer;
  - (v) one half of the membership of the committee if they have signed a requisition and presented it to the proper officer.
- (b) Any request presented in accordance with this Rule must be in writing, specify the business to be transacted at the meeting and be accompanied by a copy of any report for the meeting.

#### **3.2 Business**

Any meeting called in addition to ordinary meetings pursuant to Rule 3.1 will:-

- (a) elect a person to preside if the chair and deputy chair are not present;
- (b) consider the item or items of business specified in the request; and
- (c) such other matter or matters which the Chairman has certified as being urgent.

### **4 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the proper officer and notified in the agenda.



## **5 NOTICE OF AND AGENDA TO MEETINGS**

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

## **6 CHAIR OF MEETING**

### **6.1 Chair of the meeting**

The chair of the committee will chair a meeting of the committee and in his or her absence the meeting will be chaired by the deputy chair of the committee (if any). In the absence of the chair and the deputy chair of the committee, the committee will choose a chair to chair the committee. The person presiding at the meeting may exercise any power or duty of the chair.

### **6.2 Conduct of the meeting by the chair**

The chair shall conduct the meeting to secure a proper, full and effective debate of business items particularly where a decision is required.

Those wishing to speak on each planning application will do so in the following order:

- (a) Officers to present any issues not included in the Committee report, such as issues on the late representation sheet (3 mins);
- (b) petitioner (if applicable) to speak to any petition of objection (3 mins);
- (c) applicant (if applicable) to exercise right of response to petition (3 mins)
- (d) Members (if present) representing the Ward in which the application is located (5 mins each);
- (e) Members (if present) who do not represent the Ward in which the application is located, subject to such Members formally requesting the Chair, in writing, in advance of the meeting with details of the reasons for the request to speak (5 mins each);
- (f) Planning Committee Members to debate and decide on applications unless the Chair considers that more time is required (15 mins).

## **7 QUORUM**

The quorum of a meeting will be one half of the whole number of members (rounded up to the nearest whole number). If fewer than the quorum attend the meeting or if during any meeting the chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the

remaining business will be considered at the next ordinary meeting.

## **8 MOTIONS WHICH MAY BE CONSIDERED**

The following motions may be moved provided that they relate to an item of business on the agenda, concern a matter within the terms of reference of the committee and will not purport to exceed the powers delegated to the committee:-

- (a) to appoint a chair of the meeting;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
- (e) to appoint a sub committee of the committee arising from an item on the agenda for the meeting subject to statutory constraints;
- (f) to receive reports and/or to adopt recommendations of committees or officers;
- (g) to receive reports and/or to adopt recommendations of the Cabinet;
- (h) to delegate powers to an officer of the Council or a sub-committee subject to the constraints in this Constitution and of law;
- (i) to propose a resolution which differs from that recommended in a report;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (o) to not hear further a member named under Rule 15.3 or to exclude him or her from the meeting under Rule 15.4.

## **9 RULES OF DEBATE**

### **9.1 Content of speeches/debate**

Speeches, discussion and questions must be directed to the matter under discussion or to a personal explanation or point of order. The period allowed for any speech and the number of times a member may be allowed to speak will be determined by the chair subject to the obligation on him or her under Rule 6.2.

### **9.2 Point of order**

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

### **9.3 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 or comment by the member which may appear to have been misunderstood in the present debate. The ruling of the chair on the admissibility of a personal explanation will be final.

### **9.4 Declarations of interest**

A member may at any time declare a personal interest under the Code of Conduct and when a member stands to make a declaration he/she shall be heard immediately and shall be allowed to make the declaration without interruption.

## **10 PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of the committee within the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of the committee in the past six months cannot be moved unless a motion approving the rescission has been passed at a meeting of the full Council.

## **11 VOTING**

### **11.1 Majority**

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

### **11.2 Chair's casting vote**

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

### **11.3 Show of hands/Electronic Voting**

The chair will take the vote by show of hands or by use of an electronic voting system if available, whichever the chair decides, or if there is no dissent, by the affirmation of the meeting.

#### **11.4 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.

### **12 MINUTES**

#### **12.1 Signing the minutes**

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

#### **12.2 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the chair put them but otherwise the form of the minutes will be a matter for the proper officer.

### **13 RECORD OF ATTENDANCE**

All Councillors present during the whole or part of a meeting must accurately record their attendance on the record of attendance provided for that purpose.

### **14 MEMBERS OF THE PUBLIC**

#### **14.1 Exclusion of members of the public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule 16 (Disturbance by Public).

#### **14.2 Right of Petitioners to address committee**

- (a) When a petition contains signatures of not less than fifty Cardiff electors with their addresses, a substantial proportion of whom could reasonably be expected to be affected by the matter to which the petition relates, one person from amongst those signing the petition may address a committee to which the petition has been referred on the subject matter of the petition for up to three minutes.
- (b) In any case where the petitioners object to a planning application, the applicant will also be given an opportunity to be heard.
- (c) Any petition presented direct to a committee shall be delivered to the relevant Chief Officer at least seven clear days prior to the date of the meeting of the committee at which it is to be presented, to enable the

applicant to be notified if appropriate and to be present at the meeting of the committee if the applicant so wishes.

- (d) When a petitioner has been heard by the Planning Committee under this Procedure Rule, no further petition on the same item shall be considered and no further address shall be heard on that item, within six months of the committee meeting at which the petition was first considered or the petitioner heard.

## **15 MEMBERS' CONDUCT**

### **15.1 Members wishing to speak**

When a member speaks at a committee he or she must address the meeting through the chair. If more than one member speaks, the chair will ask one to speak and the others must remain silent until invited to speak unless he or she wishes to make a point of order or a point of personal explanation or to declare an interest.

### **15.2 Chair seeking order**

When the chair asks for order the meeting must be silent.

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

If a member persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair may move that the member be not heard further. If seconded, the motion will be voted on without discussion. If the motion is passed the named member may not discuss or debate any further business whilst it is transacted at the meeting.

### **15.4 Member to leave the meeting**

If the member continues to behave improperly or offensively or deliberately obstructs business after such a motion is carried, the chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. If the motion is passed the named member must leave the meeting forthwith.

### **15.5 General disturbance**

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

## **16 DISTURBANCE BY PUBLIC**

### **16.1 Removal of member of the public**

If a member of the public interrupts or disrupts proceedings of a committee,

the chair will warn the person concerned. If they continue to interrupt or causes disruption, the chair will order their removal from the meeting room.

#### **16.2 Clearance of part of meeting room**

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

#### **17 COUNCILLORS ATTENDING PLANNING COMMITTEES OF WHICH THEY ARE NOT MEMBERS**

A Member, who is not a member of the Planning Committee, may attend a Planning Committee meeting and with the permission of the Chair may speak but may not vote subject to the following:

- (a) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct; or
- (b) where the Director of Governance and Legal Services or his/her representative advises that as a matter of law non-members of a committee should withdraw.

#### **18 RECORDING OF PROCEEDINGS OF COMMITTEES**

No recording shall be made of the proceedings of meetings of committees whether audio or visual and by whatever method except with the express authorisation of the meeting. If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting of the committee except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.

#### **19 SUSPENSION OF COMMITTEE PROCEDURE RULES**

All or any of these Committee Rules of Procedure except Rule 11.4 may be suspended by motion on notice or without notice if at least one half of the whole number of the Councillors are present. Suspension can only be for the duration of the meeting.

#### **20 MEMBER DEVELOPMENT TRAINING**

All Members of the County Council are expected to undertake a basic level of training on planning matters in their role as local Members. Specific training will be provided to the Chair, Deputy Chair and members of the Planning Committee as part of the Member Development Programme.

## **PART 4 – RULES OF PROCEDURE**

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### **FAMILY ABSENCE PROCEDURE RULES**

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

1. A Member may be entitled to family absence pursuant to the Local Government (Wales) Measure 2011, subject to compliance with the Family Absence for Members of Local Authorities (Wales) Regulations 2013 (“the Regulations”), as follows:
  - (i) Maternity absence – for the mother of a child, granted up to a maximum of twenty six weeks;
  - (ii) Newborn absence – for the parent of a child other than the mother, for a period of up to two weeks;
  - (iii) Adopter’s absence – for the adopter of a child, for a period of up to two weeks;
  - (iv) New adoption absence - for the partner of an adopter, for a period of up to two weeks; and
  - (v) Parental absence – for a Member who becomes responsible for a child (and does not meet the conditions for newborn absence, adopter’s absence or new adoption absence), for a period of up to three months.

#### **Prescribed Conditions**

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

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

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

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

4. The Head of Democratic Services will keep a record of all notifications and periods of family absence taken and will inform the Chair of Council, the Chair of the Democratic Services Committee, and the leaders of each political group, and other recognised group, of the authority. The Head of Democratic Services

may also inform any other persons, as he/she considers necessary, for example, fellow ward Members.

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

5. If the Head of Democratic Services reasonably suspects that a Member may not be entitled to the family absence notified, he/she shall inform the Monitoring Officer. The Monitoring Officer may cancel or end a Member's family absence if he/she is of the view that the Member is not entitled to such absence in accordance with the Regulations.
6. In the event of a decision to cancel family absence, the Head of Democratic Services will give written notice to the Member concerned setting out the decision to cancel or bring to an end the period of family absence, and the date from which the Member must return from family absence. If the Member then fails to resume duties, the Council may withhold the Member's remuneration and take any other appropriate action.

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

7. (1) A Member may, within 28 days from being notified of a cancellation of family absence, complain in writing to the Head of Democratic Services regarding the cancellation.
  - (2) The Head of Democratic Services will refer any complaint duly made regarding cancellation to the Chair of Council (or Presiding Member).
  - (3) The Member's complaint will be considered by the Family Absence Appeals Panel, which may either confirm the decision of the Monitoring Officer, or substitute its own decision as to the Member's entitlement to family absence in accordance with the Regulations.
  - (4) The decision of the Panel is final.

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

8. (1) A Member on maternity absence or parental absence may, subject to paragraphs (2) to (6):
  - (a) Attend particular meetings;
  - (b) Attend particular descriptions of meetings;
  - (c) Perform particular duties; or
  - (d) Perform duties of a particular description.
- (2) The Member must obtain the permission of the Chair of Council (or Presiding Member) before attending any meeting or performing any duty.
- (3) The Chair of Council (or Presiding Member) will inform the leaders of each political group of the Council before granting permission under paragraph (2).



- (4) A Member may complain in writing to the Head of Democratic Services regarding a refusal under paragraph (2).
- (5) The Head of Democratic Services will refer a complaint under paragraph (4) to the Chair of Council (or Presiding Member).
- (6) The Family Absence Appeals Panel (“the Panel”) will determine a complaint made under paragraph (4).
- (7) The Panel may:
  - (a) confirm the decision of the Chair of Council (or Presiding Member) under paragraph (2); or
  - (b) substitute its own decision as to the Member attending any meeting or performing any duty.

### **Continuing Duties**

- 9. If a Member is on family absence leave and it would be difficult to replace that Member on a temporary basis, the Chair of Council can request that Member to attend a meeting if it might otherwise be inquorate.
- 10. A Member on family absence is expected to continue to observe and comply with any duties under the Members’ Code of Conduct which remain applicable, including the duty to not bring the office of Member or the Council into disrepute (Members’ Code, Rule 6(1)(a)), and the duty to not use their position or the resources of the authority improperly or for private advantage (Members’ Code, Rule 7).

### **Members Allowances**

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

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## **PART 4 – RULES OF PROCEDURE**

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### **REMOTE ATTENDANCE STANDING ORDER**

- 1 Due to the relatively small geographical area over which the Council's wards are spread, in normal circumstances Members are expected to physically attend meetings. However, in exceptional circumstances, provision for remote attendance may be made available to Members.
- 2 Any Member who wishes to attend a meeting remotely should notify the Monitoring Officer of their desire to do so at least 10 Working Days prior to the date of the meeting, wherever practicable. The Monitoring Officer shall inform the Chair of the meeting concerned of the request. The Chair, in consultation with the Monitoring Officer, will decide whether the request shall be granted and will aim to notify the Member of their decision at least 5 Working Days prior to the date of the Meeting. In making that decision the Chair shall have regard to the reasons given by the Member for making the request and the costs involved in providing remote attendance facilities and any other relevant issues. The Chair's decision shall be final.
- 3 If the Chair determines that remote attendance should be permitted, then such equipment and facilities as are necessary to enable remote attendance shall be provided to the Member and the meeting. The facilities should comply with the requirements of the Statutory Guidance relating to remote attendance as issued by Welsh Government under the Local Government (Wales) Measure 2011.
- 4 Unless the Chair decides otherwise, if for technical reasons any Member who is attending remotely loses their connection to the meeting, the meeting shall not be adjourned.
- 5 Any Member attending remotely will not be counted when determining whether a quorum is present (unless the Chair decides otherwise).

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## PART 5 – CODES AND PROTOCOLS

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### CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

#### Adoption

This Code was adopted by the Authority on 15 May 2008 and amended on 26 May 2016

### PART I

#### Interpretation

1.1 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,

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 Local Government Act;

“registered society” means a society, other than a society registered as a credit union, which is—

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*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.

## 1.2 In relation to a community council—

- (a) “proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and
- (b) “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.

## PART II

### General Provisions

- 2.1 Save where paragraph 3(a) applies, you must observe this code of conduct—
- (a) whenever you conduct the business, or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6.1(a) and 7.
- 2.2 You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.
- 3 Where you are elected, appointed or nominated by your authority to serve—
- (a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
  - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 4 You must—
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5 You must not—

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.1 You must—

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

6.2 You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7 You must not—

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority—
  - (i) imprudently;
  - (ii) in breach of your authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;



- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8 You must—

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by—
  - (i) the authority's Head of Paid Service;
  - (ii) the authority's Chief Finance Officer;
  - (iii) the authority's Monitoring Officer;
  - (iv) the authority's Chief Legal Officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9 You must—

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

## PART III

### INTERESTS

#### Personal Interests

- 10.1 You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- 10.2 You must regard yourself as having a personal interest in any business of your authority if—
- (a) it relates to, or is likely to affect –
    - (i) any employment or business carried on by you;
    - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
    - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
    - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
    - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
    - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (viii) any body to which you have been elected, appointed or nominated by your authority;
    - (ix) Any -
      - (aa) public authority or body exercising functions of a public nature;

- (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
- (cc) body whose principal purposes include the influence of public opinion or policy;
- (dd) trade union or professional association; or
- (ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) *[Deleted]*

(c) a decision upon it might reasonably be regarded as affecting –

- (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
- (ii) any employment or business carried on by persons as described in 10.2(c)(i);
- (iii) any person who employs or has appointed such persons described in 10.2(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10.2(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10.2(a)(ix)(aa) to (ee) in which persons described in 10.2(c)(i) hold a position of general control or management,

to a greater extent than the majority of –

- (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

## Disclosure of Personal Interests

- 11.1 Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- 11.2 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.
- 11.3 Subject to paragraph 14.1(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- 11.4 You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11.1, give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, 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.
- 11.5 Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16.1, your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your

monitoring officer has agreed that the nature of such personal interest is sensitive information.

- 11.6 For the purposes of sub-paragraph 11.4, 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.
- 11.8 For the purposes of sub-paragraph 11.3, where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### **Prejudicial Interests**

- 12.1 Subject to sub-paragraph 12.2 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.
- 12.2 Subject to sub-paragraph 12.3, you will not be regarded as having a prejudicial interest in any business where that business—
- (a) relates to—
    - (i) another relevant authority of which you are also a member;
    - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
    - (iii) a body to which you have been elected, appointed or nominated by your authority;
    - (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
    - (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
  - (b) relates to—
    - (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of Local Government (Wales) Measure 2011 (1), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989 (2);
- (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.

12.3 The exemptions in subparagraph 12.2(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

### **Overview and Scrutiny Committees**

- 13.1 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

### **Participation in Relation to Disclosed Interests**

- 14.1 Subject to sub-paragraphs 14.2, 14.2(a) 14.3 and 14.4, 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 14.2 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.
- 14.2 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.
- (a) Where you have a prejudicial interest in any business of your authority and 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 a statutory right or otherwise.
  - (b) When submitting written representations under sub paragraph 14.2(a) you must comply with any procedure that your authority may adopt for the submission of such representations.
- 14.3 Sub-paragraph 14.1 does not prevent you attending and participating in a meeting if—
- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
  - (b) you have the benefit of a dispensation provided that you—
    - (i) state at the meeting that you are relying on the dispensation; and
    - (ii) before or immediately after the close of the meeting give written notification to your authority containing—

- (aa) details of the prejudicial interest;
- (bb) details of the business to which the prejudicial interest relates;
- (cc) details of, and the date on which, the dispensation was granted; and
- (dd) your signature.

14.4 Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.



## **PART IV**

### **THE REGISTER OF MEMBERS' INTERESTS**

#### **Registration of Personal Interests**

- 15.1 Subject to sub-paragraph 15.4, you must, within 28 days of—
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
  - (b) your election or appointment to office (if that is later),
- register your personal interests, where they fall within a category mentioned in paragraph 10.2(a) in your authority's register of members' interests by providing written notification to your authority's monitoring officer.
- 15.2 Subject to sub-paragraph 15.4, you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10.2(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.
- 15.3 Subject to sub-paragraphs 15.4, you must, within 28 days of becoming aware of any change to a personal interest falling within a category mentioned in paragraph 10.2(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of community council to your authority's proper officer.
- 15.4 Sub-paragraphs 15.1, 15.2 and 15.3 do not apply to sensitive information determined in accordance with paragraph 16.1.
- 15.5 Sub-paragraphs 15.1 and 15.2 do not apply if you are a member of a relevant authority which is community council when you act in your capacity as a member of such an authority.
- 15.6 You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

#### **Sensitive Information**

- 16.1 Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

- 16.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph 16.1 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.
- 16.3 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.

### **Registration of Gifts and Hospitality**

- 17 You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

## **PART 5 – CODES & PROTOCOLS**

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### **CODE OF CONDUCT FOR EMPLOYEES OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF**

DATED: 28 JULY 2001

#### **General Principles**

1. The public is entitled to expect the highest standards of conduct from all qualifying employees<sup>1</sup> of Cardiff Council. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

#### **Accountability**

2. Qualifying employees of Cardiff Council work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

#### **Political Neutrality**

3. Qualifying employees of Cardiff Council, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

#### **Relations with members, the public and other employees**

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.
5. Qualifying employees of Cardiff Council should deal with the public, members and other employees sympathetically, efficiently, and without bias.

#### **Equality**

6. Qualifying employees of Cardiff Council must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

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<sup>1</sup> At the date of this Code, teachers are not statutorily bound by its provisions, but the Code may be applied through their contracts of employment.

## **Stewardship**

7. Qualifying employees of Cardiff Council must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

## **Personal Interests**

8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:
  - (1) any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests,
  - (2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

## **Whistleblowing**

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's whistleblowing policy, or any other procedure designed for this purpose.

## **Treatment of Information**

10. Openness in the dissemination of information and decision making should be the norm in Cardiff Council. However, certain information may be confidential or exempt in accordance with the Access to Information Procedure Rules and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, Cardiff Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to disclose information in accordance with the Freedom of Information legislation. Where employees are uncertain about obligations to disclose or withhold information they must seek appropriate advice from Legal or Information Management officers.

## **Appointment of Staff**

11. Qualifying employees of Cardiff Council involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

## **Investigations by Monitoring Officers**

12. Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

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## **PART 5 – CODES AND PROTOCOLS**

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### **PROTOCOL ON MEMBER/OFFICER RELATIONS**

#### **Basic Principles**

- 1 The basic principle of good Member/officer relations in local government is trust, mutual respect and a common understanding of respective roles. Councillors are elected to represent the whole community and officers are appointed by the Council to give creative, robust and impartial advice, which will assist Members in reaching the best decisions for that community.
- 2 The Council's Code of Conduct for Members says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".
- 3 The Code of Conduct for Local Government Employees says that "Mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of Cardiff Council should deal with the public, Members and other employees sympathetically, efficiently and without bias."

#### **Councillors' Roles**

- 4 All councillors have a responsibility to fulfil representational and constituency roles in respect of their electoral divisions. They also have responsibilities as members of the full Council to take some of the most important decisions the Council can make, including approval of the budget and policy framework. Many will be involved in taking other more detailed Council decisions, particularly within the planning and licensing areas, and others will have responsibility for maintaining an overview and scrutiny of Executive Decisions and the efficient performance of Council functions. A relatively small group of councillors will be members of the Cabinet, which will undertake most of the Council's functions.
- 5 All of these roles will relate in slightly different ways to the officers of the Council. These are set out in more detail below.

#### **Officer Roles and Advice**

- 6 Council officers are employees of the whole Council and have an obligation to give impartial advice and to carry out the Council's lawful decisions. They have operational responsibilities which are generally set out in the Council's scheme of delegations, or in their job descriptions. These will generally be of a managerial, technical or administrative nature, and are part of the normal day-to-day work of all Council employees.

- 7 The Member Code of Conduct describes how Members should act when taking decisions and in particular in relation to advice from officers:-
- "A member ... must reach decisions having regard to any relevant advice by the authority's officers..."
- 8 In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make employees feel intimidated or threatened. They should ensure that any challenge of advice given is made to an employee of suitable seniority, generally the Chief Executive, Corporate Director or Chief Officer. Employees should remember that councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation. Employees should always seek to meet the Council's objectives when advising, provided that this can be done legally and within financial resources.
- 9 If Members remain dissatisfied with the advice given, then they may refer the matter to the Leader, the appropriate Cabinet Member or the relevant Committee Chairperson. Where necessary and appropriate, either by agreement with the Chief Executive, relevant Corporate Director or Chief Officer, or following a decision of the Council, professional advice can be commissioned by relevant officers (in consultation with relevant Members) from a reputable and suitably qualified source outside the Council. Any subsequent report to the Council will contain the professional advice of the Chief Executive or officer named as author, but will also contain any external professional view, clearly identified as such.
- 10 This Council operates a system which requires advice on the legality and achievability (including financial matters) of the decision in advance of its consideration, and for that advice to be captured in reports to Members, Cabinet, Committees or the Council. Officers should be permitted to give their complete advice, including a description of any relevant options and advice as to legal and financial probity. When oral advice is given, it should be recorded in writing by the officer concerned.
- 11 The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Cabinet in relation to Executive Functions, and have a statutory right to advise as they believe appropriate within their statutory duties.

### **Correspondence with Councillors and others**

- 12 The Council has a detailed Protocol setting out how officers should deal with correspondence from councillors and other elected representatives. The Protocol may change from time to time to adjust to differing circumstances, but councillors and officers should refer to it for guidance on this issue. Officers should always try to respond to Members within the Council's target



timescales for response, and if they cannot, should keep the Member informed as to progress. If correspondence is referred by an officer to a Member for response, the Member should also use best endeavours to reply within Council target response times.

### **Relationships between Officers and Members**

13 As indicated above, although officers have a duty to serve the Council as a corporate body, their working relationships will be different with different groups of Members. The following paragraphs identify and give guidance on key issues in this area.

14 **All Councillors** – all councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Members to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and within available resources, advice will be given. Officers should not advise councillors on their individual positions or to assist them in personal capacities, but only in relation to Council matters. The Monitoring Officer or his/her nominee may advise individual councillors on the Member Code of Conduct and their responsibilities in relation to declaration of interests.

Individual Members may request that advice given to them is treated in confidence. They should make this clear at the start of any discussion or correspondence with the officer concerned. The officer will then advise the Member as to whether the discussion or correspondence can be treated as confidential within the law and within Council procedures, so that both parties have a clear understanding of the position. Information which indicates that the Council may be in breach of a duty, involves the protection of vulnerable people or alleges misconduct, for example, may not be kept confidential, and may be reported to the proper person or authority.

15 **Chairpersons and Officers** – the chairperson of the Council and/or chairpersons of committees have particular roles in relation to the business of the Council or committees, and officers will support them in those roles. Generally, and subject to the Council's rules of procedure set out in Part 4, the Chairman/chairperson of any Council body will finalise relevant agendas and the officer with responsibility for issuing the agenda will comply with the Chairman/chairperson's wishes in this respect. However, in certain instances, statutory officers have a right to have items included on relevant agendas, and these and any instructions issued by statutory officers in this respect will be followed.

16 **Leader and Cabinet and Officers** – although employees serve the Council as a whole, senior employees will work closely with the Leader and Cabinet Members on policy matters. In particular, they may be asked to brief Members on Council powers, the implementation of policies and available options. This is entirely acceptable, whether done individually or collectively.

The Leader and Cabinet Members recognise that all officers are employees of the full Council and may not be asked by Members to advise in a certain way, or to carry out their duties in a way which does not accord with formal decisions or with the officer's own professional judgement. This is, of course, subject to the requirement that officers must carry out the lawful decisions of the Council and the Cabinet.

- 17 **Party Groups and Officers** – no officer may be compelled to attend a meeting of the Council's political groups and similarly may not insist on doing so. Officers will not attend party group meetings which include individuals other than Council Members or Council officers acting in that capacity. If an officer gives a briefing to any political group represented on the Council, he/she will offer a similar briefing to the other party groups.
- 18 **Co-opted Members and Officers** – the Council has several co-opted members who have a statutory right to vote on issues in certain circumstances. Officers will deal with co-opted members in the same way as they deal with all councillors and will be available to advise them as set out in paragraph 10 above, in respect of their particular statutory functions only.

### **Conduct and Effectiveness**

- 19 If councillors have any concerns about the effectiveness or conduct of particular officers, they will take this up directly and confidentially with the appropriate Corporate Director with responsibility for the officer's service area, or the Chief Executive if there is no appropriate Corporate Director or the issue relates to a Corporate Director, or the Leader if the issue relates to the Chief Executive. The issue will then be handled in accordance with the Council's procedures and the Member and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. Personal criticism (except in pursuance of a legal obligation) by Members of individual officers or identifiable groups of officers will not take place in public forums (including the media) as this could seriously affect the ability of the Council to effectively defend its position as an employer and may in some circumstances render it liable to payment of compensation.
- 20 Similarly, if any officer has concerns about the conduct of a particular Member, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue on an amicable basis. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Standards Commissioner for Wales under the Member Code of Conduct. No Council officer will publicly criticise any councillor (except in pursuance of a legal obligation) as this would be a departure from the proper statutory process and may prejudice that process.

## **Access to Information and Documents**

- 21 The Council promotes openness and access to information by all its councillors. However, the law prevents the release of confidential or exempt information in certain circumstances, and both officers and members will abide by the Council's Access to Information Procedure Rules set out in Part 4 of this Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.

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## **PART 5 – CODES AND PROTOCOLS**

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### **THE CARDIFF UNDERTAKING FOR COUNCILLORS**

This undertaking should be considered in conjunction with the Members' Code of Conduct and forms part of the ethical code which binds all Members of the City & County of Cardiff.

As a Councillor elected to the County Council of the City and County of Cardiff, and in accordance with the principles of public life:-

#### **I UNDERTAKE TO:-**

##### **Promotion of equality and respect for others**

1. Represent Cardiff and all the people of Cardiff and to hold this duty of representation equally to all the people of Cardiff.

##### **Objectivity and propriety**

2. Consider all issues and cases brought to me on their merits.
3. Balance the interests of my Ward with the interests of the Council and the people of Cardiff as a whole.

##### **Selflessness and stewardship**

4. Give priority to the interests of the Council, Cardiff and of the people of Cardiff.
5. Safeguard and promote the life chances of children looked after by the Council and diligently discharge my responsibilities as Corporate parent of those children.

##### **Integrity**

6. Act according to the highest standards of probity in carrying out my various duties as a Councillor.

##### **Duty to uphold the law**

7. Adhere to and respect the Members' Code of Conduct and have proper regard to the advice and guidance issued by the Standards & Ethics Committee.
8. Adhere to and respect the provisions of any Local Resolution Protocol proposed by the Standards & Ethics Committee and adopted by Council

##### **Accountability and openness**

9. Not to disclose information given to me in confidence
10. Support and promote the conduct of the Council's business being carried out in an open and transparent manner.

**In order to enable me to carry out my duties I further undertake that I will commit to appropriate training, to include all training which has been identified as essential in the Member Induction Programme/Member Training and Development Plan, or equivalent, to equip me to carry out my duties as a Councillor.**

Name: .....

Date: .....

Signed: .....

## **PART 5 – CODES AND PROTOCOLS**

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### **PROTOCOL ON MEMBERS RIGHTS OF ACCESS TO INFORMATION AND DOCUMENTS**

#### **Introduction**

- 1 Members may ask any Council Service to provide them with information, explanation and advice so that they can carry out their role as councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.
- 2 In addition to general information, explanation and advice Members may also seek access to specific documentation held by the Council, its Officers or Cabinet and have a number of common law, statutory and constitutional rights for that purpose.
- 3 Any consideration of Member's rights of access to information and documents must take into account the general rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

#### **The Purpose of the Protocol**

- 4 The purpose of the protocol in paragraph 10 is to help clarify for members what they are entitled to see, and how to go about seeing it, and to give officers clear guidelines about the members rights particularly in the light of the constitutional arrangements, and the role of scrutiny. Whilst not in any way seeking to limit member's rights, it also seeks to avoid any unnecessary cost and use of Council resources in dealing with every request for information under the Freedom of Information Act.
- 5 The Council will continue to monitor arrangements to make sure that members get to know information in a timely and appropriate manner.

#### **The Legal Position – Statutory Powers**

- 6 These are set out in the Appendix but briefly mean that:-
  - 6.1 Any member can see documents which contain information relating to the public and private meetings of the Cabinet, meetings of the Council and its Committees, any decision to be taken by an individual member of the Cabinet and any key decision made by an Officer. This statutory right does not extend to certain categories of exempt and confidential information.
  - 6.2 All members of a Scrutiny Committee have a right to copies of documents which contain information relating to the public and private meetings of the Cabinet, any decision to be taken by an individual member of the Cabinet and

any key decision made by an Officer. However, they are only entitled to a copy of a document containing exempt and confidential information where the information is relevant to an action or decision which the member is reviewing or scrutinising or which is relevant to any review contained in a work programme of the Committee or Review Panel.

- 6.3 Members have rights in relation to the accounts of the Council under section 228 of the Local Government Act 1972
- 6.4 Members have the same rights to information as any member of the public under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 subject to the exemptions and exceptions in that legislation.

### **The Legal Position - The Common Law Position**

- 7 At common law any member has a prima facie right to inspect any Council documents if access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
- 8 The exercise of this common law right depends upon the member's ability to demonstrate a "need to know". In this respect, a member does not have "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is whether there is a "need to know". More guidance on this principal is contained in a separate guidance note.

### **Data Protection**

- 9 Data protection legislation restricts the processing of information relating to individuals. As a result, any such information cannot be shared without the agreement of that individual or unless one of the legal exemptions applies.

### **Protocol for Access to Documents**

- 10 Against this background the Council has agreed the following protocol:-
  - 10.1 Where a Member has a clear right of access, as available to any member of the public, to the documents required under Rule 6, Rule 8 or Rule 9.2 of the Access to Information Procedure Rules the documents will be supplied.
  - 10.2 If the documents are not available under paragraph 10.1 the Member shall if appropriate request the material under Rule 18 of the Access to Information Procedure Rules. This rule gives a right to inspect documents relating to business transacted or to be transacted at a meeting of the Council or committee, and to inspect documents relating to business transacted at a decision making meeting of the Cabinet after that meeting.



- 10.2 If the documents are not available under paragraph 10.2 the Member shall if appropriate request the material under Rule 17 of the Access to Information Procedure Rules. This rule gives a member of a scrutiny committee a right to inspect documents relevant to the work of that committee.
- 10.3 If none of the foregoing routes are available a formal request should be made to a relevant Senior Officer and in this the Member should:-
- 10.3.1 identify what they wish to see;
  - 10.3.2 indicate whether they are asserting a 'need to know' (see paragraphs 0 and 0 above) and if so state the reason(s) that they need to see the material (members should carefully consider the guidance before doing so); and
  - 10.3.3 make it clear whether they have a personal interest in the matter (as defined in the Members' Code of Conduct) and if so what it is.
  - 10.3.4 If asserting a need to know, whether they wish the request to be formally considered under the Freedom of Information Act in the event that the 'need to know' is not accepted. Members are encouraged not to invoke Freedom of Information unnecessarily in circumstances where the material is unlikely to be suitable for general publication e.g. because of commercial confidentiality
- 10.4 The Officer is entitled to ask the member to make this request in writing if he or she is in any doubt about any of these matters, and may at any time seek further clarification.
- 10.5 The Officer receiving the request should make an initial assessment where appropriate as to whether the request should be considered initially under Freedom of Information or the 'need to know'. The Officer may consult the Monitoring Officer or Information Management Services for advice. The purpose of this stage is to ensure that:
- 10.5.1 Where it is likely that material can be made available under the 'need to know' basis restricted disclosure may be offered to the Member without incurring the cost of a full Freedom of Information assessment
  - 10.5.2 Where it is likely that the material would not be exempt under Freedom of Information full disclosure may be given without incurring the cost of deciding whether 'need to know' has been established
- 10.6 Where the 'need to know' is being considered an officer who is in any reasonable doubt regarding the release of the information will consult the Monitoring Officer for advice.
- 10.7 If, after receiving this advice, it is not considered appropriate to release the information either because:-

- 10.7.1 the member has not established a need to see it or
- 10.7.2 because the Officer has other concerns (for example the Councillor has personal interest in the matter, the information is commercially or otherwise sensitive, or the amount of work involved in identifying and producing the information is considered to be excessive) and the member takes a different view, the matter will be referred to the Monitoring Officer, who may consult the relevant Group Leader before making a decision.
- 10.8 Any information provided under the 'need to know' must be only used in connection with the members' duties as a Councillor, e.g. speaking at a relevant Committee or at full Council. Information not already in the public domain should not be divulged by the Member to third parties (including the press) unless and until it enters the public domain e.g. by discussion at a meeting where the public have not been excluded, nor should information be used improperly. Where information has been provided under 'need to know' subject to specific restrictions on its use, officers will use best endeavours to advise the Member if and when the need for those restrictions ceases.
- 10.9 If it is decided that a 'need to know' has not been established the Member will retain the right (notwithstanding paragraph 0 above) to invoke the Freedom of Information Act. The time for answering the request under the Act will start to run from the date of refusal under 'right to know' in cases where the Member has initially agreed not to invoke the Act.
- 10.10 Where Freedom of Information is being considered this will be done in accordance with the Council's normal Freedom of Information procedures since under Freedom of Information Members have no special status
- 10.11 If disclosure under Freedom of Information is refused the Member will retain the right (notwithstanding paragraph 0 above) to invoke the 'need to know'.
- 10.12 Finally, the effect of the Data Protection legislation is that information relating to an individual should not be provided unless either the individual has agreed to its release or one of the legal exemptions applies. As a result, any member wishing to obtain access to personal information should first seek that persons consent. If that consent is not given, or there is a difficulty with requesting it, then legal advice should be sought.

### **Protocol for Access to Other Information**

- 11 The protocol in the previous section relates to Members' legal rights of access to documents. Many Member enquiries may not require consideration of these rights at all or in part. The enquiry may be for general information, explanation and advice about Council activities. Members need to be aware when making such requests that the legal rights referred to above do not strictly apply to such requests. Nevertheless all parties accept that the effective and efficient governance of the Council requires that such enquiries require appropriate and timely response.

- 12 The mechanics of responding to requests from Members is dealt with in a separate correspondence protocol.
- 13 Subject to the following paragraph the appropriate officer will respond to such requests in such a manner that such that the Member has sufficient information to be able to take an informed view and so as to be able to carry out their duties as a Councillor. Technical or professional advice will be given on an impartial basis.
- 14 Responding to requests for information from Members will be subject to the following limitations:
  - 14.1 No information or advice will be given which contains information which would not have been disclosed as part of an existing record under the protocol in paragraph 10 above
  - 14.2 Where the amount of work, research or consultation required to provide an answer to a Member would be disproportionate having regard to the nature of the enquiry the appropriate officer may decline to give a full and complete response. In the event of any dispute as to the amount of work which may be reasonable the matter will be referred to the Monitoring Officer for a decision as to whether the work required is disproportionate.

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## **PART 5 – CODES AND PROTOCOLS**

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### **PROTOCOL ON MEMBERS RIGHTS OF ACCESS TO INFORMATION AND DOCUMENTS**

#### **APPENDIX**

##### **SUMMARY OF STATUTORY PROVISIONS ON ACCESS TO DOCUMENTS**

1. There is a right to inspect the accounts of the Council and of any of its Proper Officers under Section 228 of the Local Government Act 1972
2. Section 100F of the Local Government 1972 Act and The Local Government (Access to Information) (Variation) (Wales) Order 2007 provide rights of access to documents for members of the Council. These rights are reflected in the Access to Information Procedure Rules in the Council's constitution. There is a general right of access to documents forming part of the formal business of the Council, including minutes, agendas, reports and background papers, subject to certain restrictions for exempt and confidential information.
3. The Local Government Act 2000 and The Local Authorities (Executive Arrangements) (Decisions Documents and Meetings) (Wales) Regulations 2001 provides similar rights in relation to documents forming part of the formal business of the Cabinet, and Part III of the same regulations gives an extended right to members of overview and scrutiny committees relating to documents relevant to the work of the committee
4. The Freedom of Information Act 2000 and the Environmental Information Regulations give general rights of access to all recorded information held by the Council subject to certain exemptions and exceptions
5. Guidance on the extent of these rights is available in a separate guidance document.

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## **PART 5 – CODES AND PROTOCOLS**

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### **MEMBERS PLANNING CODE OF GOOD PRACTICE**

#### **1 Purpose of the Code**

This Code has been being prepared for the guidance of Officers and Members in their dealings with planning matters. This includes decision-making meetings of Council, which exercise the planning function of the planning authority or less formal occasions such as meetings with officers or the public or consultative meetings. Whilst much of this Code of Good Practice relates to the submission and determination of planning applications it also applies to discussions / submission relating to the preparation of the Local Development Plan and to Planning Appeals and enforcement. The Code has been prepared in accordance with: -

- Code of Conduct for Members and Co opted Members of the County Council of the City and Council of Cardiff
- The Royal Town Planning Institute Code of Conduct for Chartered Planners

The Code has the following objectives:-

- To guide and protect Officers and Members in dealing with planning related matters from criticism and challenge
- To inform potential developers and members of the general public of the standards adopted by Cardiff County Council and the performance of its planning function
- To ensure that, in the planning process, there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

#### **2 Key Principles**

Planning decisions made by Councils can have a considerable effect on the value of land, the nature of its development and on the lives and amenities of people living in the vicinity. The process of arriving at decisions on a planning matter must be open and transparent. The involvement of both Officers and Members must be clearly understood. The main principles which Members should have clear regard for are:-

- The key purpose of planning is to control development in the public interest
- Your overriding duty as a Councillor is to the whole local community
- You have a special duty to your constituents including those who do not vote for you
- Your role as a member of the planning authority is to make planning decisions openly, impartially, with sound judgement, and for justifiable reasons

- Whilst you may be strongly influenced by the views of others and of your party in particular it is your responsibility alone to decide what view to take on any question which Councillors have to decide
- You should never do anything as a Councillor, which you could not justify, to the public. Your conduct and what the public believes about your conduct will effect the reputation of the Council
- It is not enough to avoid actual impropriety. You should at all times avoid any occasion for suspicion and any appearance of improper conduct
- You should treat with extreme caution any offer of gift or favour or hospitality that is made to you personally. You are personally responsible for all decisions connected to the acceptance of such gifts or hospitality and for avoiding the risk of damage to public confidence in local government
- Section 54a of the Town and Country Planning Act requires you to take planning decisions in accordance with the provisions of the development plan unless material considerations indicate otherwise. You should ensure that all decisions that you make have regard to proper planning considerations and are made impartially and in a way, which does not give rise to public suspicion or mistrust
- The Code applies to all decisions of the Council on planning related matters. This includes Members involvement in any planning application, whether or not it is reported to a committee, all applications determined by any committee or by Full Council acting as a local planning authority

### **3 Relationship to the Code of Conduct for Members and Co Opted Members of the County Council of the City and County of Cardiff**

The Code of Conduct adopted by Cardiff County Council on 13<sup>th</sup> December 2001 sets out requirements and guidance for Members on the disclosure and registration of interests. Not only should impropriety be avoided but also any appearance or ground for suspicion of improper conduct. When considering any planning matter you should have primary regard for the Code of Conduct, and particularly the requirement to properly declare all interests:-

- **Do** apply the rules in the Code of Conduct for Members first which must always be complied with
- **Do** then apply the rules in this planning Code of Best Practice

### **4 Development Proposals and the Declaration of Members' Interests**

When considering planning matters Members may find that they need to:

- Declare a personal and / or prejudicial interest or
- Indicate that they have come to a view prior to the meeting (i.e. fettered their discretion)



The existence and nature of any interest should be disclosed at all relevant meetings including informal meetings or discussions with officers and other Members. A member may at any time declare a personal interest under the Members Code of Conduct however it is preferably disclose your interest at the beginning of the meeting and not just at the commencement of the discussion on that particular matter.

#### **Where your interest is personal and /or prejudicial:**

- **Do Not** participate or give the appearance of trying to participate in the making of any decision on the matter by the planning authority
- **Do Not** try to represent Ward/local views. Get another Member who is not a member of DC to do so instead
- **Do Not** get involved in the processing of the application and direct any queries or technical matters to the relevant officer
- **Do Not** seek or accept any preferential treatment or place yourself in a position that could lead the public to see that you are receiving preferential treatment because of your position as a Councillor. This would include using your position to discuss any proposal with Officers or Members when other members of the public would not have the same opportunity to do so. You may need to identify another local member who is prepared to represent local interests
- **Do** be aware that whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal interest to an appropriate Officer in person or in writing, the Member's Code of Conduct places greater limitations on you in representing that proposal than would apply to a normal member of the public (for example where you have a personal and prejudicial interest in a proposal to be put before a meeting you will have to withdraw from the room or Chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to observe the meeting's consideration of it from the public gallery)
- **Do** notify the Monitoring Officer in writing of your own interest and ensure that a proper record of the interest is noted at any meeting (use the form at Appendix 1)

#### **Where you have fettered your discretion**

The allowance made for Councillors to be predisposed to a particular view is a practical recognition of:

- the role played by party politics in Local Government
- the need for Councillors to inform constituents of at least an initial view on a matter as part of their public role

- the structure of local government which ultimately requires the same Councillors to make decisions

It is therefore particularly important for elected Councillors to have a clear understanding about the implications of expressing an opinion or view on planning matters. If you make up your mind or clearly appear to have made up your mind (particularly in relation to an external interest or lobby group) on how you will vote on any planning matter prior to formal consideration of that matter (i.e. at the meeting of the planning authority, prior to the hearing of the Officers presentation and evidence and arguments on both sides) you may be seen to have fettered your discretion. For example:-

- Where the Council is the landowner, developer or applicant and you have acted as or could be perceived as being a chief advocate for the proposal. Through your significant personal involvement in preparing or advocating the proposal you may be perceived by the public as being no longer able to act impartially or to determine the proposal purely on its planning merits
- Where you are a member of an organisation or lobbying group, which has publicly expressed a view on the planning matter. (A lobbying group is a body whose principle purposes include the influence of public opinion or policy). You may also have a personal interest in a matter before committee. The test of establishing a prejudicial interest under the Code is analogous to the common law test for bias -"that a member of the public with knowledge of all of the relevant facts would regard your interest as so significant that it is likely to prejudice your judgment of the public interest"

However where you act as part of the consultee body (e.g. where you are also a member of a community council) you may take part in its debate provided that:-

- the proposal does not substantially effect the well-being or financial standing of the consultee body, and
- you make it clear that your views are expressed on limited information before you only, and
- that you reserve judgment and the independence to make up your own mind on each separate proposal based on your overriding duty to the whole community and not just to the people in that area, ward or parish, and
- you clearly state you will not in anyway commit yourself as to how you or others may vote when the proposal comes before the Planning Committee and
- you disclose your personal interest regarding your membership or role when the Planning Committee comes to consider the proposal

**In all other circumstances**

- **Do not** speak and vote on a proposal as a Member of the Development Control Committee where you have fettered your discretion. You do not also have to withdraw but you may prefer to do so for the sake of appearances
- **Do** explain that you do not intend to speak and vote because you have or could reasonably be perceived as having judged the matter elsewhere so that this may properly be recorded in the minutes
- **Do** take the opportunity to exercise your separate speaking rights as a ward member where you have represented your views or those of local electors and have fettered your discretion but do not have a personal/prejudicial interest. In these circumstances advise the Chair that you wish to speak in this capacity before the commencement of the item, remove yourself from the Members seating area for the duration of that item and ensure that your actions are recorded.

The flow chart at Appendix 2 provides guidance for you in deciding whether you have a declarable interest

Given the issues set out above Members of Planning Committee may wish to consider whether they should take an active role on consultee bodies such as Community Councils.

## **5 Contact with Applicants, Developers and Objectors**

Local Authorities are encouraged by Government policy to enter into pre-application discussions with potential applicants. There will also be discussions and meetings on strategic plans for the Council (e.g. matters arising from the local development plan or major development sites). Such strategic discussions lie within the remit of the Cabinet Member with responsibility for Environment and Transportation and may be distinguished from discussions on specific planning applications, and therefore not subject to the caveat set out below. In addition negotiations and discussions are likely to be ongoing after an individual application has been submitted. Such discussions can often be interpreted by the public (and especially objectors) as prejudicing the planning decision-making process. In order to allay such perceptions all discussions should take place within clear guidelines.

One particular aspect of application discussions relates to lobbying. Lobbying is a normal part of the political process. However, it can lead to impartiality being brought into question and accordingly there is a need to declare publicly that an approach of this nature has taken place. Lobbying can take place by professional agents as well as un-represented applicants/landowners and community action groups.

- **Do not** agree to any formal meeting with applicants, developers or groups of Objectors if you are a member of Development Control Committee and therefore likely to be part of the decision-making process. There may be exceptional circumstances where meetings do take place. Such meetings must always have been formally convened by the Development Control Manager. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the

meeting is properly recorded on the application file, and that a record of the meeting will be made available for public inspection and will form a background paper to any Committee report

- **Do** refer those who approach you for planning procedural or technical advice to officers
- **Do** report to the Development Control Manager any significant contact with the applicant and other party, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded on the planning file
- **Do not** attend any private planning presentation unless an Officer is present and/or that it has been organised by Officers. These may be differentiated from major public presentations when members may seek information but should not enter into discussions or express a view
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application and that this will be carried out by the appropriate Committee of the planning authority
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals
- **Do** explain to those lobbying or attempting to lobby you that whilst you can listen to what is said it prejudices your impartiality and therefore your ability to participate in the Committee's decision-making to express an intention to vote one way or another, or such a firm point of view which amounts to the same thing
- **Do** remember that your overriding duty is to the whole community not just the people in your local area, and taking account of the need to make decisions impartially, you should not improperly favour or appear to improperly favour any person, company, group or locality
- **Do not** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable ensure that it is of the minimum and its acceptance is declared as soon as possible (remembering to register any gift with a value of over £25).
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity as this will enable proper officer advice to be given in the report and avoid the situation where officers are asked to respond to new information at the meeting itself, leading to deferral or decisions made on partial advice

- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development
- **Do** inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches
- **Do** note that unless you have a personal and prejudicial interest you will not have fettered your discretion or breached this Planning Code of Good Practice through listening or receiving view points from residents or other interested parties making comments to residents, interested parties, other members or appropriate officers providing they do not consist of or amount to prejudging the issue. Provided that you make clear that you are keeping an open mind, seeking information through appropriate channels or being a vehicle for the expression of opinion or speaking at the meeting as a ward member provided you explain your actions at the start of the meeting or item and make it clear that having expressed the opinion or ward view you have not committed yourself to vote in accordance with those views and you will make up your own mind having heard all of the facts and listened to the debate

## **6 Ward Interests**

A Development Control Committee Member who represents a ward affected by a particular application is in a difficult position particularly if it is a controversial application around which a lot of lobbying takes place. There is a balance to be struck between the duty to be an active ward representative and the overriding duty as a Councillor to the whole local community. In these circumstances

- **Do not** lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do not** decide or discuss how to vote on any application at any sort of political group meeting or lobby any other member to do so. Political group meetings should never dictate how Members should vote on a planning issue
- **Do not** become a Member or lead or represent an organisation whose primary purpose is to lobby, to promote or oppose specific planning proposals. If you do you will have fettered your discretion and are likely to have a personal and prejudicial interest and will have to withdraw from any meeting
- **Do** of course join general interest groups which reflect your areas of interest or which concentrate on issues beyond particular planning proposals (such as your local civic society) but make sure that you disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the committee that you have reserved judgement and the independence to make up your own mind on each separate proposal

## **7 Development Proposals Submitted by Officers or Councillors of the Council (the advice in this section applies to both planning applications and Development Plan Policy matters)**

Officers should never act as agents for people pursuing a planning matter with their Authority. Members may in law advocate on behalf of a proposal or act as an agent on behalf of a specific proposal. However, it is likely that you will then have a personal and a prejudicial interest which must be declared in accordance with the Members Code of Conduct and which will debar you from taking part in the decision. Where Members are likely to do this on a regular basis they should not accept membership of the Development Control Committee.

Should any Member or Officer connected with the planning service submit their own proposals to the Authority they should declare the interest to the Monitoring Officer and to the Chief Strategic Planning and Environment Officer at the earliest opportunity and take no part in the processing. Any such proposal/application will be reported to the Development Control Committee **and not** dealt with under delegated powers.

## **8 The Decision Making Process**

A decision on a planning application cannot be made before the committee meeting when all of the relevant information is to hand, any political group meeting prior to a Committee meeting should not be used to decide how Councillors should vote. Accordingly Agenda Briefing meetings and any pre-Committee meetings will solely be for the purpose of enabling an exchange of briefing material between Officers and Members on planning issues of concern in relation to particular applications, and will be open to Members of all political groups. All applications considered by Development Control Committee or by a report on the circulated schedule shall be the subject of written reports and clear recommendations. If the recommendations are contrary to the provisions of the Development Plan the material considerations, which justify this, shall be clearly stated. If in the view of the officer the matter is finely balanced the report will say so. The recommendations put forward by officers and the decisions by members are separate parts of the same process, which should be justified by the report and debate respectively.

The Conduct of the meeting will be in accordance with the Committee Procedure Rules found within the Council's Constitution

- **Do not** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Development Control Manager which may be incorporated in to any Committee report)
- **Do** recognise that officers are part of a management structure. Only discuss the proposal outside of any arranged meeting with a Chief Officer, or those officers who are authorised by the Chief Officer to deal with the proposal at Member level
- **Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Councils Code of Conduct for Officers and their Professional Code of Conduct. As a result planning officers views, opinions and recommendations will be presented on the

basis of their overriding obligation of professional independence which may on occasions be at odds with the views, opinions or decisions of the Committee or its Members

- **Do** have regard to the Councils Member/Officer Protocol, which governs the working relationships that you have with officers. This is a relationship based on mutual trust and courtesy, and all meetings should be guided by this principle.
- **Do** come to meetings with an open mind and demonstrate that you are open minded
- **Do** ensure that if you have requested a proposal to go before the Committee rather than be determined through officer delegation that your planning reasons are recorded and repeated in the report to the Committee
- **Do** comply with the Section 54a of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise
- **Do** come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary defer or refuse
- **Do not** vote or take part in the meeting's discussions on a proposal unless you have been present to hear the debate including the officers introduction to the matter
- **Do** have recorded the reasons for the Committees decision to defer any proposals
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge
- **Do not** allow members of the public to communicate with you during the committee's proceedings (or in writing) other than through the scheme for public speaking as this may give the appearance of bias
- **Do** ensure that you comply with the Councils procedures in respect of public speaking

## 9 Training

Training on planning matters will be made available at convenient times for all Members of the Council, and in particular those serving on the Planning Committee.

Subject to resource availability places will be made available for new Members of the Planning Committee to attend the Annual Planning Summer School (run by the Royal Town Planning Institute "RTPI")

Refresher training for all Members of Planning Committee will be held throughout the year in the form of Briefing Sessions at Planning Policy Committee Meetings.

- **Do** ask the Chair of or the Committee Clerk for the Planning Committee if you have not attended Planning Summer School and you would like to
- **Do** endeavour to attend any training sessions provided since these will be designed to extend your knowledge and thus assist you in carrying out your role properly and effectively

## 10 Site Visits

Site visits by Committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to that decision.

The purpose of a site visit is to enable Committee Members:-

- to view the site of a planning application together with surrounding land;
- to place the application in its physical context;
- to assist the appraisal of constraints and opportunities afforded by the proposed development, and its potential impact on surrounding land;
- to have officers point out material considerations

A consistency of approach is required for site visits to ensure that any site visit undertaken adds to the Planning Process, and also that the interests of the applicant, any objectors and the local community are dealt with equitably

Members are asked to alert officers to impending requests for site visits at the earliest opportunity. This will them to inform the Chairman and consider jointly whether site visits could be arranged in a way which minimises any delay to the processing of the application

When a member makes a request site visit the reason for the request must be stated and will be minuted. The decision on whether to agree a site visit lies with the Committee.

Site visits should only be made where necessary. Consideration should be given to what will the Planning Committee gain from a site visit that is no already evident from the Officer's Report and other supporting information.



Committee members should consider requests critically because they generally cause delay to the process, and are time consuming and costly. Alternative methods of obtaining the information should be considered i.e. digital photography.

When considering a request for a site visit which could lead to the deferment of the determination of the application, the Chairman will require the proposer and seconder of the motion to state the reason for the proposed visit and what the Committee will gain and this shall be recorded in the Minutes.

Whenever a site visit has been agreed by the Committee, it should specify whether the site should be viewed:

- from the public highway or public land only
- from the application site
- from other private land outside the application site

This should be recorded in the Minutes. This will enable officers to make appropriate requests to enter onto private land.

The Head of Development Control (or their representative) will make arrangements for site visits. This will include:

- obtaining the relevant permission to enter private land
- informing Local Members, Petitioners, and anyone who has made observations / representations / comments on the application
- sending a copy of the Site Inspection Protocol to the applicant or owner who has given consent for the site to be entered, the owner of any other land who has agreed that their land may be entered
- arranging for an attendance list to be taken of the visit

On attending a site visit Members should follow the Site Inspections Protocol (attached at Appendix 3)

- **Do** try to attend site visits and ensure that you treat them only as an opportunity to seek information and to observe the site
- **Do** ask the Officers at the site visit questions or seek clarification for them on matters which are relevant to the site inspection
- **Do not** express opinions or views to anyone
- **Do not** hear representations from any parties other than as set out in the Site Inspections Protocol. Make it clear that any representations must focus only on site factors and site issues. Where you are individually approached by an applicant or a third party advise them that they should make their representations in writing to the authority and direct them to or inform the officer present

- **Do not** enter a site which is subject to a proposal other than is part of an official site visit even in response to an invitation as this may give the impression of bias unless:
  - (a) you feel that it is essential for you to visit the site other than through attending the official site visit
  - (b) you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file) and you can ensure that you will comply with these good practice rules on site visits

## **11 Sanctions**

The purpose of this Code is to provide guidance to Members in relation to the performance of the Councils planning function. The application of and adherence to the Code is intended to build public confidence in the Councils planning system and to produce a strong platform for planning decision-making. The Code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications or proposals.

A failure to adhere to the Code gives rise to potential consequences to the Council and individual Members, especially if this results in a pattern of inconsistency. The normal sanction of the democratic process is through the ballot box. Councillors may make a reputation in their community not only for their beliefs but also for their general conduct.

Consistency and fairness are important qualities in the public eye and they are vital to the conduct of the Planning Committee.

Beyond the normal democratic process a number of specific consequences can be identified

- **The Local Government Ombudsman**

Although the Local Government Ombudsman will not investigate the balance of argument in any planning decisions she/he may agree to investigate a planning complaint if it concerns the manner in which a decision was taken. If it is found injustice has been caused by maladministration in the light of statutory or established Council procedures she/he will recommend redress which may take the form of compensation.

Councillors who breach the national Code of Conduct may open themselves up to complaints of misconduct which will be dealt with by the Local Government Ombudsman. The Local Government Ombudsman has extensive powers to investigate a complaint. If a complaint is upheld a formal report can be sent either to the Council's Standards and Ethics Committee or the Adjudication Panel for Wales.

Such complaints may be referred to the Council's Monitoring Officer for investigation and the Standards Committee for determination and remedy.

- **The Adjudication Panel for Wales**

The Adjudication Panel for Wales is an independent body established under Part III of the Local Government Act 2000. The role of the panel is to form tribunals to consider whether Members have breached their authority's statutory Code of Conduct.

The panel will also hear appeals by Members against decisions of the Council's Standards and Ethics Committee.

- **Appeals to the National Assembly for Wales**

An applicant who has been refused planning permission has a right of appeal to the National Assembly for Wales. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable to the appellant costs may be awarded against the Council. All appeals are administered by the Planning Inspectorate.

- **Powers of the National Assembly for Wales**

The National Assembly for Wales possesses a range of powers which could be exercised where a Local Planning Authority appears to make inconsistent decisions or decisions which are seriously in conflict with National and Development Plan Policies. This could involve the greater use of the power to call in applications whereby an application will be determined by the National Assembly following a Public Inquiry. Where permission has already been granted by the Council powers exist to revoke or modify permissions or to require discontinuance of a land use which if exercised would give rise to a liability to compensate on the part of the Council.

- **Judicial Review**

If objectors are convinced that the Council in determining to grant an application did not observe their statutory obligations to carry out all necessary procedures base their decision on the development plan and take in to account all representations they may apply for Judicial Review of the decision which might result in it being quashed. In such circumstances it would be normal for the costs of the applicant to be awarded against the Council.

- **District Auditor**

Each of the above courses of action could result in significant extraordinary costs to the Council. These costs will be closely examined by the District Auditor. Where it appears to an Auditor that a loss has been incurred or a deficiency caused in the Council's accounts by the wilful misconduct of any person she/he is required to certify that the loss or deficiency is due to that person and it may therefore lead to a formal report to Council in accordance with the powers granted to District Auditors under the Local Government Act 2000.

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**CITY AND COUNTY OF CARDIFF**

REGISTRATION OF PERSONAL AND/OR PREJUDICIAL INTEREST

MEMBERS 'CODE OF CONDUCT AND LOCAL GOVERNMENT ACT 1972

Name of Meeting e.g. Council, Committee, Executive  (Please print your answer)	Date of Meeting  (Please print your answer)	Agenda Item  (Please print your answer)	Nature of Interest (Personal or Prejudicial)  (Please print your answer)	Reason for Interest  (Please print your answer)

Page 361

Signed .....

Name (please print) .....

Date .....

4.CTC.CS.007	Issue 2	Date: 01/09	Process Owner: Principal Committee Officer	Authorisation : Senior Committee Administrator	Page 1 of 1
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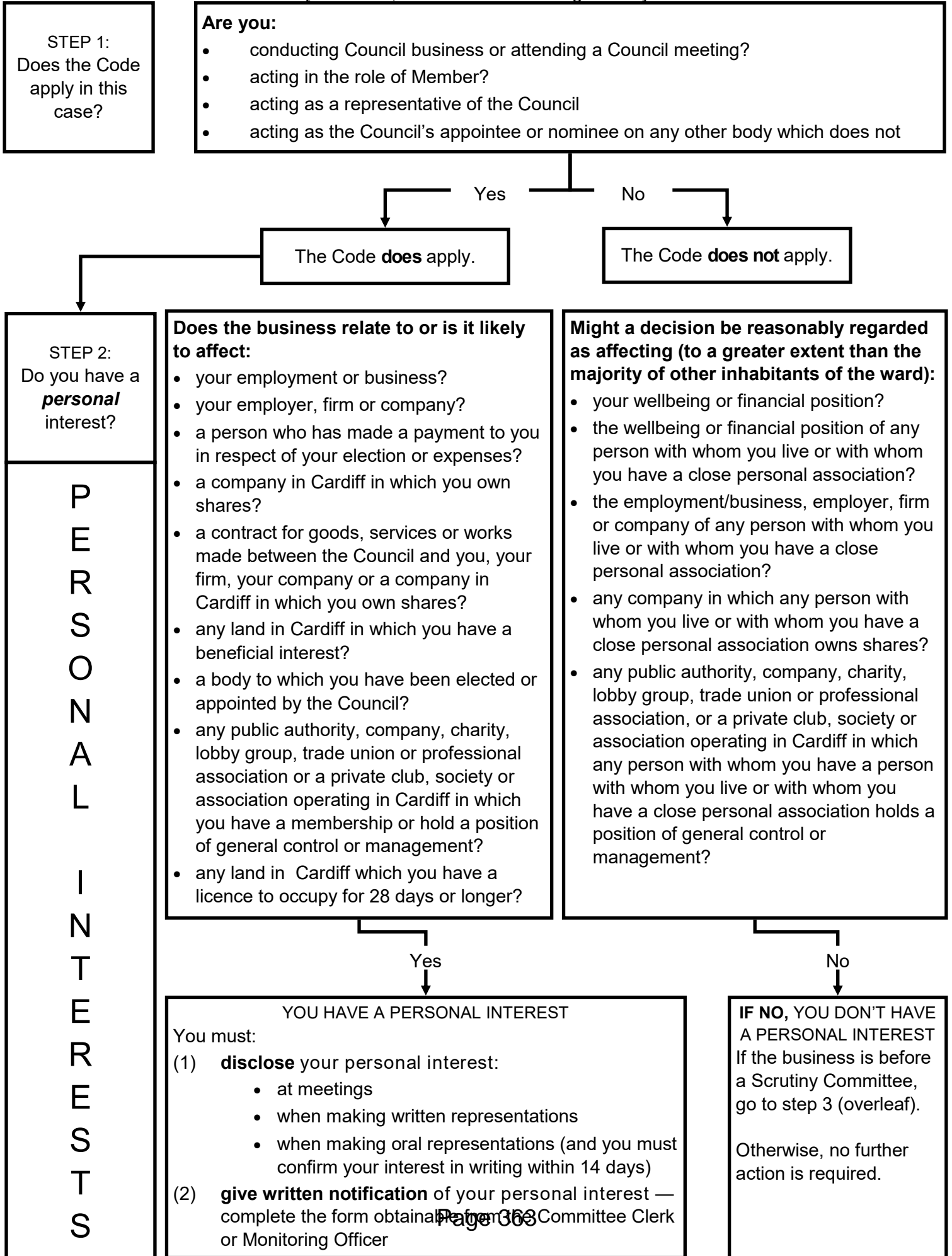
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**Code of Conduct**

DECLARING AN INTEREST — QUESTIONS TO ASK YOURSELF

[These charts are for illustration only and are not definitive]

[If in doubt, consult the Monitoring Officer]



**STEP 1:**  
Does the Code apply in this case?

**Are you:**

- conducting Council business or attending a Council meeting?
- acting in the role of Member?
- acting as a representative of the Council
- acting as the Council's appointee or nominee on any other body which does not

The Code **does** apply.

The Code **does not** apply.

**STEP 2:**  
Do you have a **personal** interest?

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**Does the business relate to or is it likely to affect:**

- your employment or business?
- your employer, firm or company?
- a person who has made a payment to you in respect of your election or expenses?
- a company in Cardiff in which you own shares?
- a contract for goods, services or works made between the Council and you, your firm, your company or a company in Cardiff in which you own shares?
- any land in Cardiff in which you have a beneficial interest?
- a body to which you have been elected or appointed by the Council?
- any public authority, company, charity, lobby group, trade union or professional association or a private club, society or association operating in Cardiff in which you have a membership or hold a position of general control or management?
- any land in Cardiff which you have a licence to occupy for 28 days or longer?

**Might a decision be reasonably regarded as affecting (to a greater extent than the majority of other inhabitants of the ward):**

- your wellbeing or financial position?
- the wellbeing or financial position of any person with whom you live or with whom you have a close personal association?
- the employment/business, employer, firm or company of any person with whom you live or with whom you have a close personal association?
- any company in which any person with whom you live or with whom you have a close personal association owns shares?
- any public authority, company, charity, lobby group, trade union or professional association, or a private club, society or association operating in Cardiff in which any person with whom you have a person with whom you live or with whom you have a close personal association holds a position of general control or management?

**YOU HAVE A PERSONAL INTEREST**

You must:

- (1) **disclose** your personal interest:
  - at meetings
  - when making written representations
  - when making oral representations (and you must confirm your interest in writing within 14 days)
- (2) **give written notification** of your personal interest — complete the form obtainable from the Committee Clerk or Monitoring Officer

**IF NO, YOU DON'T HAVE A PERSONAL INTEREST**

If the business is before a Scrutiny Committee, go to step 3 (overleaf).

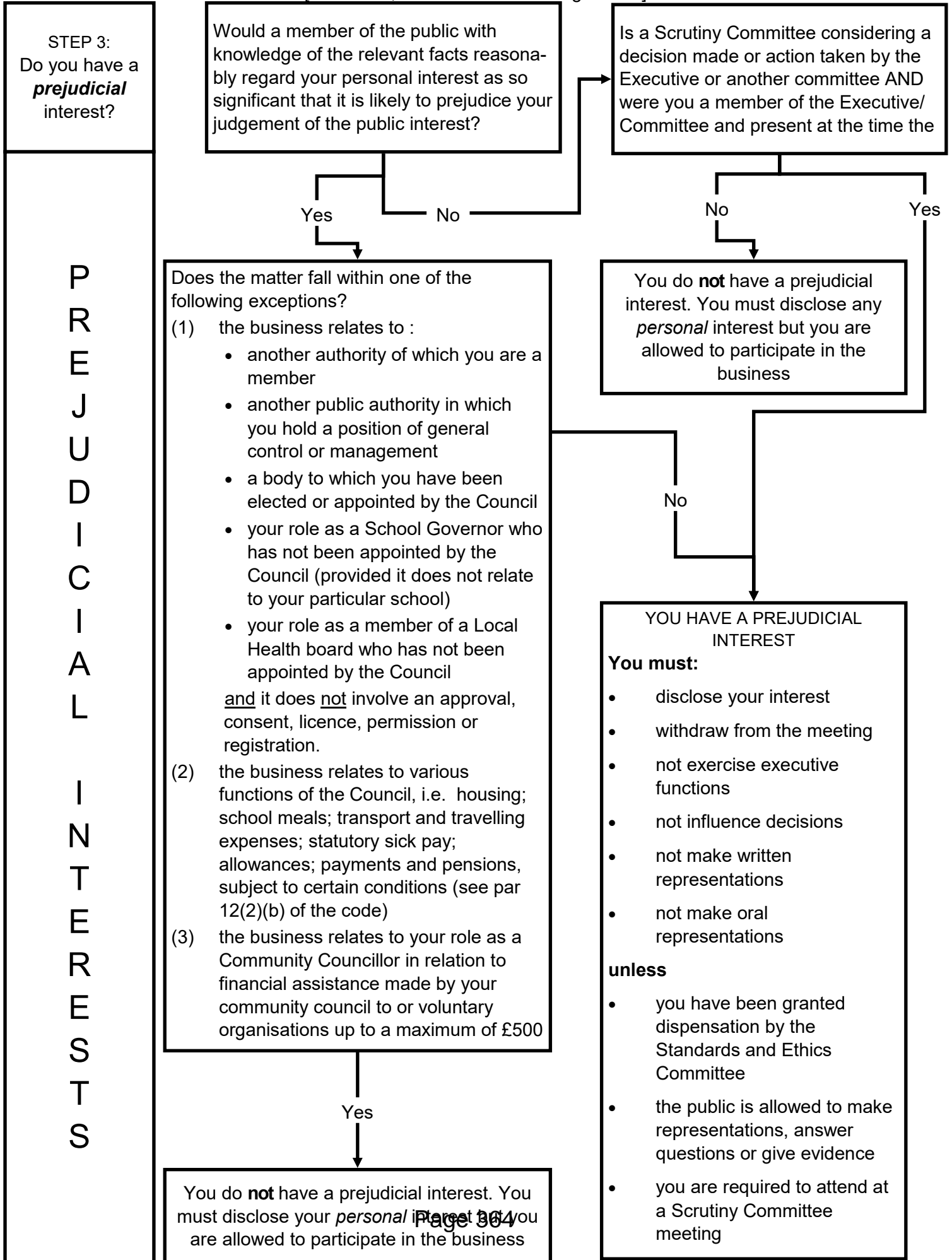
Otherwise, no further action is required.

# Code of Conduct

## DECLARING AN INTEREST — QUESTIONS TO ASK YOURSELF

[These charts are for illustration only and are not definitive]

[If in doubt, consult the Monitoring Officer]





## **PART 5 – CODES AND PROTOCOLS**

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### **MEMBERS PLANNING CODE OF GOOD PRACTICE**

#### **APPENDIX 3 – SITE VISIT CODE OF PRACTICE**

- 1 Sometimes Members of the Planning Committee need to visit a site to help them make a decision on a planning application. These visits are an extension of the Committee Meeting to enable members to make a visual assessment of the site and its surroundings
- 2 When a site visit is required the Development Control Section of Regulatory Services notifies the owner, if access to the premises is necessary
- 3 Site visits are open to all interested parties, including the general public
- 4 The owner or applicant is advised that although he or his agent may be present at the site visit, it is not an opportunity to make representations to Committee Members. This does not prevent the owner, the applicant, or their advisers pointing out factual matters such as the height of the proposed buildings, position of a window, proposed parking spaces etc. This factual information may be brought to the attention of the planning officers who will communicate it to the Planning Committee.
- 5 The Development Control Section will notify those who have also submitted written objections to the application. However, where a petition of objection has been lodged, only one of the petitioners is notified of the site visit. Objectors should be aware that the Council cannot require an owner or applicant to allow objectors onto his land, and that their ability to attend the site visit is at the discretion of the owner or applicant. Objectors are advised that the site visit is not an opportunity to make representations to Committee Members. Factual matters may be pointed out to the planning officer who will communicate it to the Planning Committee.
- 6 Local Ward Members will also be notified of the site visit. Ward Members should be aware that they are also allowed to make representations to Planning Committee Members at the discretion of the Chair during the site visit. If a Ward Member wishes to raise a matters of fact, they should bring it to the attention of the planning officer who will then communicate it to the Planning Committee
- 7 The visit will follow a structured format as follows:-
  - If the applicant, owner or agent (“the applicant”) is present, the Chair and planning officer will introduce themselves and thank them for the right to enter their land, the Chair or officer will remind the people attending the site visit of this Code of Practice
  - The Chair will call the site visit to order and will ask the planning officer in attendance to summarise; the application, site history, features of the site, any other relevant matters

- The officer will also explain to all those attending the site visit that :
  - (a) the purpose of the site visit is to enable the Planning Committee Members to see the site to enable them to consider and determine the planning application;
  - (b) the visit is not the opportunity for interested parties to lobby any Council member to support or oppose the application;
  - (c) if there are matters of fact, that have not been indicated by the planning officer, or if an interested party would like the Members to consider the site from a particular position they should communicate this to the planning officer who will then bring this to the attention of the Planning Committee;
  - (d) interested parties should put any representations in writing to the Development Control Section of Regulatory Services prior to the application being considered at the Planning Committee Meeting;
  - (e) interested parties may discuss the matter with Local Ward Members prior to the Committee Meeting at which the application is to be considered, and be informed that the names, addresses and telephone numbers of Local Ward Members are available.
  
- At no time during the site visit will the applicant, or any member of the public be allowed to address or question Members of the Planning Committee. Only the Chair or an officer may address the applicant for clarification of matters of fact. Other Members should not address comments to the applicant or other interested parties.
  
- At no time will Planning Committee Members debate the merit(s) of the application, and no decision will be made.
  
- No hospitality will be accepted during the course of the site visit.
  
- The Chair/ officer will close the site visit and if appropriate thank the applicant again for the right to enter the land and for any other assistance.
  
- No formal notes will be made at the site visit. An officer will orally update Planning Committee at the Committee Meeting on any new findings or further developments when it next meets to consider the application.

## PART 6 - MEMBERS' SCHEDULE OF REMUNERATION 2017 – 2018

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### Introduction

This Scheme is made under the Local Government (Wales) Measure 2011 (“the Measure”) with regard to Independent Remuneration Panel for Wales (IRPW) Regulations which apply to payments made to members and co-opted members of local authorities.

#### 1. Basic Salary

- 1.1 A Basic Salary shall be paid to each elected Member of the Authority.
- 1.2 In accordance with the Regulations, the rate of the Basic Salary shall be reviewed annually as determined by the Independent Remuneration Panel for Wales.
- 1.3 Where the term of office of a Member begins or ends other than at the beginning or end of a year, his/her entitlement to the Basic Salary will be pro-rata.
- 1.4 No more than one Basic Salary is payable to a Member of the Authority.

#### 2. Senior Salaries & Civic Salaries

- 2.1 Members occupying specific posts shall be paid a Senior Salary as set out in **Schedule 1**.
- 2.2 In accordance with the Regulations, the rates of Senior Salaries and Civic Salaries shall be reviewed annually as determined by the Annual or Supplementary Report of the Independent Remuneration Panel for Wales.
- 2.3 Only one Senior Salary or Civic Salary is payable to a Member of the Authority.
- 2.4 A Member of the Authority cannot be paid a Senior Salary and a Civic Salary.
- 2.5 All Senior and Civic Salaries are paid inclusive of Basic Salary.
- 2.6 A Senior Salary may not be paid to more than the number of members specified by the Independent Remuneration Panel for Wales in its Annual Report and cannot exceed fifty percent of the total membership of the authority, except to include a temporary Senior Salary office holder providing temporary cover for the family absence of the appointed office holder.
- 2.7 A Member of the Authority in receipt of a Band 1 or 2 Senior Salary (i.e. Leader, Deputy Leader and Cabinet Members) **cannot** receive a salary from any National Park Authority (NPA) or Fire and Rescue Authority (FRA) for which he/she has been nominated.
- 2.8 Where the term of Senior Salary or Civic Salary of a Member begins or ends other than at the beginning or end of a year, his/her entitlement to the Salary will be pro-rata.

#### 3. Election to Forgo Entitlement to salaries, allowances or fees

- 3.1 A Member may, by notice in writing delivered to the Monitoring Officer, personally elect to forgo any part of his/her entitlement to any salary, allowance or fee payable under this Scheme from the date set out in the notice.

#### 4. Suspension of a Member

- 4.1 Where a Member of the Authority is suspended or partially suspended from his or her responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the part of

the Basic Salary payable to him/her in respect of that period for which he or she is suspended will be withheld by the Authority (Section 155 (1) of the Measure).

- 4.2 Where a Member in receipt of a Senior Salary is suspended or partially suspended from being a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the Authority must not make payments of the Member's Senior Salary for the duration of the suspension (Section 155 (1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the member may retain the Basic Salary.

## **5. Repayment of salaries, allowances or fees**

- 5.1 Where payment of any salary, allowance or fee has been made to a Member of the Authority or Co-opted Member in respect of any period during which the Member concerned:
- (a) is suspended or partially suspended from that Member's/Co-opted Member's duties or responsibilities in accordance with Part 3 of the 2000 Act or regulations made under that Act;
  - (b) ceases to be a Member of the Authority or Co-opted Member; or
  - (c) is in any other way not entitled to receive a salary, allowance or fee in respect of that period,

The Authority will require that such part of the salary, allowance or fee as relates to any such period be repaid.

## **6. Payments**

- 6.1 Payments of all salaries, allowances or fees will be made by the Council's Payroll team by BACS transfer in instalments of one-twelfth of the Member's annual entitlement usually on the 15<sup>th</sup> of each month.
- 6.2 Where payment has resulted in a Member receiving more than his/her entitlement to salaries, allowances or fees the Authority will require that such part that is overpayment be repaid.
- 6.3 All payments are subject to the appropriate tax and National Insurance deductions.

## **7. Reimbursement of Costs of Care**

- 7.1 Care Allowance shall be paid to a Member or Co-opted Member for the reimbursement of necessary costs for the care of dependent children and adults, and for personal assistance needs, provided the Member incurs expenses in the provision of such care whilst undertaking 'approved' council duties.
- 7.2 Care Allowance applies in respect of children who are aged 15 or under and other persons for whom the Member or Co-opted Member can show that care is required. If a Member or Co-opted Member has more than one dependent the Member may claim more than one allowance, provided the Member can demonstrate a need to make separate arrangements for care.
- 7.3 Eligible Members may claim Care Allowance for actual and receipted costs up to a maximum amount not exceeding that determined by the Independent Remuneration Panel as set out in **Schedule 1**. All claims for Care Allowance should be made in writing to Democratic Services detailing times, dates and reasons for claim. Receipts are required for both informal and formal care arrangements.

## **8. Family Absence**

- 8.1 Members are entitled under the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 to a period of family absence, during which if they satisfy the prescribed conditions they are entitled to be absent from authority meetings.
- 8.2 When taking family absence Members are entitled to retain a basic salary irrespective of their attendance record immediately preceding the commencement of the family absence.
- 8.3 Should a senior salary holder be eligible for family absence they will be able to continue to receive their senior salary for the duration of the absence.
- 8.4 If the authority agrees that it is necessary to make a substitute appointment to cover the family absence of a senior salary holder the Member substituting will be eligible if the authority so decides to be paid a senior salary.
- 8.5 If the paid substitution results in the authority exceeding its maximum number of senior salaries, an addition to the maximum will be allowed for the duration of the substitution.

## **9. Co-optees' payments**

- 9.1 A Co-optees' daily fee (with a provision for half day payments) shall be paid to Co-optees, provided they are statutory Co-optees with voting rights.
- 9.2 Co-optees' payments will be capped at a maximum of the equivalent of 10 full days a year for each committee to which an individual may be co-opted.
- 9.3 Payments will take into consideration travelling time to and from the place of the meeting, reasonable time for pre meeting preparation and length of meeting (up to the maximum of the daily rate).
- 9.4 The Monitoring Officer is designated as the "appropriate officer" and will determine preparation time, travelling time and length of meeting, the fee will be paid on the basis of this determination.
- 9.5 The Monitoring Officer can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.
- 9.6 A half day meeting is defined as up to 4 hours.
- 9.7 A full day meeting is defined as over 4 hours.
- 9.8 The daily and half day fee for the Chairpersons of the Standards Committee and Audit Committee, as determined by the Independent Remuneration Panel, is set out in **Schedule 1**.
- 9.9 The daily and half day fee for other statutory Co-optees with voting rights, as determined by the Independent Remuneration Panel, is set out in **Schedule 1**.

## **10. Travel and Subsistence Allowances**

### **10.1 General Principles**

- 10.2 Members and Co-opted Members may claim travelling expenses when travelling on the Authority's business for 'approved duties' as set out in **Schedule 2**. Where Members travel on the Authority's business they are expected to travel by the most cost effective means. In assessing cost effectiveness regard will be given to journey time. A Member who does not travel by the most cost effective means may have his/her claim abated by an appropriate amount.
- 10.3 Where possible Members should share transport.
- 10.4 The distance claimed for mileage should be the shortest reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.
- 10.5 The rates of Members' travel and subsistence allowances are set out in **Schedule 3** and are subject to annual review by the Independent Remuneration Panel for Wales.
- 10.6 Where a Member is suspended or partially suspended from his or her responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, any travel and subsistence allowances payable to him/her in respect of that period for which he or she is suspended or partially suspended must be withheld by the Authority.

### **11. Travel by Private Vehicle**

- 11.1 The Independent Remuneration Panel for Wales has determined that the maximum travel rates payable should be the rates set out by Her Majesty's Revenue & Customs for the use of private cars, motor cycles and pedal cycles plus any passenger supplement.
- 11.2 The mileage rates for private vehicles as determined by the Independent Remuneration Panel for Wales are set out in **Schedule 3**.
- 11.3 Where a Member makes use of his/her private vehicle for approved duty purposes, the vehicle must be insured for business use. Proof of appropriate insurance must be provided to the Authority on request.

### **12. Travel by Public Transport**

#### **12.1 Rail/Coach Travel**

Unless otherwise authorised rail tickets will be second-class.

Democratic Services or Cabinet Support Office, as applicable, will usually purchase requisite rail and coach tickets for Members in advance of journeys. In the unlikely event that a Member needs to purchase a ticket directly, payment will be reimbursed upon production of the used ticket and/or a receipt.

#### **12.2 Taxi Fares**

Taxi fares will only be reimbursed where their use has been authorised for cases of urgency, where no public transport is reasonably available, or a Member has a particular personal need. Re-imburement will be upon receipt only.

#### **12.3 Air Fares**

Unless otherwise authorised flight tickets will be budget or economy class. Discounted flight tickets will be purchased well in advance wherever possible in order to reduce costs.

Travel by air is permissible if it is the most cost effective means of transport. Authorisation of the Monitoring Officer is required and tickets will usually be purchased by Democratic Services or Cabinet Support Office, as applicable.

#### 12.4 **Travel Abroad**

Travel abroad on the Authority's business will only be permitted where authorised by the Monitoring Officer. Democratic Services or Cabinet Support Office, as applicable, will usually arrange travel and accommodation.

#### 12.5 **Other Travel Expenses**

Members will be entitled to reimbursement of toll fees, parking fees, overnight garaging and other necessary travel associated expenses. Re-imbusement will be upon receipt only.

### 13. **Overnight Accommodation**

13.1 Overnight stays will only be permitted where the Authority's business extends to two days or more, or the venue is at such a distance that early morning or late night travel would be unreasonable. All overnight stays must receive prior authorisation from the Monitoring Officer.

13.2 Overnight accommodation will usually be booked by Democratic Services or Cabinet Support Office, as applicable. Wherever possible the overnight accommodation will be pre-paid or invoiced.

13.3 Direct booking of overnight accommodation by a Member will only be permitted in the event of an emergency. Reimbursement will only be made upon the production of a receipt and will be at a level deemed reasonable and not in excess of the rates set out in **Schedule 3**.

### 14. **Subsistence Allowance**

14.1 The day subsistence rate to meet the costs of meals and refreshments in connection with approved duties (including breakfast when not provided as part of overnight accommodation) is set out in **Schedule 3**. The maximum daily rate covers a 24 hour period and can be claimed for any meal that is relevant, providing such a claim is supported by receipt(s).

14.2 No provision is made for subsistence claims within the Council's administrative boundaries.

### 15. **Claims and Payments**

15.1 A claim for travel and subsistence allowances must be made **in writing by the 1<sup>st</sup> day of each month** or the previous working day if falling on a Saturday or Sunday or Bank Holiday and **must** be accompanied by the relevant receipts. Claims **must** be made within 3 months of the event and within the relevant accounting year (i.e. by 4 April every year).

15.3 Allowances will be paid by the Council's Payroll team by BACS transfer.

### 16. **Pensions**

16.1 The Authority shall enable its Members who are eligible to join the Local Government Pension Scheme.

## **17. Compliance**

- 17.1 In accordance with the Regulations, the Authority must comply with the requirements of the Panel in respect of the monitoring and publication of payments made to members and co-opted members as set out in **Schedule 4**.

**Members are reminded that expense claims are subject to both internal and external audit.**



**SCHEDULE 1**

**SCHEDULE OF REMUNERATION 2017 - 2018**

<b>MEMBERS ENTITLED TO BASIC SALARY</b>			<b>ANNUAL AMOUNT OF BASIC SALARY</b>
The following named Elected Members of the authority receive the Basic Salary			£13,400
Councillor	Councillor	Councillor	
Cllr Ali Ahmed	Cllr Jane Henshaw	Cllr Linda Morgan	
Cllr Ashgar Ali	Cllr Gavin Hill-John	Cllr Jim Murphy	
Cllr Dilwar Ali	Cllr Philippa Hill-John	Cllr Daniel Naughton	
Cllr Phil Bale	Cllr Lyn Hudson	Cllr Oliver Owen	
Cllr Rodney Berman	Cllr Frank Jacobsen	Cllr Thomas Parkhill	
Cllr Fenella Bowden	Cllr Shaun Jenkins	Cllr Keith Parry	
Cllr Bernie Bowen-Thomson	Cllr Owen Jones	Cllr Mike Phillips	
Cllr Jennifer Burke-Davies	Cllr Michael Jones-Pritchard	Cllr Dianne Rees	
Cllr Joe Carter	Cllr Heather Joyce	Cllr Emma Sandrey	
Cllr Wendy Congreve	Cllr Kathryn Kelloway	Cllr Abdul Sattar	
Cllr Jayne Cowan	Cllr John Lancaster	Cllr Elaine Simmons	
Cllr Stephen Cunnah	Cllr Christopher Lay	Cllr Kanaya Singh	
Cllr Tim Davies	Cllr Susan Lent	Cllr Ed Stubbs	
Cllr Sean Driscoll	Cllr Ashley Lister	Cllr Rhys Taylor	
Cllr Saeed Ebrahim	Cllr Norma Mackie	Cllr Graham Thomas	
Cllr Lisa Ford	Cllr Neil McEvoy	Cllr Joel Williams	
Cllr Susan Goddard	Cllr Rod McKerlich	Cllr Peter Wong	
Cllr Iona Gordon	Cllr Bablin Molik	Cllr Ashley Wood	

	<b>SENIOR SALARY ENTITLEMENTS (includes Basic Salary)</b>		<b>ANNUAL AMOUNT OF SENIOR SALARY</b>
	<b>ROLE</b>	<b>MEMBER</b>	
1.	Leader	Cllr Huw Thomas	£53,100
2.	Deputy Leader & Cabinet Member, Education, Employment, Skills	Cllr Sarah Merry	£37,100
3.	Cabinet Member for Children and Families	Cllr Graham Hinchey	£32,100
4.	Cabinet Member for Clean Streets, Recycling and Environment	Cllr Michael Michael	£32,100
5.	Cabinet Member for Culture and Leisure	Cllr Peter Bradbury	£32,100
6.	Cabinet Member for Finance, Modernisation and Performance	Cllr Christopher Weaver	£32,100
7.	Cabinet Member for Housing and Communities	Cllr Lynda Thorne	£32,100
8.	Cabinet Member for Investment and Development	Cllr Russell Goodway	£32,100

	<b>SENIOR SALARY ENTITLEMENTS (includes Basic Salary)</b>		<b>ANNUAL AMOUNT OF SENIOR SALARY</b>
	<b>ROLE</b>	<b>MEMBER</b>	
9.	Cabinet Member for Social Care and Health	Cllr Susan Elsmore	£32,100
10.	Cabinet Member for Strategic Planning and Transport	Cllr Caro Wild	£32,100
11.	Chairperson of Children and Young People Scrutiny Committee	Cllr Lee Bridgeman	£22,100
12.	Chairperson of Community and Adult Services Scrutiny Committee	Cllr Mary McGarry	£22,100
13.	Chairperson of Economy and Culture Scrutiny Committee	Cllr Nigel Howells	£22,100
14.	Chairperson of Environmental Scrutiny Committee	Cllr Ramesh Patel	£22,100
15.	Chairperson of Policy Review and Performance Scrutiny Committee	Cllr David Walker	£22,100
16.	Chairperson of Planning Committee	Cllr Keith Jones	£22,100
17.	Chairperson of Licensing & Public Protection Committees	Cllr Jacqueline Parry	£22,100
18.	Leader of the Largest Opposition Group	Cllr Adrian Robson	£22,100
19.	Leader of the Liberal Democrat Group	Cllr Joe Boyle	£17,100

*A maximum of 19 senior salaries for the City of Cardiff Council may be paid and this has not been exceeded.*

<b>ENTITLEMENT TO CIVIC SALARIES</b>		<b>ANNUAL AMOUNT OF CIVIC SALARY</b>
<b>ROLE</b>	<b>MEMBER</b>	
Civic Head (Mayor / Chair)	Cllr Bob Derbyshire	£24,100
Deputy Civic Head (Deputy Mayor / Chair)	Cllr Dan De'Ath	£18,100

<b>ENTITLEMENT AS STATUTORY CO-OPTEEES</b>		<b>AMOUNT OF CO-OPTEEES ALLOWANCES</b>
<b>ROLE</b>	<b>MEMBER</b>	
Chairperson of Standards & Ethics Committee	Richard Tebboth	£256 Daily Fee £128 ½ Day Fee
Chairperson of Audit Committee	Ian Arundale	£256 Daily Fee £128 ½ Day Fee
Statutory Co-optees – ordinary members: Audit Committee  Children & Young People Scrutiny Committee	<ul style="list-style-type: none"> <li>• Gavin MacArthur</li> <li>• David Price</li> <li>• David Hugh Thomas</li> <li>• Patricia Arlotte</li> <li>• Carol Cobert</li> <li>• Karen Dell'Armi</li> </ul>	£198 Daily Fee £99 ½ Day Fee

ENTITLEMENT AS STATUTORY CO-OPTees		AMOUNT OF CO-OPTees ALLOWANCES
ROLE	MEMBER	
Standards & Ethics Committee	<ul style="list-style-type: none"> <li>• Rebecca Crump</li> <li>• Dr James Downe</li> <li>• Hollie Edwards-Davies <i>(until 23.11.17)</i></li> <li>• Lizz Roe</li> <li>• David Hugh Thomas</li> <li>• Community Councillor Stuart Thomas <i>(with effect from 27.10.17)</i></li> </ul>	

MEMBERS ELIGIBLE TO RECEIVE CARE ALLOWANCE	
All Members	Up to a maximum of £403 per month

## **SCHEDULE 2**

### **Approved duties:**

- attendance at a meeting of the Authority or of any committee of the Authority or of any body to which the Authority makes appointments or nominations or of any committee of such a body;
- attendance at a meeting of any association of authorities of which the Authority is a member;
- attendance at any other meeting the holding of which is authorised by the Authority or by a committee of the Authority or by a joint committee of the Authority and one or more other Authorities;
- a duty undertaken for the purpose of or in connection with the discharge of the functions of Cabinet;
- a duty undertaken in pursuance of a standing order which requires a Member or Members to be present when tender documents are opened;
- a duty undertaken in connection with the discharge of any function of the Authority which empowers or requires the Authority to inspect or authorise the inspection of premises;
- attendance at any training or developmental event approved by the Authority or its Cabinet.

## **SCHEDULE 3**

### **Mileage Rates**

All sizes of private motor vehicle Up to 10,000 miles Over 10,000 miles	45 pence per mile 25 pence per mile
Private Motor Cycles Pedal Cycles	24 pence per mile 20 pence per mile
Passenger supplement	5 pence per passenger per mile

### **Subsistence Allowance**

The day subsistence rate is up to a maximum of £28 and covers a 24 hour period and can be claimed for any meal if relevant provided such a claim is supported by receipts.

Re-imbursment of alcoholic drinks is not permitted.

### **Overnight Stay**

The maximum allowances for an overnight stay are £200 for London and £95 for elsewhere.

A maximum of £30 is available for an overnight stay with friends or relatives whilst on approved duty.

## **SCHEDULE 4**

### **Compliance**

- The authority will arrange for the publication on the council's website the total sum paid by it to each member and co-opted member in respect of salary, allowances, fees and reimbursements not later than 30 September following the close of the year to which it relates. In the interests of transparency this will include remuneration from all public service appointments held by elected members.
- The authority will publish on the council's website a statement of the basic responsibility of a councillor and role descriptors for senior salary office holders, which clearly identify the duties expected.
- The authority will publish on the council's website the annual schedule of Member Remuneration not later than 31 July of the year to which the schedule refers.
- The authority will send a copy of the schedule to the Independent Remuneration Panel not later than 31 July of the year to which the schedule refers.
- The authority will maintain records of member/co-opted members' attendance at meetings of council, cabinet and committees for which a member/co-opted member may submit a claim for travel allowance and/or co-optees' fee.
- The authority will arrange for the publication on the council's website of annual reports prepared by members.
- When the authority agrees a paid substitution for family absence it will notify the Independent Remuneration Panel within 14 days of the date of the decision of the details including the particular post and the duration of the substitution.

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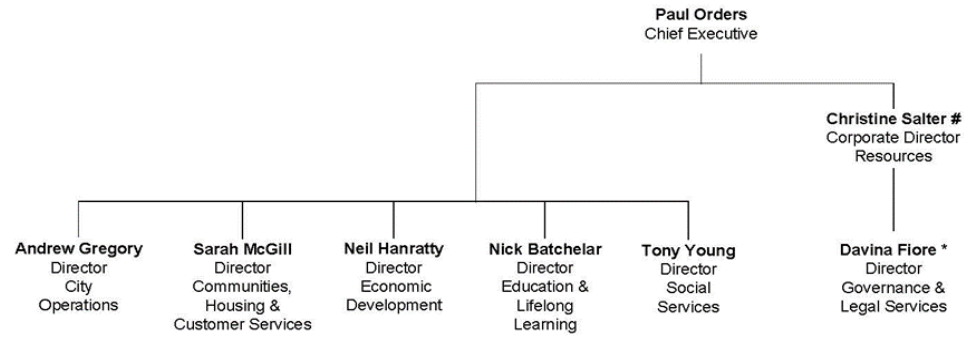
## **PART 7 – MANAGEMENT STRUCTURE**

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### **Cardiff Council Management Structure**

1. The Chief Executive (Head of Paid Service) is the most senior member of the Council's staff and has responsibility for overall management. He or she is supported by a small team of Corporate Directors who each take responsibility for a group of services and cross-cutting issues. Chief Officers (who report to the Chief Executive or a Corporate Director) each have operational responsibility for individual service areas, and are supported by a network of Operational Managers, who are responsible for day-to-day management of service provision.
  
1. An explanation of the detailed allocation of functions and services can be found on the Council's website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)) or in writing from the Corporate Chief Officer – Shared Services, County Hall, Cardiff CF10 4UW. As changes in responsibilities may be made from time to time to improve service delivery, the details are not included in this Constitution.
  
2. The management structure of the Council is as follows:-

**CITY OF CARDIFF COUNCIL**  
**TIER 1 – SENIOR MANAGEMENT CHART**  
**AS AT 19<sup>th</sup> SEPTEMBER 2016**



# Section 151 Officer

\* Monitoring Officer