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## AGENDA

<b>Pwyllgor</b>	<b>PWYLLGOR Y CYFANSODDIAD</b>
<b>Dyddiad ac amser y cyfarfod</b>	<b>DYDD MERCHER, 9 TACHWEDD 2022, 5.00 PM</b>
<b>Lleoliad</b>	<b>YB 4, NEUADD Y SIR, CYFARFOD AML-LEOLIAD</b>
<b>Aelodaeth</b>	Cynghorydd Goodway (Cadeirydd) Cynghorwyr Berman, Carter, Cowan, Cunnah, Elsmore, Ferguson-Thorne, Gibson, Green, Lent, Michael a/ac Moultrie

### 1 Penodi Cadeirydd

Nodi bod y Cyngor, yn ei Gyfarfod Blynyddol ar 26 Mai 2022 wedi ethol y Cynghorydd Goodway yn Gadeirydd y Pwyllgor hwn ar gyfer Blwyddyn y Cyngor 2022/23

### 2 Aelodaeth y Pwyllgor a Chylch Gorchwyl

Aelodaeth y Pwyllgor:

Nodi bod y Cyngor, yn ei gyfarfod blynyddol ar 26 Mai 2022 a'r cyfarfodydd dilynol ar 30 Mehefin a 21 Gorffennaf 2022 wedi cytuno ar aelodaeth ganlynol y Pwyllgor:

Y Cynghorwyr Berman, Carter, Cowan, Cunnah, Elsmore, Ferguson-Thorne, Gibson, Green, Lent, Michael a Moultrie

Cylch Gorchwyl:

Nodi bod y Cyngor yng Nghyfarfod Blynyddol y Cyngor ar 26 Mai 2022 wedi cytuno ar y Cylch Gorchwyl canlynol:

Adolygu Cyfansoddiad y Cyngor, ac argymhell i'r Cyngor a/neu'r Cabinet unrhyw newidiadau, heblaw y bydd gan y Pwyllgor awdurdod (yn amodol ar gyngor y Swyddog Monitro) i wneud y newidiadau canlynol ar ran y Cyngor:-

- Drafftio gwelliannau i wella eglurder a dileu mân anghysonderau.
- Diweddarau er mwyn adlewyrchu newidiadau deddfwriaethol a mater o gofnod.

c) Diwygiadau i'r Rheolau Ariannol, Contractau a Gweithdrefnau Tir (yn amodol ar geisio cyngor y Swyddog A.151)

**3 Ymddiheuriadau**

Derbyn ymddiheuriadau am absenoldeb.

**4 Datgan Buddiannau**

I'w wneud ar ddechrau'r eitem agenda dan sylw, yn unol â Chod Ymddygiad yr Aelodau.

**5 Cofnodion** (*Tudalennau 5 - 8*)

Cymeradwyo cofnodion y cyfarfod blaenorol fel cofnod cywir - 28 Chwefror 2022.

**6 Canllawiau Statudol Drafft Llywodraeth Cymru ar gyfer Prif Gyngorau**  
(*Tudalennau 9 - 24*)

**7 Adolygu'r Rheolau'n ymwneud â Chyfarfodydd y Cyngor a'r Cabinet, a'r Cyfansoddiad** (*Tudalennau 25 - 62*)

**8 Diweddariad Parhad** (*Tudalennau 63 - 172*)

**9 Blaengynllun Gwaith** (*Tudalennau 173 - 176*)

**10 Eitemau Brys (os oes rhai)**

**11 Dyddiad y cyfarfod nesaf**

Bydd cyfarfod nesaf y Pwyllgor ar ddydd Llun 5 Rhagfyr am 5.00pm

**Davina Fiore**

**Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol**

Dyddiad: Dydd Iau, 3 Tachwedd 2022

Cyswllt: Kate Rees, 02920 872427, [krees@caerdydd.gov.uk](mailto:krees@caerdydd.gov.uk)

CONSTITUTION COMMITTEE

28 FEBRUARY 2022

Present: Councillor Goodway(Chairperson)  
Councillors Berman, Burke-Davies, Carter, K Jones, Goddard,  
Jones-Pritchard, Lister, Kelloway, Keith Parry, Mia Rees and  
Wong

62 : APOLOGIES

No apologies for absence were received.

63 : DECLARATIONS OF INTEREST

No declarations of interest were received in accordance with the Members' Code of Conduct

64 : MINUTES

The minute of the meeting held on 13 December 2021 were approved as a correct record of the meeting.

65 : MULTI-LOCATION MEETING ARRANGEMENTS

The Committee were provided with an update on the planned multi-location meeting arrangements. The initial draft policy had been considered by the Committee on 13 December 2021 when a number of suggested amendments were made. Those changes were made to the draft policy prior to the commencement of the public consultation and engagement with Elected Members, Joint Committee Members, Officers and the Public.

RESOLVED:

- a. To agree the changes made to the draft Multi-Location Meetings Policy, Appendix D and
- b. Recommend the draft Multi-Location Meetings Policy to Cabinet for approval.

66 : COUNCIL PETITION SCHEME

The Committee were provided with an outline of the draft Petition Scheme.

Members were invited to make comments and raise questions, and these discussions are summarised as follows:

Members sought clarification on the definition of electronic petitions and observed that there are many websites from which electronic petitions can be generated. Officers advised that an e-petition section on the Council's website was suggested. Under the proposed scheme contact details for the lead petitioner would be required. Petitions from other sources could be accepted if they met the requirements of the

scheme, but it would not be desirable to accept petitions if the petitioners had no connection to Cardiff. It will probably be necessary to review the scheme after an interval.

Members discussed whether people who submit petitions should have an opportunity to address Council meetings. It was suggested that a minimum of 50 signatures should be required before petitions could be considered. The view was expressed that the process would be open to abuse if the minimum was too low, and that there ought to be an ability to bar vexatious petitions. There was concern that Council meetings could be overwhelmed with an excessive number of petitions. Officers advised that advance notice of petitions would be required and that a petition would need to pass the test for admissibility. Proof of residence would also be required before a petitioner was allowed to address the Council. Experience has shown that the current petition scheme which only requires a low number of signatories does not generate a large number of petitions.

It was suggested that a distinction could be made between a lead petitioner, who could only address the Council if there were more than 50 signatories, and an Elected Member who could present a petition with less than 50 signatures. Officers advised that this would be possible and the Committee agreed to delegate authority to the Chairperson and Monitoring Officer to make the required alteration.

Members referred to GDPR and expressed the view that knowing who had signed petitions and where they lived could be pertinent to assessing the weight to be given to their views, particularly in regard to Planning and Licensing petitions. The view was expressed that the names of signatories ought to be in the public domain.

Members asked whether an exception could be made to allow people who live outside the county boundary to be accepted as signatories in some circumstances. The question was raised whether it should be stipulated that the 50-signatory minimum should only include Cardiff residents. Members were advised that an alteration to the wording could be considered and that the Chairperson and Monitoring Officer would reflect on the minimum residents' requirement.

#### RESOLVED:

1. To approve the Draft Cardiff Council Petition Scheme as attached at Appendix A, subject to the Monitoring Officer, in consultation with the Chair, drafting the further amendments discussed;
2. To recommend to Council that the Constitution be amended as proposed in Appendix B to reflect the changes to the Petition Scheme; and
3. To recommend to Council that the Petition Scheme be published by 5th May 2022.

#### 67 : CONSTITUTION UPDATE

The report enabled the Committee to consider constitution changes required to reflect:

- a) New legislative provisions introduced by the Local Government and Elections (Wales) Act 2021, in particular, in respect of:
  - i. Electronic broadcast of full Council meetings and Multi-location meeting arrangements;
  - ii. Assistants to the Cabinet;
  - iii. Job sharing for Cabinet Members;
  - iv. Statutory functions of the Chief Executive; and
  - v. A Constitution Guide.
- b) Further consideration of the Council Meeting Procedure Rules on amendments to Notices of Motion.
- c) Various legislative and other updates and drafting improvements.

Members were invited to make comments and raise questions, and these discussions are summarised as follows:

Members discussed the proposal that all amendments to Notices of Motion should be voted on at Council rather than being orally accepted as they felt . it would better allow the democratic view of the Council to be recognised. There were concerns that the proposed change would allow incompatible amendments to be carried. Members asked whether composite motions could be agreed before meetings of Council. Officers advised that there would be resource implications; the view was expressed that these ought to be met. Members suggested that a simply worded explanation of the effects of amendments on a Motion be made available to Councillors during a Meeting.

Members discussed the provision regarding agreement on voting between job sharing Cabinet Members, and raised concerns that it would lead to predetermination of votes. Officers advised that Welsh Government guidance requires that job sharing Cabinet Members reach agreement on how they will vote. Should they fail to reach agreement, it is proposed that the vote not be counted.

Members sought clarification on the experience of Councils that had made their Chief Executive redundant. Officers advised that it was not possible to appoint to a post that had been made redundant. It was possible to designate another Office Holder as having the Chief Executive function.

Members sought clarification on whether a Cabinet Member could delegate to an Assistant. Officers advised that Assistants may not exercise formal decision making powers or vote. Members expressed the view that the Assistant's role was a useful developmental one and that it could be expanded. Guidance would be helpful to encourage younger Elected Members considering taking advantage of the opportunity. It was suggested that the powers and responsibilities of an Assistant Cabinet Member need to be clearly defined. Officers advised that it was proposed to do this in the Constitution.

Members sought clarification on the whether the provision regarding Assistant Cabinet Members was new. Officers advised that there was existing provision in guidance, but that the legislation was new and had added to it.

Members discussed remuneration for Assistant Cabinet Members. Officers advised that there was no Special Responsibility Allowance attached to the post. Assistant

Cabinet Members do not have an allocated salary. The role would have to be evidenced and submitted to the IRPW for an appropriate salary to be allocated. The Council is already at its maximum allowance of 19 senior salaries and the IRPW has declined to permit the limit to be raised, consequently a Senior Salary post would have to be withdrawn to allow the creation of a new one.

RESOLVED:

1. To agree the Constitution amendments set out in the report and Appendix B; and
2. To recommend the agreed Constitution amendments to full Council for approval.

68 : CONSTITUTION GUIDE

The Committee was informed of the new legislative requirement for Councils to prepare and publish an ordinary language guide to the Constitution; and considered a draft Guide prepared for this purpose.

RESOLVED:

1. To note the Constitution Guide attached at Appendix A;
2. To note that a public engagement and consultation process will be undertaken to seek feedback on the draft Guide as part of the development of the Council's Public Participation Strategy;
3. To authorise the Monitoring Officer, in consultation with the Chair, to make any agreed changes to reflect the views expressed by consultation feedback; and
4. To recommend the draft Constitution Guide, subject to any amendments, for approval by Cabinet as part of the Public Participation Strategy.

69 : URGENT ITEMS (IF ANY)

There were no urgent items

70 : DATE OF NEXT MEETING

The date of the next meeting will be confirmed in due course.

The meeting terminated at 5.50 pm

# CYNGOR CAERDYDD CARDIFF COUNCIL



**CONSTITUTION COMMITTEE:**

**9 NOVEMBER 2022**

## REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

### WELSH GOVERNMENT DRAFT STATUTORY GUIDANCE FOR PRINCIPAL COUNCILS

#### Reason for this Report

1. To allow the Committee to formally consider draft Statutory Guidance for Principal Councils in Wales issued by the Welsh Government earlier this year.

#### Background

2. The Local Government and Elections (Wales) Act 2021 ('the 2021 Act') contains several provisions to promote diversity, involvement and participation in county and county borough (principal) councils. These include:
  - Duty to encourage local people to participate in decision making
  - Strategy on decision making
  - Duty to make a petition scheme and the abolition of certain community polls
  - Duty on principal councils to publish an official address for members
  - Duty to publish a constitution guide
  - Electronic broadcasting of meetings
  - Provision for multi-location meetings
  - Appointment of assistants to the executive
  - Job sharing for executive leaders and members of the executive
  - Provision to issue guidance to the executive in relation to equality and diversity of its membership
  - Amendments to the family absence provisions for elected members
  - Making information available to overview and scrutiny committees
  - Power to require authorities to appoint joint overview and scrutiny committees
  - The renaming of audit committees to governance and audit committees and changes to their membership and remit
  - Removal of the bar on councils designating the same officer head of democratic services and monitoring officer.
3. At its last meeting in February 2022, the Constitution Committee received a number of reports on specific aspects of the new legislation, including the Council Petition Scheme, Constitution Guide, Multi-Location Meeting Arrangements and Cabinet Job Sharers and Assistants to the Cabinet (within the Constitution Update report).

4. Whilst the 2021 Act creates standalone provision for certain matters, it also amends, sometimes extensively, previous legislation in the Local Government Act 2000 ('the 2000 Act') and the Local Government (Wales) Measure 2011 ('the 2011 Measure'). Statutory guidance issued under the 2000 Act and the 2011 Measure on matters such as executive arrangements, constitutions, scrutiny, training and development for elected members and the timing of meetings was issued several years ago and does not reflect the legislative changes in the 2021 Act, nor wider legislative change such as the Equality Act 2010 and the Well-being of Future Generations (Wales) Act 2015.
5. The Welsh Government has therefore indicated that it is proposing to revoke earlier guidance issued to principal councils and replace it with a refreshed set of statutory guidance which reflects not only the legislative changes but also changes in the ways in which people can engage with their elected members and councils and the changes in technology which enable councils to conduct their business in different ways.

## Issues

6. The Welsh Government, Local Government: Guidance for Principal Councils (draft) was issued for consultation on 17<sup>th</sup> March 2022 and is appended as **Appendix A** to this report [Local Government Guidance for Principle Council Consultation document - \(Final version\)](#).
7. The Committee will note that the draft Statutory Guidance covers a wide range of issues, falling within the remit of several different Council Committees, and is comprised of:
  - Section 1 – Statutory Guidance for Elected Members and their Support, Training and Development, including revised guidance on the timing of Council meetings
  - Section 2 – Statutory Guidance on Participation Strategies and Petition Schemes
  - Section 3 – Statutory Guidance on Political Governance, including revised guidance on Constitutions and a new Constitution Direction setting out the prescribed contents of council constitutions, Council Executives (covering Job Sharing and Assistants to the Cabinet), Scrutiny Committees, Democratic Services Committees and Governance and Audit Committees.
8. The deadline for consultation responses was 22<sup>nd</sup> July 2022.
9. The Standards and Ethics Committee, at its meeting on 22<sup>nd</sup> June 2022, considered the consultation, specifically consultation question 6 in relation to the Members' register of interests, and provided their response.
10. As very few other Committee meetings had been scheduled during the consultation period, which coincided with the period leading up to, and immediately following, the May 2022 local government elections, officers consulted with relevant Members, including the Constitution Committee Chair, and compiled a composite response, which was emailed to all members of relevant Committees prior to submitting the



response on behalf of the Council. The Council's consultation response is attached for information as **Appendix B**.

11. It was noted that significant pre-consultation processes had been undertaken with a range of Council stakeholders prior to the formal consultation being released, which resulted in many of the stakeholder concerns being reflected in the final draft of the Statutory Guidance. On this basis, other stakeholders within the Council indicated that no further response was necessary for this consultation.
12. The Welsh Government has indicated its intention to publish the statutory guidance and constitution direction in the autumn of 2022, with the aim of incorporating this guidance and other relevant existing guidance into a much larger 'guide' which has to date been described as the 'Democracy Handbook'.
13. Pending the issue of the finalised Statutory Guidance, the various provisions of the draft Guidance are being carefully considered by all relevant decisions makers and officers in the Council within their respective areas of responsibility. Accordingly, the Committee will note that the provisions of the draft Statutory Guidance are reflected in other reports to the Committee on specific matters, for example, in the 'Constitution Update' report (agenda item xx) and the 'Review of the Rules relating to Council and Cabinet Meetings and the Constitution' report (agenda item 8). Across the Council, good progress is being made with implementing arrangements to reflect the draft Guidance as appropriate. However, further consideration will be required once the draft Guidance is finalised.

### **Financial Implications**

14. There are no direct financial implications arising from this report.

### **Legal Implications**

15. Relevant legal implications are set out in the body of the report and the draft Statutory Guidance attached as **Appendix A**.

### **RECOMMENDATION**

The Committee is recommended to note the provisions of the Local Government: Guidance for Principal Councils (draft), set out in **Appendix A** and the arrangements being made to take account of it; and provide any appropriate comments.

**Davina Fiore**

**Director of Governance and Legal Services and Monitoring Officer**

3<sup>rd</sup> November 2022

**Appendix A** - Welsh Government Consultation Document - Local Government: Guidance For Principal Councils

**Appendix B** - Consultation Response submitted by Cardiff Council (to the Welsh Government Consultation: Local Government: Guidance for Principal Councils

Background papers:

Constitution Committee reports, 'Multi-Location Meeting Arrangements', 'Council Petition Scheme', 'Constitution Guide', and 'Constitution Update', 28 February 2022

Standards and Ethics Committee report, 'Draft Statutory Guidance on Standards of Conduct and Disclosure of Members' Home Addresses in the Members' Register of Interests', 22 June 2022

Email from the Head of Democratic Services to All Members of the Constitution Committee and Democratic Services Committee, 'WG Consultation – Draft Response', 20 July 2022

Various email correspondence between the Head of Democratic Services and the Internal Audit Manager and Head of Performance and Partnerships, July 2022

## **DRAFT RESPONSE - WG CONSULTATION: LOCAL GOVERNMENT: GUIDANCE FOR PRINCIPAL COUNCILS**

### **CONSULTATION QUESTIONS**

#### **Question 1**

Is the revised guidance on the timing of council meetings sufficiently clear as to the purpose for regularly reviewing the timing, length and frequency of all council meetings?

#### **Democratic Services Committee Response.**

The guidance provides the boundaries for Council's to determine their own requirements for Council meetings which is considered as useful.

#### **Question 2**

Has the guidance on the timing of council meetings adequately addressed the context of multi-location meetings?

See **Question 39**

#### **Question 3**

Are there any other issues you would like the guidance on the timing of council meetings to address?

#### **Democratic Services Committee Response.**

The survey of meeting timings which has been undertaken may indicate a diverse range of timings and preferences. Some collective discussions are needed to confirm the agreed timings for meetings although this may lead to some Elected Members being disappointed that their preferences have been superseded by the majority view of the Council. The guidance should reference that although the preferences for meeting timings may be sought it does not always guarantee that individual Members will be able to have their preferences met and that an element of compromise is necessary.

#### **Question 4**

Has the revised guidance on training, development and support for elected members addressed all of the relevant changes in legislation?

#### **Democratic Services Committee Response.**

a. **Reasonable Training and Development Opportunities**

The guidance indicates that the on-going training programme of Member Development should but not exclusively include a number of topics (Para 2.9 refers). This is a significant commitment from all Elected members, the Authority and its partners. Whilst this training is offered and Democratic Services Committee prioritises the training by identifying mandatory training (usually relating to legal responsibilities of elected members), Members and particularly those elected members elected mid-term, do struggle to benefit from all of the opportunities due to the ongoing commitments of individual Members in addition to their other Council, ward, career and personal commitments.

b. **Annual Review**

The guidance is considered as useful although the take up on Annual Reviews is still to be determined but the opportunity for individuals to have an Annual Review is seen as beneficial. This guidance could be used to refresh our current processes to encourage greater participation.

Should the take up on the use of Annual Reviews increase significantly, it would also increase the expectation for individual training to be undertaken and the commitment and resources needed to make this an effective option for Elected Members may become a significant challenge to support and maintain.

### **Question 5**

Are the sections on focused support and support for the well-being of members sufficient?

#### Democratic Services Committee Response.

The guidance is considered useful

### **Question 6**

Do you have any comments on the view of the Welsh Government that whilst members must register their home as a beneficial interest under the Code of Conduct, there is no statutory requirement for the register of members' interests to be published including the home addresses of members?

#### Standard and Ethics Committee Response

The Standards and Ethics Committee considered this question at their meeting on 22<sup>nd</sup> June. The Committee agreed that there is no statutory requirement for the full home addresses of members to be included on the published register of members interests. The Committee noted that the Public Services Ombudsman for Wales current guidance states: The description must be clear enough to maintain openness and public confidence in any business of the Council you may influence or decisions you take on behalf of the Council, whilst also protecting your personal information and safety. For example, when describing property which you own or rent which you live in, the description may include the street name or postcode in which your property is situated (as opposed to your full address). The Committee agreed that there is no need for the specific address to be identified and that it would be preferable if members are asked only to disclose the ward in which the property is situated, noting that this of course does not negate the need for the member to declare the property as a conflict of interest where appropriate and necessary.

### **Question 7**

Are there any other issues you would like the revised guidance on training, development and support for members to address?

#### Democratic Services Committee Response.

The guidance does not address the personal security of Elected Members particularly when lone working in their wards. This Council has been identified as an exemplar of good practice [Cardiff Council: Councillor safety - lone working devices | Local Government Association](#). The provision of suitable lone working procedures should be referenced in the guidance.

### **Question 8**

Does the guidance on research support and services for elected members provide sufficient examples of the matters which should be taken into consideration by the DSC when considering whether the HDS has sufficient staff and resources to, in its opinion, discharge their functions?

Democratic Services Committee Response.

The guidance is clear

**Question 9**

Does the guidance explain clearly that the intention is for capacity for research support to be built up over time and that the DSC and the HDS should have a strategy for this?

Democratic Services Committee Response.

The guidance is clear and will enable the development of suitable strategy for providing this research capacity.

**Question 10**

Are there any other issues or comments you would like to make in relation to the guidance on research support and services for elected members?

Democratic Services Committee Response.

We note that paragraphs 3.6 and 3.7 suggest a protocol for accessing research and requires the research to be related to the delivery of the Council's priorities or their scrutiny. It is suggested that requests for research should relate to the Councillor's role and to something the Council has the ability to do something about by means of a power, responsibility or duty. This should avoid requests for significant amounts of research on matters which while important, may not be part of the Councils responsibilities or decision-making powers. e.g. issues such as Brexit

This is a new requirement and with this Council having 79 Members the provision of a research facility for all Elected Members requires appropriate funding or resources to be identified. The expectation of all members to have access to research facilities will need to be managed to ensure that the research can only be undertaken within the available resources of the authority.

**Question 11**

Does the guidance in Section 1 of this consultation adequately address issues relating to equality and diversity, including the social model of disability?

Democratic Services Committee Response.

The guidance is considered useful

**Question 12**

Is there anything further the guidance could suggest to strengthen the need to take account of equality and diversity, including the social model of disability when developing the public participation strategy?

Democratic Services Committee Response.

Appropriate links to the Social Model of Disability should be added to the guidance.

Note:

A response has been requested from Performance and Partnerships Services which may be submitted separately from this response.

### **Question 13**

Is there anything further the guidance could suggest to strengthen the need to take account of the Welsh language when developing the public participation strategy?

#### Democratic Services Committee response

No further guidance is required.

#### Bilingual Cardiff Response

The delivery of any public participation strategy must abide by the Welsh Language Standards adopted by all Local Authorities in Wales. This requires the presentation of supporting materials and service in both Welsh and English, so the Welsh language is not treated less favourably than the English language. All projects and initiatives subject to consultation must also be subject to a Welsh language impact assessment in the planning stages to ensure positive and negative effects are identified and increased or mitigated as required.

### **Question 14**

Is the guidance sufficiently clear that the public participation strategy is intended to work in harmony with existing statutory duties relating to public involvement and participation by in particular focusing on public participation in the democratic processes of the council as set out in section 40(2) of the 2021 Act?

#### Democratic Services Committee response

No further clarification of the guidance is required.

Note:

A response has been requested from Performance and Partnerships Services which may be submitted separately from this response.

### **Question 15**

Are there any other matters you would like to see included in the guidance on public participation strategies?

#### Democratic Services Committee response

No further matters to be included in the guidance is necessary.

Note:

A response has been requested from Performance and Partnerships Services which may be submitted separately from this response.

**Question 16**

Is the balance in the guidance on petition schemes between guiding principles and local discretion helpful?

Democratic Services Committee Response.

The guidance is useful but further work will be needed to clarify to the public what is within the remit of the Council. This will ensure that the submission of petitions can be progressed rather than the public considering that the Council is just rejecting a petition.

**Question 17**

Are there any other matters you would like to see included in the guidance on petition schemes?

Democratic Services Committee Response.

Cardiff Council has already developed and agreed its petition scheme. While this be reviewed and consulted on as part of the Public Participation Strategy, it does not currently anticipate the need for significant changes.

**Question 18**

Does the revised guidance on constitutions and the revised constitution direction contain references to all of the legislative changes you would expect to be included?

Yes.

**Question 19**

Does the guidance on the constitution guide strike the right balance between guiding principles and local discretion?

Yes.

**Question 20**

Do you have any other comments or suggestions in relation to the guidance on the constitution, the constitution guide or the constitution direction?

No.

**Question 21**

Is there anything further that should be included in the guidance on the exercise of functions by councillors?

No.

**Question 22**

Are there further references to legislation made since the guidance on the exercise of functions by councillors was issued which should be included?

No.

**Question 23**

Is there anything further you would like to see included in the guidance on job sharing for executive members?

Cardiff has two job share posts in the Cabinet. This arrangement only commenced after the recent local elections. The Leader of the Council has confirmed that the existing draft guidance has been sufficient to date.

Based on our experience of operating job share arrangements to date, clarification would be helpful on the following issues:

- (i) Conflicts of interest – we assume that where one of the job sharers has a personal and prejudicial interest in a matter, which would preclude them taking part and voting, the job sharer partner without any such personal interest is able to take part and exercise the vote on behalf of the job sharers. We think this should be clarified please.
- (ii) Representing the Council on External Organisations (draft guidance paragraph 4.16) – we think it would be helpful to acknowledge that external organisations may need to adapt their procedures / constitutional provisions to accommodate the job sharing arrangement; and for the guidance to clarify that the legislative provisions relating to voting and quorum for job sharers are intended to apply equally to joint committee meetings.

#### **Question 24**

Is there anything further you would like to see included in the guidance on assistants to the executive?

No.

#### **Question 25**

Is there anything further you would like to see included in the guidance to cabinets on effective overview and scrutiny?

#### Scrutiny Chairs Response

The guidance should make more specific reference of the relationship between the Cabinet and scrutiny committees to encourage closer working relationships, set benchmarks for working and improved joined up working. Whilst there are general references across the consultation document regarding the Cabinet's relationship with scrutiny in terms of "*Principles for efficient, transparent and accountable decision making and access to information about decision making including rules of procedure for decision making and access to information*" (paragraph 13, page 65), there are no specific guidance or protocols on how this could work in practice. There is lots of guidance within the scrutiny-specific parts of the guidance, but we feel that there needs to be a more general set of guidelines on how the cabinet and scrutiny (and other committees) engage with each other. We recommend that the following further information be included in the general guidance to assist in this process:

- The need for coordinated work plans and programmes across Cabinet and Scrutiny, including building scrutiny into all timescales for drafting and publishing reports;
- Encouraging Cabinet and scrutiny to have "parity of esteem" as indicated in paragraph 4.25 (page 78);
- Acknowledgement, support and promotion of the importance of scrutiny in the decision-making process and this be communicated across the organisation and beyond;



- Timely access to reports, briefings and information for publication and consideration at scrutiny;
- Equal access to research, information and support services as afforded to the cabinet. For example, acknowledging that Scrutiny is the route by which the public can feed into Council decision-making, the corporate communications support service is of particular importance in meeting the aspirations of a Participation Strategy. The guidance could usefully examine the justification for dedicated scrutiny communications support;
- Expectations and commitments required by Cabinet and officers to facilitate effective scrutiny, including attendance at MLM meetings; being prepared for Member questions etc. and
- Arrangements on how the output from scrutiny is considered and responded to by Cabinet.

### **Question 26**

Does the revised set of guidance relating to overview and scrutiny reflect all of the legislative changes that are relevant to the context in which scrutiny operates?

Yes in respect of Local Authority Scrutiny

### **Question 27**

Are there any other issues that should be reflected in any of the guidance on scrutiny, for example, would further guidance in respect of corporate joint committees be helpful?

### Scrutiny Chairs Response

The effective scrutiny of the CJC will be a key requirement in the near future and the lessons learned from existing collective scrutiny of arrangements i.e. City Deal should be applied. Guidance would be beneficial to ensure the core scrutiny requirements are established for CJC's from the outset.

To deliver the benefits of joint scrutiny for CJC's, it is considered that there is a need for:

- An agreed standardised methodology and approach to scrutiny due to the fact that each Local Authority undertakes its scrutiny responsibilities in different ways, utilising varied practices.
- Sufficient resource that enables the supporting Authority to provide direct support to all Scrutiny representatives from the different Local Authorities. Alternatively, a dedicated and funded shared resource where each Local Authority provides this direct support to their own individual representative.
- Continuity of representation to try and promote group cohesiveness in order to minimise the disruptive affect that changes in representatives can cause.
- That the supporting Authority:
  - works with Members to ensure that they have full clarity and understanding of the strategic purpose for the Corporate Joint Committee and a better understanding of their roles in delivering these responsibilities.
  - Strengthens the Corporate Joint Scrutiny Committee culture to foster better collaborative working amongst scrutiny representatives from different local authorities.
  - Further develop and enhance the skills and knowledge of the Members of the Corporate Joint Scrutiny Committee to enable them to deliver effective scrutiny at a strategic/regional level including whilst having a full understanding of the key strategies, priorities, and direction of travel of the CJC. This could require the

provision of additional Member learning and development, specialist briefings, pre-meetings, site visits with the consideration of good practice from other regions.

- Undertakes an annual self-assessment to identify further support and training needs of Members.
- Support and strengthen the commitment of individual Members to deliver effective member-led scrutiny and provide robust evidence-based challenge to the CJC. This may also include the provision of appropriate independent research to support the Committee.
- Encourage attendance and active participation of all Committee Members at Corporate Joint Scrutiny Committee meetings.
- Engages with other Local Authority Scrutiny Committees to:
  - assist in identifying topics for scrutiny at a regional level
  - support scrutiny of local issues relating to CJC
  - receive scrutiny reports and recommendations from individual Local Authority Scrutiny Committees as necessary.
- Develop an Annual Report that will be shared with all constituent Local Authorities to describe the scope of work, outputs, outcomes and impact that the Joint Scrutiny Committee has achieved during the year.

#### **Question 28**

Are there any further references to relevant legislation that should be included in the guidance on democratic services committees?

#### Democratic Services Committee Response

The guidance is adequate

#### **Question 29**

Is there anything further you think should be included in the guidance on democratic services committees?

#### Democratic Services Committee Response

No further information has been identified for inclusion

#### **Question 30**

Does the revised guidance on governance and audit committees reflect all of the relevant legislative changes?

Yes

Note:

A response has been requested from Governance and Audit Committee which may be submitted separately from this response.

#### **Question 31**

Does the revised guidance reflect changes in the context in which governance and audit committees now operate?

Yes

Note:

A response has been requested from Governance and Audit Committee which may be submitted separately from this response.

**Question 32**

Is the advice on the guidance on the new duty on governance and audit committees relating to section 89 of the 2021 Act sufficient?

Yes

Note:

A response has been requested from Governance and Audit Committee which may be submitted separately from this response.

**Question 33**

Is the guidance on the new duty on governance and audit committees to review and assess the effectiveness of the arrangements for handling service and corporate complaints sufficient?

Yes

Note:

A response has been requested from Governance and Audit Committee which may be submitted separately from this response.

**Question 34**

Is there anything else you would like to see included in the guidance on governance and audit committees?

No

Note:

A response has been requested from Governance and Audit Committee which may be submitted separately from this response.

**Question 35**

Is the non-statutory guidance on political assistants helpful in highlighting the relevant legislation?

Cardiff Council does not currently have political assistants.

**Question 36**

Is there anything further than you would like to see included in the non-statutory guidance on political assistants?

Cardiff Council does not currently have political assistants.

**Question 37**

We would like to know your views on the effects that the statutory and non-statutory guidance would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

### Bilingual Cardiff Response

The statutory and non-statutory guidance does not have a negative effect on the Welsh language. However, there is an opportunity to increase the positive effects if information detailing the requirements of the Welsh Language Standards adopted by individual Local Authorities is included in information, training, and support provided to Elected Members. Positive effects could be further increased by offering Elected members the opportunity to record their language choice and to receive services and material in the language of their choice.

### **Question 38**

Please also explain how you believe the proposed policy the statutory and non-statutory guidance could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

### Bilingual Cardiff Response

The inclusion of information concerning the requirements of the Welsh Language Standards adopted by individual Local Authorities would promote the status of the Welsh language and demonstrate that Welsh language services are a central part of the Local Authority's work. The provision of material and support in accordance with elected members' language choice would also work to create an increased positive effect for people to use the language. The provision of Welsh language services and material is a statutory requirement under the Welsh Language (Wales) Measure 2011 and information concerning these requirements should be included in training and support for Elected Members.

### **Question 39**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

### Democratic Services Committee Response

The guidance is useful but does not clarify the legislation as to what is considered by the Welsh Government as a "specified" meetings in relation to the broadcasting of meetings. The relevant extract from the Local Government and Election Act Wales 2021 indicates "specified" means specified in regulations made by the Welsh Ministers but no reference to the likely regulations are included in the guidance.

46 Electronic broadcasts of meetings of certain local authorities:

- (1) A principal council must make and publish arrangements for the purpose of ensuring that—

- (a) a broadcast of proceedings at a meeting to which subsection (2) applies is available electronically so that members of the public not in attendance at the meeting can see and hear the proceedings;
  - (b) the proceedings are broadcast as they take place, subject to any specified exceptions;
  - (c) the broadcast is available electronically for a specified period after the meeting.
- (2) This subsection applies to proceedings at a meeting, or any part of a meeting, which is open to the public of—
- (a) a principal council;
  - (b) any of the following specified bodies—
    - (i) the executive of a principal council;
    - (ii) a committee or sub-committee of an executive of a principal council;
    - (iii) a committee or sub-committee of a principal council;
    - (iv) a joint committee, or a sub-committee of a joint committee, of two or more principal councils.
- (3) The Welsh Ministers may by regulations make further provision in connection with the broadcast of proceedings at a meeting to which subsection (2) applies.
- (4) In subsections (1) and (2), “specified” means specified in regulations made by the Welsh Ministers.

Mae'r dudalen hon yn wag yn fwriadol

**CYNGOR CAERDYDD  
CARDIFF COUNCIL****CONSTITUTION COMMITTEE: 9 NOVEMBER 2022**

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**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER**

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**REVIEW OF THE RULES RELATING TO COUNCIL AND CABINET MEETINGS AND THE CONSTITUTION****Reason for this Report**

1. To provide an opportunity for the Committee to consider potential areas of change to the rules for meetings of full Council and Cabinet, and other areas of the Constitution.

**Background**

2. The Council's Constitution sets out the fundamental principles on which the Council is governed. It includes information on how the Council operates, how lawful decisions are made and the procedures to follow to ensure that the Council conducts its business efficiently and is transparent and accountable to local people.
3. The current Constitution first came into effect in May 2002 to take account of the requirements of the Local Government Act 2000, which separated the functions of Executive and Scrutiny from Council functions. Since this time it has been periodically reviewed and amended to reflect changes agreed by Council, legislative updates and other minor amendments.
4. The business of the Council is diverse and the Constitution needs to take account of this, to ensure governance arrangements for relevant activities are appropriately covered. It is currently divided into eight parts with fifteen articles, and more detailed procedures and codes of practice.
5. The Constitution Committee has responsibility, in accordance with its approved terms of reference, for reviewing the Constitution and recommending any changes to full Council for approval.
6. The arrangements for meetings of the full Council are governed by the Council Meeting Procedure Rules set out in Part 4 of the Constitution. A substantial review of the Council Meeting Procedure Rules was completed in 2018, in full consultation with party groups, and introduced a number of changes, which took effect from May 2018. Since then, a number of specific further changes have been made, in relation to public questions

(March 2019); and the scope, number, selection process and amendments in respect of Ordinary Motions (January 2022 and March 2022).

7. A whole raft of constitution amendments have also been made in response to new legislative requirements introduced by the Local Government and Elections (Wales) Act 2021, in particular, in relation to multi-location meeting arrangements, petition schemes, assistants to the Cabinet, job-sharing for Cabinet members and a guide to the Constitution.
8. The Committee considers a regular Constitution Update report at each meeting, setting out specific proposed changes to ensure the Constitution is kept up to date and fit for purpose. Members will note that there is a separate Constitution Update report under agenda item 8.

## Issues

### Full Council Meetings

9. The Committee is invited to consider whether it wishes to recommend any changes to the Council Meeting Procedure Rules or other constitution provisions, in order to make full Council meetings more effective. For Members' reference, the current Council Meeting Procedure Rules, found in Part 4 of the Constitution, are attached as **Appendix A**.
10. In considering this matter, the Committee may wish to note, by way of comparison, the arrangements for full Council meetings in a couple of other core cities (based on information shared between officers earlier this year), as set out in the table in **Appendix B**.
11. Specific options the Committee may wish to consider include the following:
  - (i) **Cabinet member questions** or **Oral Questions** to be dealt with in a separate meeting.
  - (ii) **Shorter time limits**, for example, for Cabinet statements (currently 45 minutes), Oral Questions (currently 90 minutes) and or Ordinary Motions (currently 30 minutes maximum if there are no amendments, and 45 minutes if there are one or more amendments).
  - (iii) **A guillotine time** when the Council meeting will end and any business remaining to be put to the vote without debate.
  - (iv) A requirement for a certain **number of Members in support of a Motion** (current rules require just a proposer and a seconder).
  - (v) To review the limit on the **number of Ordinary Motions** (currently 2 Motions per meeting at which Ordinary Motions may be considered, equating to 14 Motions per municipal year), specifically, the discounting of Urgent Motions and



Motions at Extraordinary Council Meetings for the purposes of the limit.

- (vi) To consider whether there should be restrictions on Cabinet members speaking in the **debate on Ordinary Motions**, in order to increase opportunities for opposition and backbench Members to speak and potentially reduce the time spent on Motions, for example, to provide that only the relevant Cabinet member may speak on a Motion which relates to their portfolio.
- (vii) To introduce a requirement that for **accepted amendments to Motions**, the amended Motion must be submitted to the Committee and Member Services Manager for publication by 12 noon on the day of the Council meeting, so that all Members and members of the public are clear on the exact wording of the Motion being voted upon.
- (viii) To reduce the number and timescales for submission of **Written Questions** in order to alleviate pressures on limited staff resources in the lead up to the Council meeting. Currently, there is no set limit on the number, but if a Member submits more than 5 Written Questions, only 5 will be answered at the Council meeting, with any remaining Questions answered at the following Council meeting. If each Member asked the allowed 5 Written Questions, there would be 395 questions to be answered in a tight time frame, which is not manageable for officers alongside the provision of services. The deadline for submission of Written Questions is 9am 9 Working Days prior to the Council meeting (with any questions submitted after this deadline being answered at the following Council meeting). Members are invited to consider whether:
  - (a) the number of Written Questions should be limited to one per Member for each Council meeting; and or
  - (b) the deadline for submission should be removed and replaced with a 21 day period for providing a written answer, with a list of Written Questions answered during the period between each Council meeting attached to the minutes of the meeting.
- (ix) It is suggested that consideration be given to tightening up the rules on **Oral Questions**, to make clear that if the Member asking the Oral Question is not present when their question is called, no answer shall be provided at the Council meeting or subsequently. In such circumstances, it is suggested that the rules should provide that the question shall be deemed to be withdrawn (which reflects the current rules in relation to Public Questions, under Rule 18(i)). It is

also suggested that the rules should provide that another Member may only ask a question on behalf of the Member asking the Question ('the Questioner') if the Questioner is present at the meeting, but unable to speak. Members are invited to give their views on this.

12. The Chair has asked that consideration also be given to introducing arrangements for Cabinet members to also issue **Written Statements** outside of the Council meeting (in addition to Cabinet Statements at the Council meeting). It is suggested that such arrangements could allow Cabinet members to explain proposals, their purpose and planned scrutiny consideration, and facilitate good internal communication between Members. Any questions on Cabinet statements issued in between Council meetings may be submitted as Oral Questions at the next suitable Council meeting. Members are invited to consider whether this may reduce the time required for Cabinet statements at the full Council meeting.

### Cabinet Meetings

13. The Committee is requested to consider clarifying **Group Leaders' speaking rights at Cabinet meetings** (set out in the Cabinet Procedure Rules, Rule 1.6(e)), to specifically state that their speaking rights are on 'related policy matters' and clarify that ward issues are not to be raised, by amending Cabinet Procedure Rule 1.6(e) as follows:

'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 on a related policy matter 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:

- (i) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;
- (ii) 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;
- (iii) 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;'

14. Further, in relation to **Cabinet members and ward issues**, the Committee may wish to note that the statutory model Code of Conduct for Members was amended by the Welsh Government in 2016 to clarify that a member

of a relevant authority is not to be regarded as having a personal interest in a matter when making, or participating in, decisions on behalf of the authority simply for the reason that the business being considered at the meeting affects that Member's ward. However, Members are advised to consider whether their ward interests may constitute a personal / prejudicial interest under the Members' Code of Conduct, and to be mindful of their duty to reach decisions based on the merits of the circumstances and the public interest (Members' Code paragraph 8(a)). The Committee may wish to consider clarifying this point within the Cabinet Procedure Rules.

15. Members are also invited to provide their views on any other potential changes to be made to the Council Meeting Procedure Rules, the Cabinet Meeting Procedure Rules or associated matters and, if appropriate, instruct the Monitoring Officer to prepare specific proposals for further consideration at a future meeting of the Committee.
16. In considering any proposals for change, the Committee's views are also requested in relation to the extent and form of any consultation to be carried out with individual councillors and or party groups.

#### Other Constitutional Issues

17. The Welsh Government draft Statutory Guidance for Principal Councils: Local Government Guidance for Principal Council Consultation document - (Final version), which is the subject of the separate report to Committee under agenda item 6, includes revised guidance on constitutions and a draft revised Constitution Direction setting out the prescribed contents of council constitutions (Guidance Annex 3).
18. The Committee will be pleased to note that the Council's Constitution largely complies with the draft revised Guidance and Constitution Direction. However, Members may wish to give further consideration to the following:
  - (a) Within the list of matters which Councils should consider including in their constitution (draft Guidance, Annex 3 paragraph 1.11) there is reference to 'The working arrangements and relationship with community and town councils in the council's area'. In January 2019, in accordance with Welsh Government guidance, 'A Shared Community: Charter between Cardiff Council and Community Councils in Cardiff' was signed, setting out how the councils would work together for the benefit of their communities. The Committee may wish to consider whether this Community Councils Charter should be incorporated within the Constitution.
  - (b) Within the draft Direction's list of 'specified information' which must be included in a council's constitution, paragraph 14, is: 'The confidential reporting procedure with references to the authority's codes of conduct for members and employees respectively.' The Committee is invited to note that the Council's Whistleblowing Policy is currently being revised and updated, under the remit of the Standards and Ethics

Committee. However, the Committee may wish to recommend that the revised Whistleblowing Policy should be incorporated within the Constitution in due course.

19. Members are invited to provide views on any other areas of the Constitution they would like the Constitution Committee to review. This work will need to be programmed into the Committee's Forward Plan by the Monitoring Officer, allowing sufficient time for proposals to be developed, approved and implemented, having regard to time and resources available.

### **Legal Implications**

20. By virtue of article 14 of the Constitution, the making of amendments to the Constitution is reserved to Council unless otherwise delegated. The Committee's terms of reference set out the Committee's delegated authority:

*To review the Council's Constitution, and to recommend to Council and/or Executive 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:-*

- (a) *Drafting improvements to enhance clarity and remove minor anomalies.*
  - (b) *Updating to reflect legislative changes and matters of record.*
  - (c) *Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).*
21. Any amendments to the Constitution that may be proposed as a result of the review and which do not fall within the above remit will require the approval of full Council.

### **Financial Implications**

22. There are no direct financial implications arising from this report.

### **RECOMMENDATIONS**

The Committee is recommended to:

1. Provide views on the constitutional rules governing meetings of the full Council and the Cabinet which the Committee wishes to amend or review, having regard to the specific suggestions set out in the report, and the extent and form of any consultation they wish to carry out with individual councillors and /or political groups on this;
2. Delegate authority to the Monitoring Officer, in consultation with the Chair, to carry out consultation as agreed by the Committee and either to bring a

report back to this committee or submit any agreed changes to the Constitution to full Council for approval, as appropriate;

3. Provide views on any other areas of the Constitution, which the Committee wishes to amend or review; and
4. Request the Monitoring Officer to prepare further reports on any other potential changes, with reference to the issues identified under Recommendations 1 and 3 above, if appropriate, for consideration by the Committee at a suitable future meeting.

**DAVINA FIORE  
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING  
OFFICER**

3 November 2022

**APPENDICES:**

APPENDIX A: Council Meeting Procedure Rules

APPENDIX B: Full Council Meetings - Comparison

Background papers

Council reports:

1. 'Constitution Committee – Recommendations on Council Procedure Rules and Scrutiny Procedure Rules', 25 January 2018
2. 'Constitution Amendments', 28 March 2019
3. 'Constitution Amendments', 27 January 2022
4. 'Constitution Update', 17 March 2022

Cabinet report, 'Community Councils Charter', 13 December 2018

Standards and Ethics Committee, 'Forward Work Plan', 25 October 2022

Mae'r dudalen hon yn wag yn fwriadol

## **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 in accordance with these Rules by the Chair in consultation with the Leader at least 6 Working Days prior to the date of the Council meeting.
- (b) Any time limits on agenda items may only be extended at the discretion of the Chair.
- (c) 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;
  - (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 Schedule of Members' Remuneration;
- (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 17;
- (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 Chief Executive;
- (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 two 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.

(aa) The place of a meeting shall include provision enabling meetings to be attended remotely by persons who are not in the same physical place, in accordance with the Council’s Multi-Location Meetings Policy.

- (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, including details of how the meeting may be accessed remotely by persons who are not in the same physical place, will enclose the agenda and be accompanied by connected reports and Cabinet statements.

## **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 Committee and Member 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 Committee and Member 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 indicates to the Chair that he/she wishes 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 attending a physical meeting) when they are speaking. If more than one Member indicates their desire to speak, the Chair will ask one to speak and the others must be quiet.
- (b) Other Members must remain silent 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 any Member speaking at the time must stop. The meeting must be silent.

### **Members 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.

## **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 statement 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.
  - (iii) A maximum of 45 minutes shall be allowed for questions and debate on Cabinet statements.
- (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 Committee and Member 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 Committee and Member Services Manager for such purpose;

by email to the Council's mailbox for the submission of questions (as specified by the Committee and Member 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;
- (ii) A further 15 Oral Questions shall be allocated amongst the political groups in proportion to their representation on the Council, but Cabinet members and Assistants to Cabinet members shall be disregarded for the purposes of such calculation; and
- (iii) Any Members who are not members of any political group recognised by the Council shall be entitled to submit one Oral Question each.

The allocation will be reviewed annually by the leaders of the political groups in consultation with the Chair.

(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 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>

## 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	Deadline for the submission of Written Questions for an answer to be received at the Council Meeting. If a question is submitted following this deadline it will be answered at the following Council Meeting.  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.
12.00 noon on the day of the Council Meeting	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.

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

## 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 Committee and Member 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 Committee and Member 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.
- (ga) The questioner shall be given the opportunity to read their question orally.
- (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.
- (c) The Monitoring Officer shall have discretion to instruct that a composite answer may be given to any questions which are closely related or on the same subject matter, wherever she considers this appropriate. This shall not prejudice any right to ask a supplementary question, which may be available under the Council Meeting Procedure Rules

## **20 PETITIONS**

- (a) A Petition may be presented to Council by either:
- (i) a Member, if the Petition is comprised of at least 20 signatories; or
  - (ii) a Lead Petitioner, if the Petition is comprised of at least 50 signatories, subject to compliance with the Council's Petition Scheme and this Rule 20
- (b) Petitions must be submitted to Democratic Services either by email, post or hand delivery, in accordance with the Petition Scheme, by 5pm, 7 working days before the date of the Council meeting; and must include:
- (i) The name and contact details for the Lead Petitioner;
  - (ii) The subject matter and specific request of the Petition;
  - (iii) The name and postal address (including postcode) of each Petition signatory; and
  - (iv) The total number of signatories to the Petition.
- (c) Each and every signatory to the Petition, including the Lead Petitioner, must be either:
- (i) An individual who lives, works or studies within the City and County of Cardiff;
  - (ii) A representative of an organisation which operates within the City and County of Cardiff; or

- (iii) An individual who lives in the administrative area of a neighbouring Council and who may reasonably be expected to be affected by the subject matter of the Petition.
- (d) The receipt of a Petition will be acknowledged by the Head of Democratic Services within 5 working days from its receipt. Subject to compliance with this Rule 20 and the Petition Scheme, the Lead Petitioner or the relevant ward Member will be invited to present the Petition to the next appropriate Council meeting.
- (e) If more than one Petition is received in relation to a similar subject matter and seeking a similar outcome, only one Lead Petitioner or Member will be permitted to present the Petition to Council. Democratic Services officers will notify each Lead Petitioner and Member and ask them to liaise with each other to consider amalgamating the Petitions and agree which Lead Petitioner or Member will present the Petition to Council. In the absence of such agreement, the Lead Petitioner of the Petition with the highest number of signatories shall have the right to present the Petitions to Council.
- (f) When a Petition has been presented to Council under this Rule 20, no further Petition on a similar subject matter and seeking a similar outcome shall be considered within six months of that Council meeting.
- (g) Where a Member or Lead Petitioner presents a Petition to the Council, they may outline the request by the petitioners, the reason for the request and the number of the signatories, provided that in any event they may not speak under this rule for more than one minute.
- (h) 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.
- (i) Written responses will be provided within 20 working days of the presentation of a valid petition to Council.
- (j) A summary of all valid Petitions received, in accordance with this Rule and the Council's Petition Scheme, and the Council's response, will be published on the Council's Petitions web page.

## **21 GREEN PAPERS**

### **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**

- (b) Any Cabinet Member bringing forward a Green Paper must provide the Chair and the Committee and Member 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 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 Committee and Member Services Manager, during the 'Submission Period'. For the purposes of this Rule, the Submission Period shall start at 9am on the third Monday before the Council meeting, and end at 5pm on the Friday of that week (the second Friday before the Council meeting).

- (c) Every Ordinary Motion properly delivered will be dated and registered by the Committee and Member Services Manager in the order in which they were received and open to Members' inspection after the end of the Submission Period.
- (d) Subject to the rules on the number and allocation of Ordinary Motions set out under paragraphs (f) to (i) below, Ordinary Motions will be listed on the agenda in the order in which the notices were received.
- (e) A maximum of 30 minutes shall be allowed for the debate on each Ordinary Motion, unless one or more amendments are moved, in which case the time allowed shall be extended to 45 minutes.

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

- (f) Subject to Rule (g) below, the number of Ordinary Motions shall be limited to a maximum of 2 motions at each Council Meeting where Ordinary Motions may be considered. Urgent Ordinary Motions (under this Rule 22, paragraph (m)) and Ordinary Motions at any Extraordinary Meeting held (under Rule 4) shall be disregarded in counting the maximum number of Motions set under this paragraph.
- (g) Ordinary Motions will be allocated amongst the political groups in proportion to their representation on the Council and as agreed between the political groups, subject to:
  - (i) No political group recognised by the Council shall be allocated less than one Ordinary Motion in a municipal year. If necessary, the maximum number of Ordinary Motions at a Council meeting (set under paragraph (f) above) may be increased to accommodate this.
  - (ii) Cabinet Green Papers (debated at full Council under Rule 21) shall be deducted from the number of Ordinary Motions allocated to the leading group.
  - (iii) Cabinet Members and Assistants to the Cabinet shall be disregarded in the calculation of political proportionality for the purposes of the allocation of Ordinary Motions under this Rule.
- (h) The allocation will be reviewed annually by the leaders of the political groups in consultation with the Chair.
- (i) If more than the maximum number of Motions permitted under paragraph (f) above are submitted for a particular Council meeting, the Chair shall decide which Motions are to be taken, following consultation with the party groups. Factors to be considered in selecting Motions shall include the urgency of the Motion (whether it may reasonably be taken at a later meeting); the order in which Motions were lodged; whether a Motion has been put back from a previous Council meeting; any policy, budget or other significance to the Council; and the proportion of the allocated number of Motions from the relevant

group which have already been considered by full Council during that municipal year. The Chair has the discretion to increase the number of Motions permitted at a particular Council meeting if s/he is satisfied, having regard to all relevant factors, that it is appropriate to do so; and the Chair's decision shall be final.

### **Scope of Ordinary Motions**

- (j) Ordinary Motions must be in relation to Relevant Business and must not be Inappropriate Business (as defined in Rule 35).
- (k) 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.
- (l) 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**

- (m) 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).
- (n) 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.
- (o) 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**

- (p) 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 Committee and Member 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.
- (q) 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**

- (r) An amendment to an Ordinary Motion may not be moved unless notice of the amendment has been given to the Committee and Member Services Manager by email, and seconded by 5.00pm 2 Working Days before the meeting.
- (s) 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,
- as long as the effect of (i) – (iii) is not to negate the motion.
- (t) 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.
- (u) Each amendment will be proposed and seconded and then put to the vote in the order determined by the Chair, unless paragraph (ua) applies.
- (ua) If the proposer of a Motion accepts a proposed amendment (of which notice has been duly given in accordance with Rule 22(r)), the amendment shall become part of the substantive motion without a vote, unless:
- (i) The Chair rules that the amendment is fundamentally inconsistent with the original Motion, in which case the amendment shall be put to the vote; or
  - (ii) Two or more amendments to the Motion are moved, in which case, either all amendments must be accepted, or all amendments must be put to the vote.

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

- (v) 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.



(w) 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.
- (iv) Before the proposer of an Ordinary Motion or the proposer of an amendment exercises a right of reply given under sub-paragraph (ii) or (iii) above, a relevant Cabinet Member (or Assistant to Cabinet Member) shall have the opportunity to respond to the Motion on behalf of the Cabinet. If the proposer and seconder of the motion are in agreement, the Cabinet member (or Assistant to the Cabinet) may move that the vote on the Motion be adjourned until the next meeting of Council. If such an adjournment motion is passed, then at the next suitable full Council meeting:
  - (a) a vote on the adjourned Ordinary Motion will be taken without further discussion, unless prior to the commencement of the meeting, notice of withdrawal in writing signed by proposer and seconder has been delivered to the Committee and Member Services Manager. (For the avoidance of doubt, a vote on an adjourned Ordinary Motion under this rule shall not count for the purposes of the maximum number of Motions permitted at that Council meeting under Rule 22 (f)); or
  - (b) if the Motion has been withdrawn in accordance with sub-paragraph (a) above, the Cabinet Member shall report back to Council in his or her Cabinet Member Statement on the withdrawal and any action taken or agreed with the Motion Proposer and Secunder in this regard.

(x) 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**

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 Committee and Member 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(f); 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.

## **26A TRIBUTES AND RECOGNITIONS**

Tributes and recognitions may be received as follows:

- (i) Death of sitting Councillors – The Chair shall have discretion to invite group leaders or another nominated speaker from each group and Independent Member/s to pay tribute;
- (ii) Death of a past Lord Mayor – The Chair will make an announcement and pay tribute; and
- (iii) Death of a former Councillor – The Chair will make an announcement only.

The Chair shall have discretion to announce a one minute silence.

## **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 presented in writing 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.
- (i) At any time before the start of the Council meeting, each of the political groups may, through their nominated spokesperson, provide the Chair with a list of their priority speakers in respect of any one or more agenda items. Without prejudice to the Chair's discretion (under Rule 7(b)), and subject to compliance with these Council Meeting Procedure Rules, the Chair will endeavour to allow the named Members to speak in the relevant debate in the prioritised order.

## **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 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. At the conclusion of the vote, the Clerk shall declare whether the motion or recommendation is carried or not; 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 declare the motion or recommendation to be carried. However, if there are any objections, the Chair shall initiate a vote.

#### **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 ATTENDANCE**

- (a) Members will be regarded as present at a meeting where they attend that meeting either physically at the place specified on the meeting summons or remotely, by means of video conferencing software which enables persons who are not in the same place to speak to and be heard by each other and to see and be seen by each other.
- (b) All Members present during the whole or part of a physical meeting must accurately record their attendance on the record of attendance provided for that purpose.
- (c) Any Members attending the meeting remotely will have their attendance recorded electronically via the meeting software, and must leave the meeting if they will not be present for any extended period of time during the meeting.

### **32 ELECTRONIC BROADCAST AND RECORDING OF MEETINGS**

- (a) Council meetings shall be webcast as they take place, in accordance with the Webcasting Protocol (contained within Part 5 of the Constitution), so that members of the public not in attendance at the meeting can see and hear the proceedings. The webcast shall be available electronically on the Council's website for a period of 12 months after the meeting.
- (b) Other filming, recording and use of social media is permitted during Council meetings, provided that:

- (i) The recording or transmission must create no disturbance, disruption or distraction to the good order and conduct of the meeting;
- (ii) Notice has been given (on the meeting agenda and signage outside the meeting) so that everyone attending the meeting is made aware that they may be recorded and that by attending the meeting they are deemed to consent to this;
- (iii) Any recording must be overt, not covert;
- (iv) There is to be no recording or transmission of proceedings dealing with any exempt or confidential information;
- (v) The Chair shall have discretion, subject to proper consideration of any relevant representations and legal advice, to prohibit a recording or exclude anyone reasonably considered to be in breach of these rules; and
- (vi) The person making the recording or transmission shall be solely responsible for complying with all applicable legal obligations arising from their actions.

### **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 Chief Executive. 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:

- (i) for which the Council has a responsibility or which call on central government or another responsible body to take, or refrain from, some specific action in relation to the powers or responsibilities of the Council; and
- (ii) which substantially affect the well-being of the administrative area of the Council and/or the citizens (or a significant group of them) of Cardiff.

*“Inappropriate Business”* means matters that:

- (i) are not Relevant Business;
- (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.

*“Remotely”* or *“by remote means”* means from a different physical location connected through an online meeting platform.

*“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
Mon	-13					9am – Start of the Submission Period for submission of Ordinary Motions
Tues	-12					
Wed	-11					
Thu	-10					
Fri	-9			9am - Deadline for asking questions to ensure answer given by meeting.		5pm – End of Submission Period (deadline for submission)
WEEKEND						
Mon	-8					
Tue	-7	5pm – Deadline for Submission of Petitions				
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				

Tudalen 57

Mae'r dudalen hon yn wag yn fwriadol

**FULL COUNCIL MEETINGS – COMPARISON**

	<b>BRISTOL</b>	<b>MANCHESTER</b>	<b>CARDIFF</b>
<b>Length of meeting (average)</b>	2.5 hours maximum (with provision for up to 30 mins extension)	Generally less than 3.5 hours	Average <sup>1</sup> from 01 Oct 21 - 30 Sep 22 was 4.5 hours
<b>Start time of meeting</b>	Either 2pm or 6pm, depending on time of year	10am	4.30pm
<b>Limit on Speakers</b>	<ul style="list-style-type: none"> <li>- 3 minutes per speaker</li> <li>- Agreed lists of speakers, usually only 1 or 2 per political group for each business item</li> </ul>	<ul style="list-style-type: none"> <li>- 5 minutes per speaker</li> <li>- Agreed list of speakers, usually no more than 5 per motion</li> </ul>	<ul style="list-style-type: none"> <li>- Proposers of Motions or movers of reports up to 6 minutes; other speakers 3 minutes each</li> <li>- Public Questions - 5 minutes for response;</li> <li>- Green Papers - 15 minutes for Cabinet member proposing; 3 minutes for each Member to speak (maximum 10 minutes in total)</li> </ul>
<b>Questions and Statements</b>	30 minutes maximum	Questions from Members to Leader, Executive and chairs of committees	<ul style="list-style-type: none"> <li>- Cabinet member statements, questions and debate – maximum 45 minutes</li> <li>- Oral Questions to the Leader, Cabinet members and Committee Chairs – maximum 90 minutes</li> </ul>
<b>Motions</b>	30 minutes maximum, meaning only 1 or 2 per meeting	<ul style="list-style-type: none"> <li>- Deadline of 12 noon on the Monday of the week before Council (on Wednesday).</li> <li>- Must have a proposer, seconder, and 3 Members in support.</li> </ul> <p>These rules are under review</p>	<ul style="list-style-type: none"> <li>- Deadline of 5pm on the second Friday before the Council meeting</li> <li>- Must have a proposer and a seconder</li> <li>- Maximum 2 Motions per meeting, and 30 minutes for each Motion (extended to 45 minutes if amendments are moved)</li> </ul>

<sup>1</sup> Discounting the Annual meeting and merging the Extraordinary meetings on 17 March into a single meeting

<p><b>Budget meeting – any different arrangements</b></p>	<ul style="list-style-type: none"> <li>- Starts at 2pm</li> <li>- More flexibility around the length of the meeting, timing of speeches and consideration of amendments, but doesn't generally take more than 5 hours</li> </ul>	<p>Finance spokesperson and opposition finance spokesperson are allowed to speak for 20 minutes</p>	<ul style="list-style-type: none"> <li>- Maximum of 45 speakers allocated proportionally between political groups</li> <li>- 10 mins for Cabinet member, Finance; 4 mins for Leader of Council; 5 mins for Opposition Finance spokesperson moving amendment, and 3 mins for their seconder; General debate – 4 mins for Opposition Group Leaders and 3 mins for each other speaker</li> <li>- Exclusion of Ordinary Motions and Questions (Oral and Written)</li> </ul>
<p><b>Business considered</b></p>	<p>Separate Member Forum meeting prior to Council meeting, lasts for up to 1 hour, for questions to the Mayor / Cabinet</p>	<ul style="list-style-type: none"> <li>- Presentations on topics of the moment which can be varied, may be outside speakers or staff</li> <li>- Other than that just business required to come through Council</li> </ul>	<ul style="list-style-type: none"> <li>- Cabinet statements, questions and debate</li> <li>- Oral Questions to the Leader, Cabinet members and Committee Chairs</li> <li>- Green Papers for debate on policy proposals</li> <li>- Ordinary Motions</li> <li>- Public Questions</li> <li>- Petitions</li> <li>- Reports to Council on statutory business</li> </ul>

**CARDIFF COUNCIL  
CYNGOR CAERDYDD**



**CONSTITUTION COMMITTEE:**

**9 NOVEMBER 2022**

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**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**CONSTITUTION UPDATE**

**Reason for this Report**

1. To enable the Committee to consider recommended constitution changes in relation to:
  - (a) Cabinet Job Sharing;
  - (b) Governance and Audit Committee, Chair and Vice-Chair;
  - (c) Electronic signing and sealing of documents;
  - (d) Cardiff Bus Pension Scheme, Delegated Authority
  - (e) Strategic Estates delegations;
  - (f) Register of Members (Home addresses);
  - (g) Planning Committee membership (Multi-member wards); and
  - (h) All Party Council Groups, Officer support.

**Background**

2. The Constitution Committee's approved Terms of Reference are:

To review the Council's Constitution, and to recommend to Council and/or Executive 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:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies.
- (b) Updating to reflect legislative changes and matters of record.
- (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).

3. The Monitoring Officer has delegated authority to make minor amendments to the Constitution, to include:
  - (a) amending typographical and minor drafting errors;
  - (b) updating to reflect legislative changes and matter of record; and
  - (c) drafting improvements to enhance clarity and remove minor anomalies

(Scheme of Delegations, Section 4E reference LD16A).

4. The Council is required to keep its Constitution up to date and fit for purpose, and the Constitution Committee has responsibility for considering any necessary amendments in line with its terms of reference, set out in paragraph 2 above.

## Issues

### Cabinet Job Sharing

5. The Constitution Update report presented to the last meeting of the Committee (in February 2022) included information about the new statutory provisions (introduced under section 58 and Schedule 7 to the 2021 Act, with effect from 5th May 2022) enabling two or more councillors to share an office on an executive, including the office of executive leader, referred to as 'Cabinet Job-Sharers'.
6. The Committee agreed to recommend amendments to the Constitution, Article 7 (The Cabinet) and the Cabinet Procedure Rules (in Part 4 of the Constitution) to reflect the new statutory provisions in this regard; and these amendments were subsequently approved by full Council on in March 2022, with effect from 5th May 2022.
7. It was noted that the Council must have regard to any statutory guidance issued by the Welsh Government, and the draft guidance which had been made available on an informal basis at that time was duly taken into account.
8. The Welsh Government has now formally issued draft Statutory Guidance for consultation: \*Local Government Guidance for Principal Council Consultation document - (Final version), which includes guidance on job-sharing arrangements (in paragraphs 4.6 to 4.18 inclusive). Whilst the Guidance is yet to be finalised, it is recommended that certain, mostly minor, amendments should be made to Article 7 and the Cabinet Procedure Rules to better reflect the draft Statutory Guidance. Also, to provide clear rules to deal with the scenario where one Cabinet Job Sharer may have a conflict of interests, to clarify that the non-conflicted Job Sharer may cast their vote, but without having any preparatory discussions with their conflicted Job Sharing Partner (Cabinet Procedure Rules, new draft Rule 2.7(e)). The recommended amendments are shown in **Appendices A1 and A2**.

9. As more experience is acquired in relation to job-sharing arrangements in due course, further consideration may be given to developing, in consultation with the Cabinet, a protocol or code of practice setting out agreed arrangements for the operation of job sharing arrangements.

#### Governance and Audit Committee, Chair and Vice-Chair

10. Chapter 2 of Part 6 of the Local Government and Elections (Wales) Act 2021 introduced certain changes in relation to the membership and proceedings of Governance and Audit Committees, including the following new requirements, which took effect from 5th May 2022:
  - a) The Chair must be a lay person, ie. an independent member of the Committee; and
  - b) The Deputy / Vice-Chair must not be a member of the Cabinet or an Assistant to the Cabinet.
11. Although the new legislation does not specifically require that the Deputy / Vice Chair must be an independent member, it is considered that this is best practice, as it can help to develop a potential future Chair. (Members may also wish to note that the Regulations governing Standards Committees require that both the Chairperson and Vice-Chairperson must be independent members of that Committee, and this is reflected in the Constitution, Article 9.2(f)).
12. In line with best practice, the current Deputy Chair is an independent member. The Committee is invited to consider whether to introduce a rule into the Constitution requiring that the Governance and Audit Committee Vice-Chair must be an independent member (and at the same time, reflect the statutory rule which requires the Chair to be an independent member; and for consistency, reflect the same rule which is applicable to the Standards and Ethics Committee) by amending Article 8.1 as shown in **Appendix B**.

#### Electronic Signing and Sealing of Documents:

13. In line with the Council's new hybrid working arrangements and general move towards digitalisation of processes to improve efficiency, the Council's Legal Services department has procured specialist software to enable the electronic signing and sealing of legal documents. The software is used by a number of other local authorities and private practice solicitors firms and incorporates appropriate security and authorisation requirements. Its reported benefits include increased efficiency, quicker execution, lower costs and a reduced carbon footprint.
14. In order to reflect the new arrangements being introduced for electronic signing and sealing of legal documents, it is recommended that express reference should be made within the Constitution, for the avoidance of any doubt. Recommended amendments to Article 13.4 (Authentication of documents);

Article 13.5 (Common Seal of the Council); and the Contract Standing Orders and Procurement Rules, Rule 24.8 are set out in **Appendices C1 and C2**.

#### Cardiff Bus Pension Scheme – Delegated Authority

15. Cardiff Bus is a private company limited by shares (Company Ref 02001229) and is wholly owned by the Council. Cardiff Bus was constituted as a Public Transport company within the meaning of Section 72 of the Transport Act 1985 and its main purpose is to carry out the business of a public transport company.
16. Cardiff Bus is the Statutory and Principal employer in a defined benefit pension scheme. This means it is legally responsible under legislation to meet the funding objectives and to fund the liabilities of the Scheme (Statutory Employer) and is the “main” employer for the purposes of the Scheme rules, having certain decision making powers relating to the running of the Scheme (Principal Employer).
17. In October 2020, the Council approved certain interventions proposed to achieve the key principles of resolving immediate risks to the viability of the company and protecting the current and future entitlement of members of the Cardiff Bus Pension Scheme, including a delegation to the Corporate Director Resources in respect of discharging the responsibilities of the Statutory and Principal Employer under the Cardiff Bus Pension Scheme: Ag. Item 9 Cardiff Bus Cover Report.pdf (modern.gov.co.uk)
18. The Corporate Director Resources has advised that this delegation is to be exercised on an ongoing and permanent basis, and it is therefore recommended that this delegation should be incorporated in Section 4E of the Scheme of Delegations in the Constitution, in the interests of clarity and transparency. The proposed new delegation is shown marked up in **Appendix D**.

#### Strategic Estates delegations

19. Officer delegations for property matters are set out in the Scheme of Delegations, Section 4F, and reflected in the Land Procedure Rules, Rule 2. The current delegations authorise the Director of Economic Development to acquire or dispose of interests in land, subject to various conditions designed to secure best value and compliance with the Land Procedure Rules, up to a threshold of £1 million. Any proposal which does not satisfy all of the conditions or exceeds £1 million requires Cabinet approval. Delegated authority is also granted to the Corporate Property and Estates Manager for transactions up to a threshold value of £100,000, again subject to compliance with various conditions designed to secure best value.
20. Following the restructure of the Council’s Strategic Estates service area, certain changes are recommended to update the officer delegations, reflect the new management structure, which now includes an Assistant Director for County



Estates and a Head of Property (OM1), and ensure decision making is efficient and effective.

21. The proposed changes include:

- a) delegated authority for the Assistant Director to approve transactions up to a threshold of £500,000, subject to all the same conditions in relation to securing best value and compliance with the Land Procedure Rules; and
- b) assigning the delegations of the former Corporate Property and Estates Manager to the Head of Property, with an increase in the financial threshold from £100,000 to £250,000.

22. No substantive change is proposed to the delegated authority of the Director of Economic Development or the type of transactions which require Cabinet approval.

23. The proposed amendments to the officer delegations in the Scheme of Delegations Section 4F (and corresponding amendments to the Land Procedure Rules, Rule 2) are shown in **Appendices E1 and E2**.

#### Register of Members (Home addresses)

24. Under the statutory rules on public access to information, Councils have been required to maintain a public Register of Members, showing certain specified information including each Member's name, address and ward (Local Government Act 1972, section 100G and the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001, Regulation 12). (It should be noted that this is a separate register to the Members' Register of Interests, maintained under the Local Government Act 2000, section 81, for which the Ombudsman's guidance confirms that Members' home addresses are not required and that a street name or postcode is sufficient for describing a Members' home address.)

25. The Welsh Government has indicated that it considers the protection of Members addresses should be a priority for councils to support their members' well-being and promote diversity of membership (draft Statutory Guidance for Principal Councils, paragraph 2.31). It has therefore introduced legislation (the Local Authorities (Amendments Relating to Publication of Information) (Wales) Regulations 2022) to amend the public access to information rules by removing the requirement to make Members addresses within the register of Members available for public inspection.

26. The Access to Information Procedure Rules, Rule 19, requires amendment to reflect the legislative amendment which provides that Members' addresses within the register are now not to be open to public inspection. The recommended amendments are shown in **Appendix F**.

## Planning Committee membership (Multi-Member wards)

27. Statutory rules on membership of the Planning Committee provide that only one Member from a multiple Member ward may sit on the Planning Committee, in order to leave other ward Members to carry out the ward representative role (Regulation 6 of the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017). However, there is an exception in the statutory rules stating that this does not apply to authorities comprised solely of multi-member wards.
28. The Planning Committee Procedure Rules, Rule 1.1A reflects the statutory rules. However, the exception to the rule was not initially included as it was not applicable to Cardiff at that time
29. Since the electoral changes made the Local Democracy and Boundary Commission for Wales took effect in May 2022, Cardiff Council has become solely comprised of multi-member wards, with the effect that the statutory rule that no more than one ward Member may sit on the Planning Committee is no longer applicable in Cardiff.
30. In June 2022, in recognition of the difficulties in filling seats on the Planning Committee, due in part to the substantial demands of the role, the Monitoring Officer, in consultation with the Chair of the Constitution Committee exercised her delegated authority to make a minor amendment to Rule 1.1A of the Planning Committee Procedure Rules to delete the rule that no more than one ward Member may sit on the Planning Committee, to reflect the statutory exception.
31. The Planning Committee Procedure Rules, Rule 1.1A currently provides as follows:
- 1.1A    **Size and Composition**
- 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).<sup>1</sup>
32. It was agreed that this matter would be reported to the next Constitution Committee for the Committee to note the amendment made to the Rules under delegated authority.
33. In considering this matter, Members may wish to note that the Head of Democratic Services has confirmed that there is currently one vacancy on the Planning Committee and to date, it has proved difficult to make an appointment to this position. The Head of Planning has indicated that he has no strong views

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<sup>1</sup> Except in the case of a local authority which is comprised solely of multiple member wards, only one Member from a multiple member ward may sit on the planning committee, in order to allow other ward Members to perform the representative role for local community interests (Regulation 6 of the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017). As Cardiff is currently comprised solely of multiple member wards, this rule is not currently applicable to Cardiff.

on this matter, but has emphasised the importance of having all seats filled, in the interests of good governance and representation.

#### All Party Council Groups – Officer Support

34. The Council has agreed arrangements for All Party Council Groups (APCG), to provide opportunities for debate and promote specific issues within the Council's corporate and service priorities and increase opportunities for non-Executive Members to contribute towards policy development.
35. The Constitution Committee received a report on this issue in March 2018 and recommended a Protocol for All Party Council Groups, which was subsequently adopted by full Council and incorporated within Part 5 of the Constitution. The Protocol sets out the purpose, subject matter, powers and functions, membership and procedure for an All Party Council Group.
36. Due to resource constraints, officer support for APCG meetings is limited and this is addressed within the Protocol, paragraph 5(vi) as follows:  
  
‘Officer support for APCG meetings shall be limited, due to resource constraints, to booking rooms for meetings, and will not cover clerking or other administrative support (such as agenda planning or minute taking).’
37. It has been suggested that further clarification on this would be helpful. Members are invited to consider adding text to clarify the position as follows:  
  
‘Officers will, if given reasonable notice and resources permit, provide written answers to factual queries raised by an APCG. Officers shall not be required to attend an APCG meeting, unless agreed by the relevant Cabinet member.’
38. The proposed amendments are shown marked up in **Appendix G**.

#### **Legal Implications**

39. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its constitution up to date.
40. Minor legislative updates and drafting improvements may be approved by the Constitution Committee under its approved terms of reference or under the Monitoring Officer's delegated authority. All other substantive Constitution amendments require the approval of full Council.
41. Other relevant legal provisions are set out in the body of the report.

## Financial Implications

42. There are no direct financial implications arising from the recommendations of this report. When delegations are exercised, they are accompanied by detailed financial and legal advice and are to be contained within the budget framework.

## Recommendations

The Committee is recommended to:

1. Consider and agree the Constitution amendments set out in this report and **Appendices A to G**, subject to any agreed changes;
2. Authorise the Monitoring Officer, in consultation with the Chair, to draft any further amendments to reflect the views of the Committee; and
3. Recommend the agreed Constitution amendments to full Council for approval.

**Davina Fiore**

**Director Governance and Legal Services & Monitoring Officer**

3 November 2022

## Appendices

Appendix A1	Article 7, Cabinet, draft amendments
Appendix A2	Cabinet Procedure Rules, draft amendments
Appendix B	Article 8, Regulatory and Other Committees, draft amendments
Appendix C1	Article 13, draft amendments
Appendix C2	Contract Standing Orders and Procurement Rules, draft amendments
Appendix D	Scheme of Delegations, Section 4E, draft amendments
Appendix E1	Scheme of Delegations, Section 4F, draft amendments
Appendix E2	Land Procedure Rules, draft amendments
Appendix F	Access to Information Procedure Rules, draft amendments
Appendix G	Protocol for All Party Council Groups, draft amendments

### Background papers

Constitution Committee report, 'Constitution Update', 28 February 2022

Council report, 'Constitution Update', 17 March 2022

Council report, 'Cardiff City Transport Services Limited (trading as Cardiff Bus)', 22 October 2020

Council report, 'Constitution Amendments', 22 March 2018

Welsh Government, Consultation on draft Statutory Guidance for Principal Councils, March 2022

Monitoring Officer's emails dated 27/06/2022 confirming minor amendment to Planning Committee Procedure Rules to be made under the MO's delegated authority

## **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**

- (a) Subject to paragraph (b) below, the Cabinet will consist of the Leader together with no more than nine other Councillors (the total number of members of the Cabinet may not exceed 10).
- (b) If two or more Councillors are elected to share office as Leader or are appointed to share the office of Cabinet member ('Cabinet Job Sharers'), the total number of members of the Cabinet may be increased to:
  - (i) 11 or 12, if at least 2 of the members have been elected or appointed to share office; or
  - (ii) 13, if at least 3 of the members have been elected or appointed to share office.
- (c) The Council elected the Leader
- (d) The Leader appoints the other members of the Cabinet.

#### **7.3 Leader**

- (i) The Leader will be a Councillor elected to the position of Leader by the Council. Two or more Councillors may be elected by the Council to share the office of Leader, if they mutually make an arrangement to stand for election as Leader on the basis of a job sharing arrangement.
- (ii) 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

- (i) Cabinet members (other than the Leader) will be Councillors appointed by the Leader. Two or more Councillors may be appointed [by the Leader](#) to share the office of Cabinet member, [having regard to statutory guidance](#).
- (ii) 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.
- (iii) 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 the Cabinet

The Leader may appoint Councillors to act as Assistants to the Cabinet as he/she considers reasonably necessary and appropriate. Neither the Lord Mayor nor Deputy Lord Mayor may be appointed as Assistants to the Cabinet.

An Assistant to the Cabinet is not a member of the Cabinet. Their role will be:

- (a) to assist the Cabinet collectively; and
- (b) to liaise with the Chairs and members of relevant Scrutiny Committees;

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

Assistants to the Cabinet may attend, and speak at, any meeting of the Cabinet or a committee of the Cabinet, but 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.

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 or may be authorised to make arrangements for the discharge of those functions, as set out in the Cabinet Procedure Rules.

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.

- 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 Chief Executive or in his/her absence the Corporate Directors acting singularly or collectively provided that in discharging such functions the Chief Executive 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 THE CABINET – ROLE DESCRIPTION

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- 1 Assistants to the Cabinet are Members appointed by the Leader to work with a Cabinet Member or Cabinet Members and assist in the discharge of the Cabinet's functions.
- 2 This includes taking forward particular projects or programmes. Most Assistant posts will range across the functions of a Cabinet Member/s but it is a matter for each individual Cabinet Member/s, 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 a Cabinet Member wishes to impose should be agreed with the Leader, recorded and copied to the Monitoring Officer.
- 3 The role of Assistant to the Cabinet does not attract a senior salary under the Members' Remuneration Schedule.
- 4 Assistants to the Cabinet may:
  - (a) Undertake specific task, research and investigations and attend conferences, seminars and meetings, as requested by the Cabinet Member/s, so as to keep abreast of current policy and development initiatives.
  - (b) Attend Cabinet Briefings on behalf of a Cabinet Member.
  - (c) Attend and speak (but not vote) at Cabinet meetings.
  - (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 of concern 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).
- 5 However, an Assistant to the Cabinet cannot:



- (a) Take decisions
- (b) Deputise for a Cabinet Member at Council Meetings
- (c) Be a member of any Scrutiny Committee

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## **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 or may be authorised to make arrangements for the discharge of those functions.

##### **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 Decisions of the Cabinet**

- (a) Executive Decisions which have been allocated or delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Procedure Rules.
- (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.

#### **1.6 Cabinet meetings**

- (a) The Cabinet will meet at times, dates and places to be agreed by the Cabinet. The place of a meeting shall include provision enabling meetings to be attended remotely by persons who are not in the same physical place, in accordance with the Council's Multi-Location Meetings Policy.
- (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 Chief Executive;
  - (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:
  - (i) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;
  - (ii) 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;
  - (iii) 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;
- (f) 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

## 1.7 **Quorum**

- (a) The quorum for a meeting of the Cabinet shall be three.
- (b) Where any meeting is attended by more than one Cabinet Job Sharer (members of the Cabinet who have been elected or appointed to share the same office) in their capacity as a member of the executive, they together count only as one person for the purpose of determining whether the meeting is quorate.

## 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) Members will be regarded as present at a meeting where they attend that meeting either physically at the place specified on the meeting agenda or by remote means, which enables persons who are not in the same place to speak to and be heard by each other.
- (b) Meetings of the Cabinet are generally open to any person who wishes to attend in accordance with the Access to Information Procedure Rules.
- (c) Subject to paragraph (d) below only Cabinet Members (including Cabinet Job Sharers), Assistants to the Cabinet, 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.
- (c) 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 Chief Executive, 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 Chief Executive, 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.

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

## 2.6 Voting

- (a) Subject to Rule 2.7 below, Cabinet decisions will be decided by a simple majority of those present and voting at the meeting.
- (b) If there are equal numbers of votes for and against, the person presiding at the meeting shall have a second or casting vote.

## 2.7 Cabinet Job Sharers

- (a) Cabinet Job Sharers (two or more members of the Cabinet who have been elected or appointed to share the same Cabinet office) will have one vote between them in respect of any matter on which they have a right to vote because they are a member of the Cabinet. The vote is allocated to the job sharing arrangement and not to an individual Job Sharer, so Job Sharers should have appropriate preparatory discussions (subject to subparagraph (e) below).
- (b) If two or more Cabinet Job Sharers who share the same office ('Job Sharing Partners') attend a Cabinet meeting, in their capacity as a member of the Cabinet they should both be recorded as having attended the meeting and they both may speak at the meeting. However, where a vote is required ~~in~~ in respect of a Cabinet decision, they must decide between them in advance who will cast their vote and inform the Chair of the meeting. ~~each Member must agree their vote with their Job Sharing Partner/s and agree which one of them is to cast their agreed vote at the meeting. When casting the vote at the meeting, the Cabinet Job Sharer must confirm to the Chair of the meeting that their vote has been agreed with their Job Sharing Partner/s. If there is no agreement between the Job Sharing Partners, their vote shall not be counted.~~
- (c) If one Cabinet Job Sharer attends a Cabinet meeting, in their capacity as a Member of the Cabinet, where a vote is required in respect of a Cabinet decision, then the attending Cabinet Job Sharer must cast their vote taking into account preparatory discussions with their Job-Sharing Partner. ~~confirm to the Chair that their Job Sharing Partner/s has agreed to them casting the vote on behalf of all Job Sharing Partners.~~
- (d) In the absence of ~~such confirmation, agreement between~~ the Cabinet Job Sharers', their vote shall not be counted.
- ~~(c)~~(e) If one Cabinet Job Sharer has a personal and prejudicial interest in a matter ('a Conflicted Job Sharer'), their non-conflicted Job-Sharing Partner should cast the job sharers' vote without having had any preparatory discussions about the matter with the Conflicted Job Sharer.

## 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

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## PART 2 – ARTICLES OF THE CONSTITUTION

### Article 8 – Regulatory & other committees

#### 8.1 Regulatory and other committees

The Council will appoint the following committees with the terms of reference set out in Appendix 2 of Part 3 of the Constitution.

COMMITTEE	SIZE
Appointments Committee <i>(convened as and when required)</i>	To comprise 5 Members from those appointed to serve in accordance with the rule on political balance
Constitution Committee	12
Corporate Parenting Advisory Committee	9
Council Appeals Committee	9
Democratic Services Committee	12
Disciplinary & Grievance Appeals Committee <i>(Convened as and when required)</i>	To comprise not less than 3 and not more than 5 Members from those appointed to serve in accordance with the rule on political balance.
Employment Conditions Committee	8
Family Absence Appeals Panel <i>(Called as and when required)</i>	3
Governance & Audit Committee	12 (8 Elected Members and 4 Independent Members) <a href="#">Chair and Vice-Chair must be Independent Members</a>
Licensing Committee	12
Pensions Committee	5
Planning Committee	12
Public Protection Committee	12
Standards & Ethics Committee	9 (3 Elected Members, 5 Independent Members & 1 Community Council member) <a href="#">Chair and Vice-Chair must be Independent</a>

	<a href="#">Members</a>
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## 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

(a) Where any document is necessary ~~to-for~~ any legal agreement, 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.

(b) With the exception of any contract formed using an electronic procurement system or with a value of less than twenty-five thousand pounds [£25,000], 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.

(b)(c) Any references within this Article to signing a document shall include a signature produced electronically through the use of an electronic signature system.

#### 13.5 Common Seal of the Council

The Common Seal of the Authority will be kept ~~in a safe place~~securely in the custody of the Director of Governance and Legal Services and may be applied through the use of a secure electronic sealing system. 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.

## PART 4 – RULES OF PROCEDURE

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### CONTRACT STANDING ORDERS AND PROCEDURE RULES ('CPR')

#### 1. Introduction

- 1.1 These Contract Standing Orders and Procurement Rules (CPR) provide a corporate framework for the procurement of all Goods, Services and Works for the Council, including concession contracts.
- 1.2 Procurement is *“the process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment”*<sup>1</sup>.
- 1.3 Procurement includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.
- 1.4 The Council spends in the region of £390 million per annum on the external procurement of Goods, Services and Works. It is therefore important that the Council strategically manages this spend to ensure that it:
  - (i) obtains value for money and the required level of quality and performance in all contracts let;
  - (ii) conducts its procurement activity openly, transparently and, where practicable, based on standard approaches and use of common systems that appropriately minimise complexity, cost, timescales and requirements for suppliers;
  - (iii) complies with all European, UK and Welsh law that governs and/or relates to the procurement of goods, services and works and the letting of concession contracts;
  - (iv) meets the principles of the Welsh Government’s Wales Procurement Policy Statement (WPPS);
  - (v) considers all relevant guidance issued by Welsh Government including Procurement Advice Notes and the Code of Practice on Ethical Employment in Supply Chains;
  - (vi) supports the achievement of the seven well-being goals for Wales as set out in the Well-being of Future Generations (Wales) Act (2015);
  - (vii) has procurement procedures which, when followed, should protect members and officers of the Council from any allegation of acting unfairly or unlawfully in connection with any procurement by the Council;

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<sup>1</sup> [Wales Procurement Policy Statement 2015](#)

- (viii) subject to compliance with (iii), has considered, assessed and where practicable mitigated any risks associated with a particular procurement processes and subsequently entering into contracts; and
- (ix) achieves the organisational outcomes of the [Council's Procurement Strategy \(2017-20\)](#):

- 1.5 Contracts, which involve the receipt of income by the Council or the disposal of an asset or an undertaking by the Council, may often require competitive tender. The reason for this, for instance, is because they amount to a “concession”, or confer a competitive advantage on the contractor as against its competitors, or the Council needs to be able to demonstrate that it has received an appropriate market value. Therefore, all references to competitive tenders and quotations within these CPRs shall apply (with such changes as are appropriate) equally to circumstances where the contract involves the receipt of income by the Council or the disposal of any asset or undertaking by the Council, as they do to purchases to be made by the Council, unless specifically stated otherwise.
- 1.6 These rules are not intended as detailed guidance for implementation. Any procurement guidance issued by the Council's Procurement Manager must be taken into account.
- 1.7 These CPRs govern organisational behaviour in the conduct of procurement. It is a given that such behaviour is undertaken in support and delivery of the wider policies and objectives of the council and in respect of officers, this includes the Employees' Code of Conduct.
- 1.8 In conducting any procurement, utmost probity must be demonstrated at all times.

## 2. Definitions and Interpretations

- 2.1 In these Rules the following definitions apply:

<b>Community Benefits</b>	means the delivery of social, economic and environmental benefit, through effective application of Community Benefits clauses in public contracts. Mandatory on all contracts with a value greater than £1m and optional, but encouraged, on contracts below £1m.
<b>Concession Contracts</b>	means a contract between the Council and Contractor, where the consideration in the contract consists of the Contractor's right to exploit the work or services, that are the subject of the contract, or that right to exploit together with a payment.



**Contract** means any form of agreement (including, without limitation, purchase orders produced on the Council's Proactis P2P system or any replacement of such system) for the supply of Goods, provision of Services or carrying out of Works and or concession contracts.

**Contractor** 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.

**Contracts register** means the register maintained (in such form as determine from time to time) by the Procurement Manager, which lists all contracts (except arrangements in respect of Land) concluded by the Council with a value in excess of £25,000. (See clause 28 of the CPR).

**CPRs** These Contract Standing Orders and Procurement Rules as may be amended from time to time.

**Electronic procurement** The procurement of all goods, services and works conducted using the Council's approved electronic procurement system, as specified from time to time by the Procurement Manager.

**EU** The European Union.

**EU Thresholds** The thresholds prescribed in regulation 5 of the Public Contracts Regulations 2015. The current thresholds, net of VAT and as at 1<sup>st</sup> Jan 2020 are: -

Services	£189,330
Light Touch Regime for Services	£663,540
Supplies	£189,330
Works	£4,733,252
Concession Contracts	£4,733,252

The thresholds change every two years and are due to change again on 1st January 2022.

<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 products, goods, supplies, substances and materials that the Council purchases, hires or otherwise obtains.
<b>Grant(s)</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(s) may be conditional (i.e. obligation to spend the Grant(s) in a particular manner, to account for that spend and repay the Grant(s) if the Grant(s) conditions are breached).
<b>Legal Requirements</b>	means all European, UK and Welsh law that governs and or relates to the procurement of goods, services and works and the letting of concession contracts.
<b>Monitoring Officer</b>	The officer designated by the Council as its Statutory Monitoring Officer as required under Section 5 of the Local Government and Housing Act 1989.
<b>Most economically advantageous tender (MEAT)</b>	A tender evaluated on the basis of qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
<b>OJEU</b>	The Official Journal of the European Union.
<b>OJEU threshold</b>	The values that are determined by the European Union every two years (see definition above EU Thresholds).
<b>Prior Information Notice (PIN)</b>	A notice placed by the Council on <a href="#">Sell2Wales</a> and/or OJEU alerting the market of upcoming requirements and allowing suppliers to respond, expressing an interest in bidding for the contract. This supplier feedback can be used to inform the development of the specification as well as the selection process prior to the invitation to tender stage.

**Procurement** Means, for the purposes of these rules, the process by which the Council manages the acquisition of all its Goods, Services and Works, in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the Council, but also to society and the economy, whilst minimising damage to the environment. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.

**Procurement Guidance** means the Guidance issued/to be issued from time to time by the Procurement Manager, in consultation with the Council's S151 and Monitoring Officers.

**Procurement Manager** means the Operational Manager – Commissioning and Procurement Services or any officers under his/her supervision or management to whom he/she delegates 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.

**Procurement Process** means the process, which spans the whole life cycle of the procurement, 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.

**Procurement Routes** Means the procurement procedure to be followed in the Procurement. For example;

- The open procedure.
- The restricted procedure.
- The competitive dialogue procedure.
- The competitive procedure with negotiation.
- An innovation partnership

See Appendix 1 for an overview of the procurement procedures available.

The appropriate procedure to use must be considered on a case-by-case basis, as it will depend on factors that are specific to each procurement.

<b>Purchase order</b>	means an electronic order raised and authorised via the Council's Proactis P2P system, or such other electronic system in force for the time being.
<b>Purchase-to-Pay (P2P)</b>	means the Council's electronic method of processing payments. The Council uses the Systems Applications and Products (SAP) software or any such software.
<b>Quotation</b>	means a quotation of price and any other relevant detail submitted to the Council upon the Council's request, without the formal issue of an invitation to tender.
<b>Regulations</b>	means The Public Contracts Regulations 2015, as amended from time to time.
<b>Rules</b>	means these Contract Standing Orders and Procurement Rules.
<b>Section 151 Officer</b>	means the officer designated by the Council as its Statutory Section 151 Officer as required under Section 151 of the Local Government Act 1972
<b>Senior Officer</b>	means the holder for the time being of any post named in the Scheme of Delegations outlined in <a href="#">Part 3, Sections 4A – E of the Constitution</a> or, if such is the case, named in a decision of the Cabinet, Council or one of its committees, as having delegated powers and duties in respect of the procurement concerned.
<b>Services</b>	includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency staff and all those activities constituting Services for the purposes of the Public Contracts Regulations 2015.
<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>Request for Quotation (RFQ)</b>	Means a request to provide a price and any other relevant detail, without the formal issue of an invitation to tender.
<b>Tenderer(s)</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>Value for Money</b>	should be considered as the optimum combination of whole-of-life costs in terms of not only generating efficiency savings and good quality outcomes for the organisation, but also benefit to society, the economy, and the environment, both now and in the future.
<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 Contracts Regulations 2015.

- 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 for resolution in consultation with the Procurement Manager.
- 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, including compliance with the Council's Financial Procedure Rules.
- 2.5 The Director of Governance and Legal Services will amend these Rules from time to time, to ensure that they meet all Legal Requirements.
- 2.6 The Director of Governance and Legal Services and the Procurement Manager shall periodically undertake a formal review of these Rules.

### 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

(i) must comply with:

(a) all European, UK and Welsh law that governs and or relates to the procurement of goods, services and works and the letting of concession contracts and to the extent of any conflict between these CPR and any such legal requirements then the provisions of such legal requirements shall prevail;

(b) the Council's Constitution as a whole, and

(c) the Council's strategic objectives and policies including its Procurement Strategy,

and

(ii) must meet the other objectives and requirements listed in clause 1.4 of these rules.

3.3 The Procurement Manager may from time to time issue procurement guidance, following consultation with the Council's Section 151 and Monitoring Officer. Senior Officers in each Council Service Area must ensure that employees in their Service Area are aware of such guidance and must require compliance with such guidance.

3.4 Any failure by officers to comply with any of the provisions of these CPR or associated guidance adopted by the Council may result in disciplinary action. Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks and who have the necessary capability and capacity to undertake the particular procurement.

#### 3.5 Exemptions to the Rules

These Rules do not apply to:-

(i) **the acquisition or disposal of land** (see Procedural Rules for the Acquisition or Disposal of Land. Any land contracts which involve development agreements shall be notified to the Director Governance and Legal Services and legal advice sought on the procurement law implications);

(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. Grants are, however, regulated by the rules on state aid and by general public law controls relating to fiduciary duty and proper spending of public money. As appropriate, legal and financial advice should be obtained from the relevant Council officers);
- (v) **individual orders placed under a Framework Agreement or a contract** which provide for orders to be placed against an agreed schedule of rates, or under a measured term contract, provided that such contracts or Framework Agreements have been let by the Council in accordance with these Rules. The Procurement Manager must be consulted before any such order is placed;
- (vi) **an individual care contract.** That is a contract for services entered into in pursuance of powers under The Social Services and Well-being (Wales) Act 2014 for the benefit of an individual, where:-
  - (a) the estimated value is below the Light Touch Regime under the Public Contracts Regulations 2015;
  - (b) the Council does not have any existing framework or umbrella arrangements in place in respect of the relevant service;
  - (c) the individual care contract represents value for money and;
  - (d) where the contract is required to honour the preference of the individual service user; or
  - (e) is required as a matter of emergency in the interest of the welfare of the individual service user.
- (vii) **Instructions and briefs to Counsel** issued by or on behalf of the Director Governance and Legal Services to Counsel. The Director will make arrangements to ensure that appropriate record is kept of all such instructions or briefs together with a record of Counsel's fee; or
- (viii) **Goods, Services and Works procured by another public body** on behalf of, or for the joint benefit of the Council and other parties, and provided that, in such case, the other public body's procurement / contract rules, all EU, UK and Welsh procurement law requirements, and the fundamental principles of the EC Treaty have been complied with (that is, a collaborative procurement arrangement such as contracts awarded via the National Procurement Service, Crown Commercial Services etc. The advice of the Procurement Manager must be sought before placing reliance on any such arrangement).

- 3.6 When placing reliance on the exemptions stated above the Senior Officer should ensure that the best possible value for money is obtained for the Council.

#### **4. Declaration of interest**

- 4.1 No member, employee or agent of the Council shall improperly use his or her position to obtain any personal or private benefit from any contract entered into by the Council.
- 4.2 Members and employees of the Council shall comply with the requirements of section 117 of the Local Government Act 1972 and, as appropriate, the Officers and Members Code of Conduct set out in the Constitution in respect of the declaration of interests in contracts with the Council.
- 4.3 Such interests must be declared to the Monitoring Officer for inclusion in the appropriate registers.

#### **5. Welsh Language Act**

- 5.1 Any invitations to tender for a contract must state that tenders may be submitted in Welsh.
- 5.2 Any invitations to tender for a contract must be published in Welsh, where the:
- (i) subject matter of the tender for a contract suggests that it should be produced in Welsh, or
  - (ii) anticipated audience, and their expectations, suggests that the document should be produced in Welsh.
- 5.3 Where a tender or quote has been submitted in Welsh, this must be treated no less favourably than a submission in English (including, amongst other matters, in relation to the closing date for receiving submissions, and in relation to time-scale for informing bidders of decisions).
- 5.4 If a tender has been submitted in Welsh, and it is necessary to interview the bidder as part of the assessment process, you must:
- (a) Offer to provide a translation service from Welsh to English to enable the bidder to use the Welsh language at the interview; and
  - (b) If the bidder wishes to use the Welsh language at interview, provide a simultaneous translation service for that purpose (unless you conduct the interview in Welsh without a translation service).
- 5.5 When informing a bidder of the decision in relation to a quotation or tender, you must do so in Welsh if the quotation or tender was submitted in Welsh.



5.6 Where relevant to the subject matter of the contract, contracts must contain provision requiring the Contractor to comply with all applicable requirements of:

- (i) the Authority's Welsh Language Scheme,
- (ii) the Welsh Language (Wales) Measure 2011, and
- (iii) the Welsh language standards issued to the City of Cardiff Council (Compliance Notice – Section 44 Welsh Language (Wales) Measure).

## **6. Procurement Planning**

6.1 Before commencing any procurement, the Senior Officer responsible for the proposed procurement, must undertake (or ensure that it is undertaken) the appropriate level of preparation and planning, proportionate to the proposed value and nature of the project. Depending upon the value and nature of the procurement proposed this should include; consideration of those matters referred to in clause 6.2 and the timely taking of finance, legal and procurement advice as appropriate.

6.2 The preparation and planning stage of the process is critical. It will influence all future activity on the contract. If this part of the process is done correctly then the rest should flow without difficulty, but the reverse is also true. It is common to underestimate the planning stage or not carry it out at all. The key tasks at the planning stage include:

- engagement with key stakeholders in order to identify and assess needs – what is being procured and why? What is the key driver for the procurement? What are the critical success factors? What outcomes are being sought?
- checking that no existing in-house provision exists for the Goods, Services or Works required (see rule 9)
- carrying out of options appraisal to look at different ways of meeting, the identified needs (e.g. buy, lease or rent?)
- determining budget and funding, to define a realistic budget for the contract to achieve the desired results and then securing the funds to finance and manage the contract
- selection of the appropriate Procurement Procedure (see Appendix 1)
- preparing the specification (setting out the requirements)
- where a tender is to be awarded on both price and quality, determining the criteria and evaluation methodology.

6.3 The results of this planning stage must be properly documented by the Senior Officer responsible for the proposed procurement (or his nominated deputy) and, if used recorded in the Council's electronic procurement system. A Procurement Plan is encouraged for all values of procurement.

## **7. Advice and Risk Assessment**

- 7.1 At the outset of a procurement process, the Senior Officer (or his nominated officer) must refer to the Procurement Manager all proposed procurements with an estimated value in excess of £25,000 for goods and services and £75,000 for works. In addition to these Rules, the Senior Officer must follow all guidance issued by the Procurement Manager in respect of the procurement.
- 7.2 The advice of the Director of Governance and Legal Services must be sought on all procurements with an estimated value in excess of £100,000 and for lower value requirements where the complexity of the procurement requires, for example the inclusion of bespoke clauses. If there is any doubt, legal advice should be sought.
- 7.3 For Procurements with an estimated value in excess of £25,000 for goods and services and £75,000 for works, the Senior Officers shall carry out a risk assessment (proportionate to the nature and value of the proposed contract). The risk assessment shall be prepared at the outset and thereafter maintained and updated throughout the Procurement Process. The decision maker must be informed of any risks identified and of the contingency measures in place.
- 7.4 When carrying out any risk assessment in respect of a proposed procurement, regard must be had to the requirements to comply with the whole of these Rules.

### **7.5 Personal Data**

In carrying out any Procurement, the Senior Officer responsible for the procurement must take all reasonable steps, including incorporation of appropriate provision into tender documentation and Contracts, to ensure that the personal data of individuals is protected in accordance with all legal requirements (including the General Data Protection Regulation) and Codes of Practice from the Information Commissioner's Office (ICO) and as set out in the Council's Information Governance Policies. The Senior Officer must ensure the Councils' obligations and risks, in respect of personal data, are considered and indemnities are sought where appropriate. More information and guidance can be obtained from the Operational Manager Governance and Risk and Director of Governance and Legal Services (or their nominated officers).

## **8. Community Benefits**

- 8.1 Community benefits clauses within contracts are used to build a range of economic, social or environmental conditions into the delivery of a contract.
- 8.2 All contracts exceeding £1,000,000 in value must include a contractual obligation on the successful bidder to deliver community benefits.

Examples of community benefits that can be included in contractual clauses include:

- Targeted Recruitment and Training Initiatives
- Supply Chain Initiatives
- Community Initiatives
- Educational Initiatives
- Environmental Initiatives
- Equality and Diversity Initiatives

8.3 For all contracts below £1,000,000 in value, the inclusion of community benefits as a contractual obligation is optional but shall be considered.

8.4 In all cases where community benefits are being delivered, there must be a contractual requirement for the successful contractor to provide monitoring information on the community benefits as determined by the Procurement Manager. More generally, the named contract manager as part of the normal contract management process should monitor the delivery of community benefits.

8.5 Regard must be had to the Welsh Government guidance on Community Benefits and such other guidance as the Procurement Manager may issue from time to time on the approaches to delivering community benefits through Council contracts.

## **9 . Use of In-house service**

9.1 Before any external procurement is considered, it is important to check that no existing in-house provision exists for the Goods, Services or Works required.

9.2. In-house services must be used unless the Senior Officers of the procuring service area and the in-house service provider agree otherwise, evidenced in writing.

## **10. Framework Arrangements**

10.1 The Council has entered into a number of contracts or framework agreements types of goods, services and works.

10.2 Commissioning and Procurement Services maintain a register of such contracts and framework agreements in the Cardiff Council Supply Directory and can provide advice on their use and any exceptions granted.

10.3 It is the responsibility of the service area requiring the procurement to ascertain whether there is a framework or other corporate purchasing agreement in place by checking the Council Supply Directory. If such a framework or corporate purchasing arrangement exists then Service

areas must use the same or otherwise obtain the prior agreement of the Procurement Manager or his/her nominated deputy.

- 10.4 The use of frameworks not listed in the Council Supply Directory is only permissible once the Procurement Team has approved its use (including checking that the framework agreement concerned may be relied upon by the Council).
- 10.5 When using framework agreements, all guidance issued in relation to the use of the Framework concerned must be considered by the service area and followed. The award criteria, weightings and the terms and conditions of contract specified in the framework agreement must be used. It is the responsibility of the service area requiring the procurement to ensure that all supporting documentation necessary is assembled and completed, before placing reliance on a framework agreement. Whilst Procurement and Legal Services can provide advice and support, it will be expected that this provision will be complied with by the service area before seeking such advice.
- 10.6 Where Goods, Services or Works are regularly required, and arrangements described in Rule 10 are not available, consideration must be given to awarding a framework arrangement and the advice of the Procurement Manager must be obtained.
- 10.7 **Collaborative and Joint working arrangements**
  - (i) Any consortia procurement arrangements must be approved for use by the Procurement Manager before reliance is placed on the same.
  - (ii) Before proceeding with any proposed joint working arrangements, legal advice should be sought from the Director Governance and Legal Services.

## **11. Estimating the Contract Value**

- 11.1 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 over its full duration (not the annual value).
- 11.2 Where the duration of a contract is indeterminate, the value should be taken to be the estimated value of the contract over a period of four years (the value of the monthly consideration multiplied by 48).
- 11.3 In determining the value of the total consideration, which the Council expects to pay, the Senior Officer shall take account, where relevant, of;
  - (i) the term/period of the proposed Contract
  - (ii) any rights to renew the Contract/extend the Contract period

- (iii) any prize, payment, premium, fees, commission, interest or other form of remuneration payable under the proposed Contract or in respect of the proposed procurement
- 11.4 If there is uncertainty over calculating the estimated value of the proposed Contract then the advice of Legal and Procurement Services should be sought.
- 11.5 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.
- 11.6 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.
- 11.7 In considering if the Public Contracts Regulations 2015 apply, the Council must have regard to the 'methods for calculating the estimated value of a procurement' set out in the Public Contracts Regulations 2015 and advice of the Procurement Manager sought.

## **12. Goods (supplies) and Services**

- 12.1 Where possible, Goods and/or Services must be obtained via existing approved arrangements including:
  - (i) firstly, in-house services provision (see Rule 9), and
  - (ii) secondly, Framework Agreements and consortia arrangements approved for use by the Council's Procurement Manager (See Rule 10).

### **12.2 Goods and Services - Value up to £10,000**

For procurements with an estimated value of up to £10,000 (ten thousand pounds):

- (i) the minimum requirement is that one written quote is obtained although, where practical, competition is encouraged. It is, however, still necessary for the Service Area to be satisfied and able to demonstrate that it has obtained value for money;
- (ii) the Service Area must keep an appropriate file record evidencing matters; and
- (iii) this rule 12.2 is subject to the requirements set out in the previous sections of the CPR, including Rule 10 (use of frameworks), rule 11.5 (artificially dividing procurements) and rule 11 (repeat requirements)

### **12.3 Goods and Services – Value £10,000 to £25,000**

For procurements with a value of £10,000 up to £25,000 then:

- (i) where practicable the requirement should be openly advertised on the Council's electronic procurement system or on Sell2Wales website, or
- (ii) if it is not practicable to comply with Rule 12.3 then:
  - (1) a minimum of 3 written quotes must be requested from suitable providers using the Council's approved electronic procurement system; or
  - (2) the prior consent of the Procurement Manager must be obtained to the use of an alternative Procurement Procedure or reliance being placed on Rule 14 ('Exceptions').
- (iii) The Council's Quotation Record Form must be used to record the procurement actions taken.

### **12.4 Goods and Services – Value £25,000 to EU Threshold for Goods (supplies) and Services**

For procurements with an estimated value of £25,000 up to the EU thresholds for public supply and public service contracts (Goods and Services), then:

- (a) all requirements must be openly advertised on the Council's electronic procurement system or on Sell2Wales the national procurement website and tenders invited using either the open or restricted procedure, unless the Procurement Manager otherwise directs.
- (b) if the restricted procedure is used the minimum number of tenderers to be invited to tender, subject to meeting the selection criteria, shall be 4 tenderers, and
- (c) the Council's Pre Tender Report Form and Contract Award Form must be used to record the procurement actions taken for goods and services over £25,000.

### **12.5 Goods and Services covered by the Public Contracts Regulations 2015.**

In the case of procurements that fall to be dealt with under the European Union procurement directives and the Public Contracts Regulations 2015 ('The Regulations') that implement them in the UK, then:

- (i) the advice of the Procurement Manager and the Director of Governance and Legal Services must be sought at the outset to determine the Procurement Procedure to be followed and at all subsequent stages of the procurement process;

- (ii) the procurement process will be in accordance with the advice received and where applicable will in any event be in accordance with the requirements of the said Directives and Regulations for the time being in force; and
- (iii) the requirements of such Directives and Regulations will take precedence over any requirements set out in these Rules.

### 13. Works

13.1 Where possible, works must be obtained via existing approved arrangements including:

- (i) Firstly, in-house services provision (see Rule 9) and
- (ii) Secondly, Framework Agreements and consortia arrangements approved for use by the Council's Procurement Manager (See Rule 10).

#### 13.2 Works Value up to £10,000

- (i) For procurements with an estimated value of up to £10,000 (ten thousand pounds) the minimum requirement is the one written quote is obtained, although where practical competition is encouraged. It is, however, necessary for the service area to be satisfied and able to demonstrate that it has obtained value for money.
- (ii) The service area must keep an appropriate file record (Quotation Record Form) evidencing matters, including that relevant competency and capability assessments have been undertaken.
- (iii) This rule 13.2 is subject to the requirements set out in the previous sections of the CPR, including Rule 10 (use of frameworks), Rule 11.5 (artificially dividing procurements) and Rule 11.6 (repeat requirements).

#### 13.3 Works Value £10,000 to £75,000

- (i) For procurements with a value of £10,000 up to £75,000 then:
  - (a) where practicable the requirement should be openly advertised on the Council's e-procurement system or on the national procurement website,
- (ii) if it is not practicable to comply with Rule 13.3 then:
  - (a) a minimum of 3 written quotes must be requested from suitable providers; or
  - (b) the prior consent of the Procurement Manager must be obtained to the use of an alternative Procurement Procedure or reliance being placed on Rule 14 ('Exceptions').
- (iii) The Council's Quotation Record Form must be used to record the procurement actions taken and recorded on the Council's electronic procurement system.

#### **13.4 Works Value £75,000 to EU Threshold for Works contracts (£4,551,413)**

For procurements with a value of £75,000 up to EU Threshold for Works contracts, then:

- (i) all requirements must be openly advertised on the Council's e-procurement system or on the national procurement website and tenders invited using either the open or restricted procedure, unless the Procurement Manager otherwise directs.
- (ii) if the restricted procedure is used, the minimum number of tenderers to be invited to tender, subject to meeting the selection criteria, shall be 4 tenderers.
- (iii) the Council's Pre Tender Report Form and Contract Award Report Form must be used to record the procurement actions taken on all works procurements above £75,000 and recorded on the Council's electronic procurement system.

#### **13.5 Works covered by the Public Contracts Regulations 2015**

In the case of procurements that fall to be dealt with under the European Union procurement directives and the Public Contracts Regulations 2015 ('The Regulations') that implement them in the UK:

- (i) the advice of the Procurement Manager and the Director of Governance and Legal Services must be sought at the outset to determine the Procurement Procedure to be followed and at all subsequent stages of the procurement process;
- (ii) the procurement process will be conducted in accordance with the advice received and where applicable will in any event be in accordance with the requirements of the said Directives and Regulations for the time being in force; and
- (iii) the requirements of such Directives and Regulations will take precedence over any requirements set out in these Rules.

### **14. Exceptions - Single or reduced number of tenders**

14.1 In exceptional circumstances and subject to the following requirements the rules set out in sections 12.3 to 12.5 and 13.3 to 13.5 shall not apply and reduced number of tenders or a single tender may be invited.

- (i) This provision (Exceptions) does not apply to procurements above the EU Thresholds, in which case compliance with the provisions of the Regulations is mandatory.
- (ii) Before proceeding to let any contract the service area must in the Pre Tender Report and Contract Award Report set out the reasons why a single or reduced number of tenders is proposed, why the proposed way forward (reduced number of tenders or single tender) represents value for money and is in the Council's best interest. The Procurement Manager will issue guidance on



potential scenarios where a reduced number of tenders or a single tender may be permissible ('exceptions').

- (iii) Before proceeding with a reduced number of tenders or a single tender, the consent of the Procurement Manager must be obtained. The Procurement Manager reserves the right not to sign and approve any request for a single or reduced number of tenderers, which in his reasonable opinion do not warrant approval, in which case the proposed procurement should not proceed. It must be appreciated that the Procurement Manager cannot authorise any exceptions, (and Council Service Areas should not proceed with any proposed procurement) that would be in breach of the requirements of the Regulations or any other Legal Requirement. The Procurement Manager will set out his justification for not approving requests in the Non-Signature Justification section on the Pre Tender Report and Contract Award Form, in which case the procurement will not have approval to proceed.

14.2 The Procurement Manager will maintain a register listing all decisions made pursuant to rule 14.1 (referred to as the 'Exceptions Register').

14.3 The following situation should not arise and provision is inserted purely for completeness. If the Procurement Manager is presented with any Pre Tender Report or Contract Award Report, which contains proposals that are in breach of the Regulations or any Legal Requirements and following advice the relevant service area does not withdraw the proposal, then the matter shall be reported by the Procurement Manager to the Director with responsibility for the Service area concerned, the Council's Chief Financial Officer (S151 officer) and Monitoring Officer for consideration and determination as to the way forward (including the presentations of any reports required to Cabinet and or Council). It must be appreciated that Statutory Officers cannot be expected to authorise any proposed procurements which would be in breach of the requirements of the Regulations or any other legal requirements.

## **15. Electronic Tendering**

15.1 From October 1<sup>st</sup> 2018 (or such latter date as the Procurement Manager may direct), all procurement with a value of £10,000 or above (including requests for quotations) must be conducted using the Council's approved electronic system. It is the responsibility of the Senior Officer of each service to ensure that their staff comply with this rule.

15.2 Any officer required to use the Council's electronic procurement must notify the [Council's Sourcing Team](#) so that they can be registered on the system. Similarly, it is the responsibility of the relevant Senior Officer to notify the Sourcing Team of changes to any officer's eligibility to use the system (e.g. staff leaving or disciplinary measures) at the earliest opportunity so that the user access can be deactivated.

- 15.3 Where rule 15.1 applies, all requests for quotations and invitations to tender, along with all associated procurement documentation, must be issued via the Council's approved electronic procurement system.
- 15.4 Where rule 15.1 applies, all quotes and tender submissions from bidding organisations, including all supporting documentation, must be received via the Council's approved electronic procurement system.
- 15.5 In exceptional circumstances, and only with the prior agreement of the Senior Officer of the service area requiring the procurement and the Procurement Manager, hard copy quotations or tenders may be accepted. In this event the procedures detailed in Rule (19.2) must be followed.

## **16. Pre-Qualification (Applies to all)**

- 16.1 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;
  - (f) Evidence as to whether they are unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes; and
  - (g) Data Protection and Cloud Impact Assessment implications.

## **17 The Quotation Process**

### **17.1 Quotes (below £10,000) – Low value procurements, where use of the Council's e-procurement system is not mandatory**

17.1.1 Where these Rules allow for use of Quotes and the estimated value of the procurement is below £10,000 then officers in the Council Service Areas undertaking the procurement concerned must comply with the following requirements:

- (i) Wherever practicable the Council's Electronic Procurement system must be used and all quotes submitted by electronic arrangements via the Council's electronic procurement system. If this is not practicable then the following arrangements shall apply.

- (ii) When Quotes are sought these should be requested in writing (including email).
- (iii) Where only one quote is requested, the relevant Senior Officer still has the responsibility to ensure (and be able to demonstrate) that value for money has been obtained.
- (iv) There is no prescribed timescale but a reasonable timescale should be given for parties to submit quotes.
- (v) Quotes should only be accepted, in writing (including email) or via the Council's approved electronic procurement system. If accepted in writing the acceptance should make clear that the [Council's standard terms and conditions](#) referred to in the Council's purchase order apply. On acceptance of the quotation (written or electronic), a purchase order must be sent via the Purchase-to-Pay (P2P) system, which contains reference to the Council's standard terms and conditions.

**17.2 Quotes for goods and services with value between £10,000 and £25,000 and works with value between £10,000 and £75,000.**

Where these Rules allow for use of Quotes and the estimated value of the procurement is for Goods and/or Services between £10,000 and £25,000 and for Works between £10,000 and £75,000, then officers in the Council Service Area undertaking the procurement concerned must comply with the following:

- 17.2.1 At least three quotations must be requested using the Council's electronic procurement system.
- 17.2.2 In the circumstance where not all suppliers respond to the request for quotation with a submission, it is acceptable to evaluate and award the contract based on whatever submissions have been made, even where there is only one submission, provided Value For Money is achieved.
- 17.2.3 Where there are less than three suppliers (but more than one) of the requested goods, services or works on the Council's electronic procurement system, it is acceptable to request quotations from the number (less than three) of the suppliers registered.
- 17.2.4 Where there is only one supplier of the requested goods, services or works on the Council's electronic procurement system, it is a requirement to follow the exception authorisation procedures set out in CPR 14.

- 17.2.5 Any request for quotation (RFQ) shall include as a minimum a technical specification, pricing schedule and terms and conditions.
- 17.2.6 These CPR do not set out minimum timescales that bidders should be given for submitting a response to a request for quotation. Consideration should be given to the complexity of the quote being requested and sufficient time allowed for tenderers to provide suitable quotes.
- 17.2.7 The quotation must be received electronically using the Council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the request for quotation has elapsed.
- 17.2.8 All quotations received will be automatically "unlocked" and available for evaluation in the electronic system after the closing time and date prescribed in the request for quotation. The officer in the Service Area running the quotation will open quotations; the electronic procurement system will automatically record all quotation prices. There is no requirement for legal services officers to be present
- 17.2.9 Following evaluation of the submissions and acceptance of the quotation on the electronic system, a purchase order must be sent via the Purchase-to-Pay (P2P) system or the provision of CPR 24 complied with.

## **18. The Tender Process**

- 18.1 The invitation to tender must include details of the Council's requirements for the particular contract including:
- (i) a specification of the Services, Goods or Works being procured and instructions on whether any variants are permissible;
  - (ii) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
  - (iii) the Council's terms and conditions of contract;
  - (iv) the evaluation criteria including attached weightings;
  - (v) the Form of Tender;
  - (vi) pricing mechanism and instructions for completion;
  - (vii) whether the Council is of the view that TUPE will apply;
  - (viii) form and content of method statements to be provided;
  - (ix) rules for submitting of tenders;
  - (x) any further information, which will inform or assist Tenderer(s) in preparing tenders.

18.2 Every Tenderer submitting a tender will be required to sign a declaration to the effect that:

- (i) they have not and will not inform any other person of the amount of their tender;
- (ii) they have not fixed the amount of any tender in accordance with a price fixing arrangement;
- (iii) 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;
- (iv) 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.

18.3 In respect of proposed procurements with an estimated value in excess £25,000 for Goods and Services and over £75,000 for Works, the Service Areas must obtain the prior approval of the Procurement Manager to the invitation to tender documentation, including specification, evaluation criteria and weightings.

18.4 Prior disclosure to Tenderers of the award criteria and weightings is a fundamental requirement that must be complied with for all the Council's procurements. In respect of all quotes/tenders, where the main quote/tender criterion is the most economically advantageous tender, the Senior Officer must ensure that evaluation criteria or sub-criteria is listed in the Request for Quote or Invitation to Tender documentation, in order of importance. Any particular scoring or weighting attributable to any criteria or sub criteria must be clearly stated.

## **19. Receipt, Custody and Opening of electronic and Hard Copy Tenders**

19.1 Where these rules require and even when the rules do not require but it is practicable the Council's electronic procurement system must be used and all tenders submitted by electronic arrangements via the Council's electronic procurement system. After the tender submission deadline has passed tenders submitted electronically must be opened in accordance with guidance issued by the Procurement Manager, and the electronic record kept shall, as a minimum meet the requirements set out in the guidance document issued by the Procurement Manager on the opening and recording of electronic tender submissions.

19.2. In exceptional circumstances where the Council's e-procurement system is not being used (with the prior agreement of the Procurement Manager) then the following procedure must be adhered to for the submission of hard copy tenders.

- (i) The ITT should provide that Tenders with an estimated value below £100,000 should be submitted by post (or hand delivered)

in the official envelope or using the official tender return label provided and should be addressed to a senior officer (who is not the Senior Officer responsible for the procurement of the relevant service). After the tender submission deadline has passed Tenders will be opened consecutively at the same session in the presence of two employees one designated by the Procurement Manager and one by the Senior Officer of the relevant service area. 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.

- (ii) The ITT should provide that Tenders with an estimated value above £100,000 should be submitted by post, addressed to the Director Governance and Legal Services, enclosed in the official envelope or using the official tender return label provided by the Council. The Director Governance and Legal Services will be responsible for the receipt, custody and opening of such tenders. After the tender submission deadline has passed Tenders for the same procurement will be opened consecutively at the same session in the presence of two employees designated for the purpose. The Director Governance and Legal Services will nominate one employee and the Procurement Manager will nominate the other employee. 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 team.

## **20. Late Tenders**

Tenders received after the date and time for receipt of tenders may only be opened and considered with the agreement of Procurement Manager and Director of Governance and Legal Services (or their nominated officer, who should be at Operational Manager level or above). Any such decisions must demonstrate good reason why it is considered appropriate to accept the late tender and the decision recorded by the Procurement Manager.

## **21. Tender Evaluation**

21.1 Evaluation Team - For each Contract with an estimated value above £25,000 in respect of Goods and or Services and £75,000 in respect of Works, the Senior Officer of the Service Area requiring the procurement shall form an evaluation team ('Evaluation Team') with responsibility for evaluating tenders. Written records of the membership of the evaluation team and evaluation undertaken must be kept.

21.2 Where the Contract estimated value exceeds £100,000, 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.

21.3 The Evaluation Team shall examine tenders in accordance with the predetermined evaluation criteria for the quotes/tenders and identify quotes/tenders that best meet the criteria. The evaluation criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure.

21.4 As a general rule, no adjustment or qualification to any quote or tender(s) submitted is permitted. Errors found during the examination of quotes or tenders shall be dealt with in one of the following ways:

(i) If the error is not arithmetical the tenderer shall be given details of the error(s) and shall be given the opportunity of confirming without amendment or withdrawing the quote or tender; or

(ii) If an arithmetical error is found, the responsible officer shall correct the error(s) provided that, apart from these genuine arithmetic error(s), no other adjustment revision or qualification is permitted. An appropriate record shall be kept.

## **22. Post Tender clarification**

22.1 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 clarification and legal advice must be sought before determining whether any clarification would be appropriate.

22.2 The Senior 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. A record of all clarifications needs to be maintained on the Council's electronic procurement system including minutes of any clarification interviews.

22.3 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 that shall apply to all the Council's Procurements.

## **23. Awarding Contracts and Letters of Intent**

23.1 A decision to award a Contract may only be made by (i) an officer with the requisite delegated authority to award contracts in accordance with

the Council's Scheme of Delegations or (ii) otherwise pursuant to a decision of the Council, one of its Committees or Cabinet.

23.2 For all Procurements valued at above £25,000 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 Senior 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.

23.3 A Contract shall only be awarded using the pre-determined tender evaluation criteria and weightings.

When a decision is subject to the Council's 'Call in Procedure' (See the Council's Scrutiny Procedure Rules) the decision must not be acted upon until the call in period has expired and provide always the decision has not been called in.

23.4 A letter of intent is not an appropriate substitute for a formal contract but in exceptional circumstances can be issued as an interim measure until a formal contract has been signed. Letters of intent shall only be used with the prior agreement of, and in a form approved by, the Director Governance and Legal Services.

23.5 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. Should the Senior Officer for the service area concerned make any decision to the contrary, 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.

## **24. Placing of Orders/Completion of Contracts and retention of contract documentation**

### **24.1 Frameworks**

Orders placed under Framework Agreements must be placed using the order form prescribed in the Framework Agreement and on the terms and conditions set out in the Framework Agreement. (See Rule10.5)

24.2 For all other contracts with a value of up to £25,000, orders should be placed using the Council's electronic Purchase to Pay system (P2P) unless the Procurement Manager otherwise agrees. The P2P system, generates purchase orders outputs in either electronic or paper form, which incorporate by reference the Council's standard terms and conditions of contract.



- 24.3 For Contracts with a value above £25,000 but below £100,000 Service Areas must use the appropriate standard form of contract issued or approved for use by the Director Governance and Legal Services.
- 24.4 For Contracts with a value in excess of £100,000 Service Areas must take the advice of the Director Governance and Legal Services on the form of contract to be used, though wherever appropriate industry standard forms will be used.
- 24.5 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.
- 24.6 Contract documents, along with all associated related documents, must be retained for a minimum of six years from the contract end date and, if the contract is concluded under seal, for a period of twelve years from the contract end date. Where the contract was funded, or partly funded, through some form of external grant then further grant specific conditions, as regard to retention of documents may apply and must be adhered to.
- 24.7 As minimum contracts must set out;
- (i) the work, materials, services or supplies to be carried out or provided and standards required;
  - (ii) the price to be paid (or, as appropriate, the sums to be received) with a statement of discounts, or other deductions, and where not known, the basis upon which the final contract sum is to be calculated;
  - (iii) the time or times within which the contract is to be performed; and
  - (iv) the commencement and termination dates of the contract.

## **24.8 Execution (completion/signing/sealing) of contracts**

- 24.8.1 Subject to Rule 24.8.2 Contracts with a value in excess of £25,000 may only be signed on behalf of the Council by the Director of Governance and Legal Services and or his/her nominated officers. [\(For the avoidance of doubt, an electronic signature system may be used.\)](#)
- 24.8.2 Rule 24.8.1 does not apply to any contract formed by the placing of an order, following compliance with these Rules, using or under:
- (i) the Council's electronic Purchase to Pay system;
  - (ii) a Framework Agreement approved for use; or
  - (iii) a Dynamic Purchasing System put in place by the Council.

- 24.8.3 The Council's seal may only be affixed to a contract in the presence of the Director of Governance and Legal Services or his / her nominated officers [or through the use of a secure electronic sealing system](#).

## **25. Notification of Results, De-briefing and Standstill Period**

- 25.1 Where the Regulations do not apply, the Senior Officer shall ensure that within 10 days of the date on which the Council receives a request from any supplier who was unsuccessful (at either the selection or tender stage) he/she informs that supplier of the reasons for being unsuccessful and, if the supplier was unsuccessful at the tender stage the responsible officer shall also inform it of the characteristics and relative advantages of the successful tender as well as the name of the bidder awarded the contract.
- 25.2 Where the Regulations apply, Service areas must comply with the requirements of the Regulations (including as to standstill, debrief, contract award notices), and the advice of Procurement and Legal Services must be obtained and followed.
- 25.3 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.
- 25.4 If the award of a contract is subject to the Regulations, there must be a standstill period between communicating the award decision to all tenders and conclusion of the contract. This standstill period shall be 10 calendar days if sent electronically or 15 days for notices sent by other methods. Where the last day of the standstill period is not a working day, it shall be extended to midnight at the end of the next working day.

## **26 . Bonds, Securities, Liquidated and other damages**

- 26.1 The Senior Officer (of the service area requiring the procurement) is responsible for ensuring that a risk assessment is undertaken, to determine if a performance bond or performance guarantee is required. If appropriate, the advice of the Council's Finance officers should be sought.
- 26.2 Consideration should also be given to the appropriateness of including in the contract a provision for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

## **27. Parent Company Guarantee**

- 27.1 The Senior Officer (of the service area requiring the procurement) is responsible for seeking a Parent Company Guarantee where a contractor is a subsidiary of a parent company and;

- (i) the award is based on evaluation of the parent company;
- (ii) the financial status of the contractor (having regard, inter alia, to the proposed contract) warrants the same and or
- (iii) the S151 Officer recommends.

## **28. Records**

28.1 To ensure appropriate records are maintained the Council's e procurement system must be used wherever practicable or specifically required by these Rules.

28.2 For all Procurements where the Council's electronic procurement system is not used, Service areas must keep appropriate records. As a minimum the records kept must detail:

- (i) which parties were selected to tender;
- (ii) to whom the Contract was awarded and the reasons for so doing (lowest price or offer which represents best value to the Council), so that best value and the integrity of the process can be demonstrated;
- (iii) the value of the contract;
- (iv) the start and expiry date of the contract; and
- (v) details of whether the contract is a one-off or expected to be renewed

28.3 Procurement Services shall maintain a Corporate Contract Register, which will record details of all contracts /contracts (above £25,000) awarded by the Council. Service areas must provide Procurement Services with all required information to facilitate this.

## **29. Contract Management**

29.1 Once the Contract has been awarded, the Senior Officer (of the service area concerned) must identify and nominate an individual (referred to as the 'Contract Manager'), who will manage the day-to-day aspects of the Contract for its term (See rule 34 re Contract End).

29.2 The day-to-day management of the Contract shall be undertaken by the Contract Manager and shall include monitoring and reporting (including making use of the Council's reporting tools on the Council's electronic procurement system) 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
- (vii) delivery of agreed Community Benefits

- 29.3 For all contracts, it is the responsibility of the Contract Manager to raise any incidents of poor performance immediately with the Contractor and seek rectification. In instances of particularly poor performance, or persistent poor performance, the Contract Manager should consider the appropriate course of action to take under the contract, taking advice as appropriate.
- 29.4 Where the total value of the Contract exceeds £100,000, the Contract Manager must make a written report to the Senior 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.

## **30. Contract Variation – basic principles**

### **30.1 Contract Variations and Extensions**

- 30.2 Depending upon the nature of the variation proposed, the terms of the contract concerned and scope of the original procurement exercise undertaken, contract variations have the potential to amount to a new contract, and thus can constitute a single tender award without advertisement.
- 30.3 In all cases of contract variation, careful consideration must be made of the impact of the increased value of the contract on the procurement threshold levels, particularly whether the increase in value will move a contract from below EU Threshold to above EU Threshold.
- 30.4 The advice of the Procurement Manager and Director of Governance and Legal Services should be obtained, if there is any uncertainty as to whether a variation is permissible.
- 30.5 Contract and framework agreements may be varied without a new procurement procedure where:
- (i) the variations have been provided for in the initial procurement documents in clear, precise and unequivocal terms (i.e. the contract conditions provide for; extension of the contract term, price variation, fluctuation clauses or options, additional works, good and services) and these do not alter the overall nature of the contract;
  - (ii) additional goods, services or works which were not included in the original quotation or tender have become necessary, where a change of contractor (a) cannot be made for economic or technical reasons and (b) where it would cause significant inconvenience or substantial duplication of costs, provided that any increase in the price does not exceed 50% of the value of the original contract (advice of the Procurement Manger must be sought before placing reliance on this rule);
  - (iii) the circumstances causing the need for variation were unforeseen, the variation does not alter the overall nature of the

contract and provided that any increase in the price does not exceed 50 % of the value of the original contract value (advice of the Procurement Manger must be sought before placing reliance on this rule);

- (iv) there is a change in contractor that was provided for in the quotation or tender, or as a result of a merger, acquisition, insolvency or similar of the original contractor, which contractor fulfils the original criteria for qualitative selection, provided this does not lead to other substantial variations or is aimed at circumventing the Regulations; or
- (v) subject to the above provisions, the variations are not substantial within the meaning of the Regulations (see rule 30.6 and Regulation 72 (8) ).

30.6 A variation shall be deemed substantial if one or more of the following conditions is met:

- (i) the cost of the variation would exceed 10% of the original contract value for services and supply contracts and 15% of the initial contract value for works ;
- (ii) it makes the contract or framework materially different in character from the one originally let;
- (iii) the variation introduces new conditions which, had they been part of the initial procurement, may have allowed for; the admission of other candidates than those initially accepted; the acceptance of a tender other than that originally accepted; and/or attracted additional participants in the procurement procedure;
- (iv) it materially changes the economic balance in favour of the contractor, in a manner which was not provided for in the original contract;
- (v) It extends the scope of the contract or framework considerably;
- (vi) The revised total contract value requires a different level of authorisation, or different form of procurement than that used for the original contract award.

30.7 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.

### 30.8 **Variations**

In the circumstances detailed in CPR30.5 above (permitted variations) the decision to authorise or not a proposed contract variation shall be made, as appropriate, by Cabinet or the officers listed below, provided that the variation cost can be met within budget and complies with all Legal Requirements. Decisions to authorise variations shall be recorded in writing and at Operational Manager level and above, and as appropriate, a Cabinet report or ODR must be prepared. All variations shall be entered on the Council's electronic procurement system and the

Contracts Register, and an amendment made to the original Purchase Order.

<b>Contract Manager</b>	Variation (or aggregate value of all variations made to the Contract) of up to £30,000 or 10% of the contract price (whichever is deemed lower)
<b>Operational Manager</b>	Variation (or aggregate value of all variations made to the Contract) up to £250,000
<b>Head of Service/ Assistant Director</b>	Variation (or aggregate value of all variations made to the Contract) up to £1,000,000
<b>Director (in discussion with the Council's S151 Officer and liaison with Cabinet Member)</b>	Variation (or aggregate value of all variations made to the Contract) up to £5 million
<b>Cabinet decision</b>	Variation (or aggregate value of all variations made to the Contract) Above £5m

30.9 For variations approved by a Contract Manager, the Senior Officer shall monitor at least monthly the overall level of variations approved to gain assurance that they are correct and appropriate.

30.10 As soon as it becomes known or apparent (whichever is the earlier) to the Contract Manager, that the total cost of a contract, including variations, will or is likely to exceed the contract sum by more than 5%, the Financial Services Group Accountant must be informed for financial monitoring purposes. The Financial Services Group Accountant may inform the Senior Officer and or Contract Manager of any further financial requirements to be complied with. In such circumstances, 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, together with an indication of how any additional costs will be paid for. The report shall be submitted to the Senior Officer and the Council's Audit Manager.

30.11 Any variation to the original Contract must be in the best interests of the Council and of continued delivery of services.

### **31. Assignments and Novations**

Any proposals to assign or novate a contract must be referred to the Director of Governance and Legal Services at the earliest possible instance for advice.

## **32. Termination of Contract**

- 32.1 For any Contract exceeding £25,000 in value early termination shall be approved by the appropriate decision maker, provided always that the advice of the Director of Governance and Legal Services and Procurement Manager is first sought. 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 Senior Officer must inform the Procurement Manager when any Contract is terminated and the reasons for the same.
- 32.2 For any Contract exceeding £5,000,000 in value, early termination shall be approved by Cabinet unless the matter relates to a Council function in which case matters shall be reported to Council.

## **33. Payments on Account and contract payments**

- 33.1 Payments on account should only be made upon certification by the person designated under the Contract for that purpose ('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.
- 33.2 The Senior 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.

## **34. Contract end**

- 34.1 For contracts with a duration of more than 12 months, then at an appropriate point but generally at least six months prior to the end of the contract term, the Contract Manager should review the Contractor's performance and consider what, if any, replacement arrangements are required.
- 34.2 Some contracts may require active steps to be taken to end the contract (e.g. serving of notices) and or steps to be taken to decommission the contract arrangements. The Senior Officer of the service area concerned is responsible for ensuring that where appropriate, matters are diarised and appropriate steps taken to bring contracts to an end and sufficient time allowed to put in place any replacement arrangements that may be required.

## **Appendix 1: Procurement Routes & Procedures**

Means the procurement procedure to be followed in the Procurement.

Where the Council carries out a procurement, which is fully regulated by the Public Contracts Regulations 2015 (SI 2015/102) (PCR 2015) then the Council must use one of the following procurement procedures:

- a. The open procedure.
- b. The restricted procedure.

**The advice of the Director Governance and Legal Services and the Procurement Manger (or their nominated officers) must be sought prior to commencing the following procurement procedures**

- c. The competitive dialogue procedure.
- d. The competitive procedure with negotiation.
- e. An innovation partnership.
- f. The negotiated procedure.

### **Key features**

#### **The open procedure.**

Key features - a process where all providers interested in the contract and who have responded to an advertisement may submit tenders. All such tenders must be considered without any prior selection process. The selection and evaluation is carried out after the submission of the tenders.

#### **The restricted procedure.**

Key features - a two-stage process where only those providers who have been invited may submit tenders. The selection and shortlisting are usually carried out based on a Pre-Qualification Questionnaire (PQQ).

**The advice of the Director Governance and Legal Services and the Procurement Manger (or their nominated officers) must be sought prior to commencing the following procurement procedures:**

#### **The competitive dialogue procedure**

Key features - The procurement procedure whereby a contracting authority (The Council) enters into a dialogue with bidders about its requirements before inviting them to submit a *final tender*. It is used in complex projects where the Council cannot adequately specify its requirements. It is one of the procedures through which the Council may award a contract under the *Public Contracts Regulations 2015 (SI 2015/102)*



## **The competitive procedure with negotiation**

This procedure has been described as a hybrid procedure because, as with the restricted procedure, it allows the contracting authority to award a contract on the basis of an initial tender. However, like the competitive dialogue procedure, it also enables the authority to negotiate with bidders who submitted an initial tender, and any subsequent tenders, until it decides to conclude those negotiations. There is no limit to the number of tender stages. Final tenders are submitted and evaluated and the contract is awarded. Unlike for the competitive dialogue procedure, the PCR 2015 does not provide for any clarification or negotiation of the final tenders or the winning tender

## **An innovation partnership**

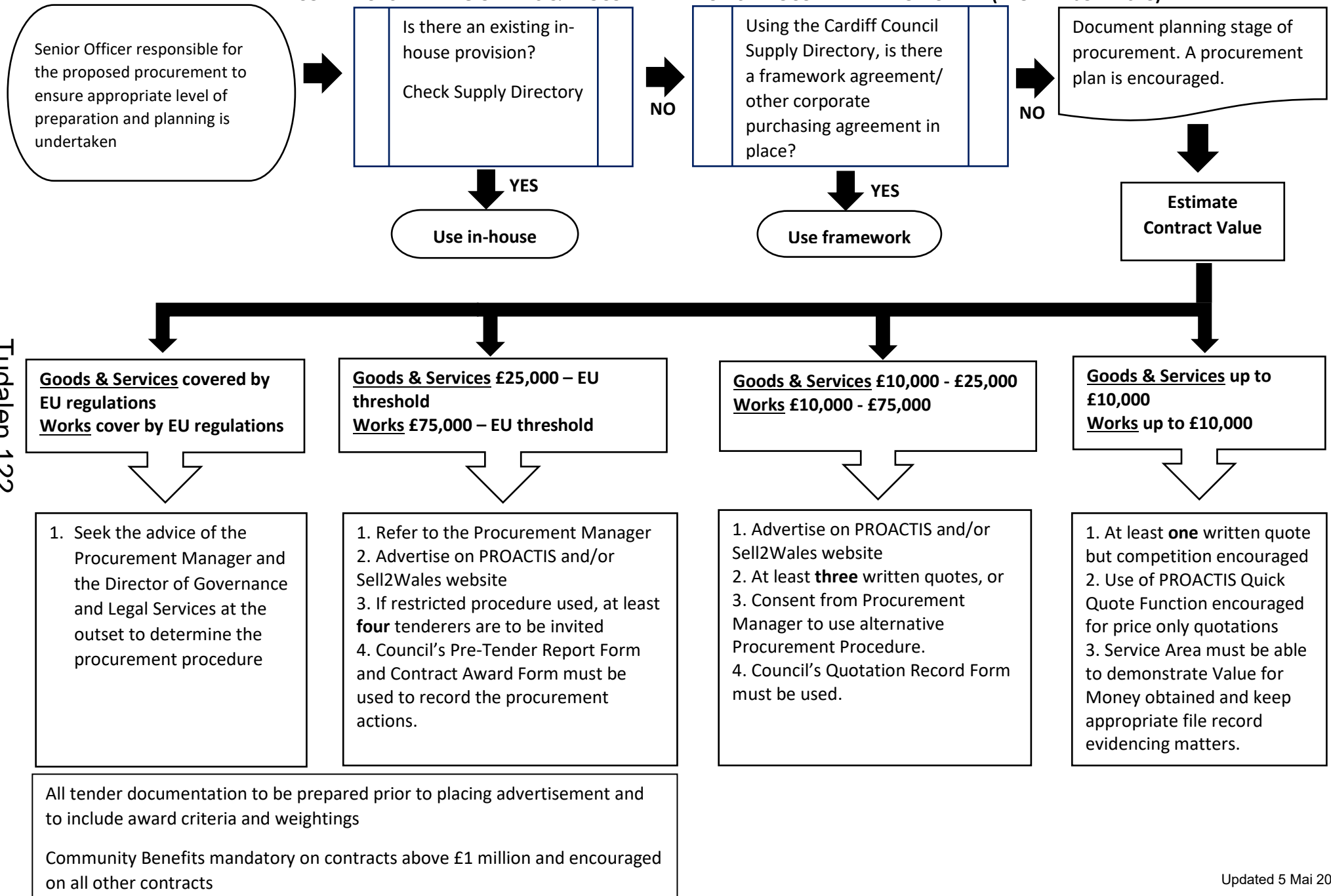
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Final tenders are submitted and evaluated and the contract is awarded. Unlike for the competitive dialogue procedure, the PCR 2015 does not provide for any clarification or negotiation of the final tenders or the winning tender

## **The negotiated procedure**

Whereby the Council negotiates the terms of the Contract with one or more third parties selected by it

**APPENDIX 2 - CONTRACT STANDING ORDERS & PROCUREMENT RULES: PROCUREMENT FLOWCHART (FROM 1<sup>st</sup> JULY 2018)**



Tudalen 122

**APPENDIX 2 - CONTRACT STANDING ORDERS & PROCUREMENT RULES: PROCUREMENT FLOWCHART (FROM 1<sup>ST</sup> JULY 2018)**

Tudalen 123

**The Quotation Process**

- Quotes should only be accepted in writing (including email) or via the Council's approved electronic system.
- Requests for quotation shall include as a minimum a technical specification, pricing schedule and terms and conditions.
- Consideration should be given to the complexity of the quote being requested and sufficient time allowed from tenderers to provide suitable quotes.
- Quotations received via the Council's e-procurement system will be automatically locked until the closing time and date prescribed for the quotation has lapsed at which point it will be unlocked and available for evaluation.

**Pre- Qualification:** The Council shall only enter into a contract with a Contractor if it is satisfied as to the Contractors competencies

**The Tender Process**

- The invitation to tender must include details of the Councils requirements for the particular Contract.
- Proposed procurements with an estimate value in excess of £25,000 for Goods and Services or of £75,000 for Works, the service areas MUST obtain the prior approval of the Procurement Manager to the invitation to tender documentation.
- Every Tenderer submitting a tender will be required to sign a declaration.
- Prior disclosure to Tenderers of the award criteria and weightings is a fundamental requirement that must be complied with.

**Tender Evaluation**

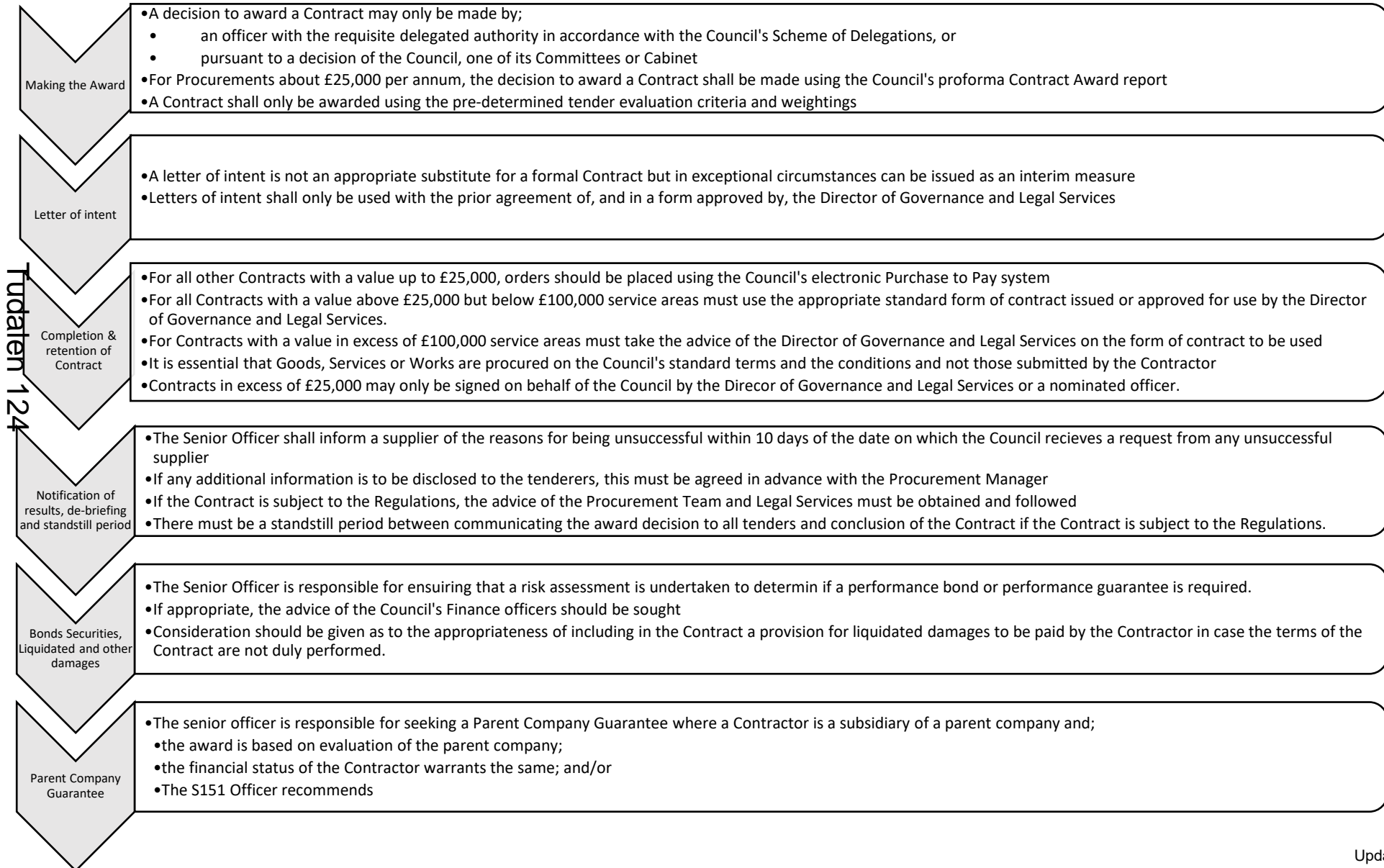
- For each Contact with an estimated value exceeding £25,000 for Goods & Services/ £75,000 for Works, the Senior Officer of the service area must form an Evaluation Team. Membership of the Evaluation Team must be recorded.
- For Contracts exceeding £100,000, the Director of Governance and Legal Services & the Corporate Director of Resources shall be consulted.
- The evaluation criteria shall remain unchanged and must be strictly observed by the Evaluation Team when examining the tenders.
- No adjustment to tender(s) is permitted.
- If an arithmetical error is found, the responsible officer shall correct the error and records shall be kept.
- If a non-arithmetical error is found, the tenderer shall be given an opportunity confirm without amended or withdraw

**Post Tender Clarification**

- For Contracts estimated below the EU threshold, the Senior Officer shall consult with the Procurement Manager.
- Seek legal advice before determining whether any clarification would be appropriate to procurements pursuant to EU Procurement Directive.

## APPENDIX 2 - CONTRACT STANDING ORDERS & PROCUREMENT RULES: PROCUREMENT FLOWCHART (FROM 1<sup>ST</sup> JULY 2018)

### Awarding Contracts



## PART 3 – RESPONSIBILITY FOR FUNCTIONS

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

**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</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 Chief Executive 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	To determine any application for re-grading of an Operational Manager, within the approved remuneration framework.
CE9	Functions of the Returning Officer
CE9A	Functions of the Electoral Registration Officer
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	[Deleted]
LD6	Section 88(2) – Convening meeting to fill casual vacancy of Chairperson.
LD7	[Deleted]
LD8	[Deleted]
LD9	[Deleted]
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)
LD16A	To make minor amendments to the Constitution, to include:  (a) Amending typographical and minor drafting errors; (b) Updating to reflect legislative changes and matter of record; and (c) Drafting improvements to enhance clarity and remove minor anomalies.
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	<p><b><u>Applications under Section 53 of the Wildlife and Countryside Act 1981</u></b></p> <p>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.</p>
LD25	<p><b><u>Pastoral Measure 1983</u></b></p> <p>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.</p>
LD26	<p><b><u>Orders</u></b></p> <p>To make all Statutory Orders.</p>
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
<p><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></p>	
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 bank accounts for the prudent management of financial affairs and arrange for all cheques to bear the signature of the Corporate Director, Resources; to include, without limitation, the authority to establish appropriate overdraft limits on individual accounts to allow the effective processing of transactions and operation of the accounts, and to enter into legal agreements to set-off debit and credit balances on any such accounts.
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	<p>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.</p>
FS25	<p>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.</p>
FS26	<p>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)</p>
FS27	<p>To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has not been amended.</p>
FS28	<p>In accordance with any policy or strategy decided by the Pensions Committee, to approve decisions relating to the operational management of the Cardiff &amp; Vale of Glamorgan Pension Fund ('the Fund') and the administration of pension benefits.</p>

FS50	<u>(i) Represent Cardiff Council at the Cardiff Bus AGM; and (ii) To discharge the functions of the Statutory and Principal Employer of the Cardiff Bus Pension Scheme, in consultation with the Cabinet Member for Finance Modernisation and Performance.</u>
FS52	[Deleted]
FS53	[Deleted]
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> )



## 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.

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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>
Head of Planning	<ul style="list-style-type: none"> <li>• To determine all matters which are delegated to the Planning Committee under the Council's constitution and to carry out any functions under Planning legislation, subject to consultation with the Chair of the Planning Committee (or in his or her absence, the Vice Chair) in any case where written objections on valid planning grounds have been submitted and remain unwithdrawn, EXCEPT for the following matters which are reserved for determination by the Planning Committee: <ul style="list-style-type: none"> <li>(i) Planning applications submitted by or on behalf of any current Elected Members of the Council (except when a Member is acting in a professional capacity as an agent for a third party), Directors and Assistant Directors or the Head of Planning.</li> <li>(ii) An Elected Member of the Council has requested in writing to the Chair of Planning Committee within the statutory consultation period (being 21 days from the commencement of the formal public consultation) that an application be referred to Planning Committee for consideration giving valid planning reasons, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.</li> <li>(iii) The Director of Planning, Transport and Environment or the Head of Planning considers that the</li> </ul> </li> </ul>



	<p>application should be determined by Planning Committee by virtue of the application raising significant policy and material considerations/concerns and/or widespread local concerns.</p> <p>(iv) Approval of the application would represent a significant departure from policies contained within the approved Local Development Plan.</p> <p>(v) Cardiff Council is the applicant and the scheme is not of a 'minor' nature in the opinion of the Director of Planning, Transport and Environment or Head of Planning.</p> <p>(vi) Applications where the decision would conflict with an objection received from a statutory consultee and the objection has not been withdrawn or has been unable to be resolved by negotiation or by imposing a planning condition on any consent issued, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.</p> <p>(vii) Applications where a valid petition has been submitted in accordance with the Council's Planning Committee Procedure Rules.</p> <p>In the absence of the Head of Planning, this delegation shall be exercisable by either of the Planning Operational Managers. In the case of a senior management re-organisation, any officers with similar duties to the officers and the job titles specified in this scheme will have the powers assigned to the officers and the job titles in this scheme.</p> <p>In the absence of the Chair of Planning Committee, the authority passes to the Vice Chair of Planning Committee.</p>
Corporate Director, People and Communities	<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> </ul>

Corporate Director, Resources	<ul style="list-style-type: none"> <li>To make all necessary arrangements in consultation with the Cabinet Member, Environment and with advice as necessary from 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 and the Renting Homes (Fees etc) (Wales) Act 2019</li> </ul>
<b>Director of Economic Development</b>	
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, <del>and</del></p> <p><b><u>Qualification: This may not be further delegated.</u></b>  <del>Provided that this power may not be sub-delegated other than in accordance with delegation CP1 below.</del></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, <del>and</del></p> <p><b><u>Qualification: This may not be further delegated.</u></b>  <del>Provided that this power may not be sub-delegated other than in accordance with delegation CP2 below.</del></p>

DE2A	To authorise the appropriation of land held by the Council for any purpose or function for which the Council is authorised to acquire land by statute, subject to Member consultation and advice from the Section 151 Officer and the Director of Governance and Legal Services.
DE2AA	To authorise the appropriation of land from the General Fund to the Housing Revenue Account and from the Housing Revenue Account to the General Fund as may be appropriate, where the value of the land is no more than £1,000,000, subject to consultation with the relevant Cabinet member and the Corporate Director, People and Communities, and advice from the Section 151 Officer and the Director of Governance and Legal Services.
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, <del>and</del>.</p> <p><b><u>Qualification: This may not be further delegated.</u></b>  <del>Provided that this power may not be sub-delegated other than in accordance with delegation CP3 below.</del></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	To grant grazing licences, easements, leases to utility undertakings for operational purposes, temporary licences and renewals.
DE6	To grant landlord's consent to alterations to land involving change of use (other than A4.8).

DE7	To agree the sale of residential freehold reversions.
DE8	To grant the release or modification of restrictive covenants for alterations to residential premises.
DE9	To settle Part 1 claims under the Land Compensation Act 1973.
DE10	To grant landlord's consent to the assignment of existing tenancies.
DE11	To grant landlord's consent to the subletting of existing tenancies.
DE12	To grant landlord's consent to alterations to land involving no change of use.
DE13	To agree Council House sales under Right to Buy provisions.
<b><u>Assistant Director, County Estates</u></b>	
<b><u>ADE1</u></b>	<p><u>To authorise disposals of land or an interest in land where the value is not more than £500,000 and where:</u></p> <p>(iv) <u>Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;</u></p> <p>(v) <u>The offer represents the best price reasonably obtainable; and</u></p> <p>(vi) <u>The offer so accepted is on price alone,</u></p> <p><u>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land.</u></p> <p><b><u>Qualification: This may not be further delegated.</u></b></p>
<b><u>ADE2</u></b>	<p><u>To authorise acquisitions of land or an interest in land where the value is not more than £500,000 and where:</u></p> <p>(iv) <u>Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation;</u></p> <p>(v) <u>The Council's offer represents no more than market value as determined by a qualified valuer; and</u></p> <p>(vi) <u>The amount offered is on price alone,</u></p> <p><u>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land, and.</u></p> <p><b><u>Qualification: This may not be further delegated.</u></b></p>

<u>ADE3</u>	<p><u>To authorise the grant or taking of a lease at a rent not exceeding £500,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £500,000, where:</u></p> <ul style="list-style-type: none"> <li><u>(iv) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation; and</u></li> <li><u>(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</u></li> <li><u>(vi) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer.</u></li> </ul> <p><u>Subject to compliance with the Procedure Rules for the Acquisition or Disposal of Land, and.</u></p> <p><b><u>Qualification: This may not be further delegated.</u></b></p>
<p><b><u>Corporate Property and Estates Manager</u></b><b><u>Head of Property</u></b></p>	
CP1	<p><del>Subject to sub-delegation of delegation DE1, t</del><u>To authorise disposals of land or an interest in land where the value is not more than £</u><del>400</del><u>250,000 and where:</u></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 <del>not be</del><u>be</u> further delegated <u>to officers at Operational Manager level only.</u></b></p>

CP2	<p><del>Subject to sub-delegation of delegation DE2, t</del>o authorise the acquisition of land or an interest in land where the value is not more than £<del>400</del><u>250</u>,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 <del>not</del> be further delegated <u>to officers at Operational Manager level only.</u></b></p>
CP3	<p><del>Subject to sub-delegation of delegation DE3, t</del>o 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 <del>not</del> be further delegated <u>to officers at Operational Manager level only.</u></b></p>

## 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~~Head of Property' shall mean the ~~Council's Corporate Property & Estates Manager~~Head of Property 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~~[Head of Property](#) (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.

[\(This may not be further delegated.\)](#)



~~Provided that this power may not be sub-delegated other than pursuant to the following paragraph (b).~~

(b) The Assistant Director, County Estates, in the case of disposals of land or an interest in land where the value is not more than £500,000 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.

**(This may not be further delegated.)**

~~(b)(c) The CP&EM Head of Property, (pursuant to sub-delegated powers from the Director of Economic Development), in the case of disposals where the value is not more than £400250,000 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.

**(This may be further delegated to officers at Operational Manager level only.)**

~~(e)(d) 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.

**(This may not be further delegated.)**

~~Provided that this power may not be sub-delegated other than pursuant to the following paragraph (d).~~

(e) The Assistant Director, County Estates, in the case of acquisitions of land or an interest in land where the value is not more than £500,000 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.

**(This may not be further delegated.)**

~~(d)(f)~~ The ~~CP&EM (pursuant to sub-delegated powers from the Director of Economic Development)~~Head of Property, in the case of acquisitions where the value is not more than ~~£400~~£250,000 and where:

(i) The Council's offer represents no more than market value; and

(ii) The amount offered is on price alone.

**(This may be further delegated to officers at Operational Manager level only.)**

(g) 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:

(i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation; and

(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

(iii) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer,

**(This may not be further delegated.)**~~Provided that this power may not be sub-delegated other than pursuant to the following paragraph (f).~~

(h) The Assistant Director, County Estates, in the case of the grant or taking of a lease at a rent not exceeding £500,000 or agreeing the renewal or reconstruction of existing leases at a rent not exceeding £500,000, where:

(i) Member consultation and advice from the Section 151 Officer and the Monitoring Officer has agreed to the exercise of the delegation; and

(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

(iii) In the case of an acquisition, the Council's offer is no more than market value as approved by a qualified valuer.

**(This may not be further delegated.)**

(j) The ~~CP&EM (pursuant to sub-delegated powers from the Director of Economic Development)~~ Head of Property, 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.

**(This may be further delegated to officers at Operational Manager level only.)**

(k) 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~~")Head of Property (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&EMHead of Property 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&EMHead of Property 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&EMHead of Property 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&EMHead of Property 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&EMHead of Property 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 Head of Property](#) 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 Head of Property](#) (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 Head of Property](#) 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 Head of Property](#) 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 Head of Property](#) 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 Head of Property](#).

- 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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### **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), all of which are held in accordance with the Council's Multi Location Meetings Policy, which allows meetings to be attended remotely by persons who are not all in the same physical place, using an online meeting platform.

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. Where meetings are open to the public and held through remote means, partly or wholly (in accordance with the Council's Multi-Location Meetings Policy and as referred to in Rule 2 above), members of the public will be given details of how to access the meeting remotely. 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.

### 4A Broadcast Filming, Recording and Social Media

- (a) Meetings which are open to the public under these rules may be webcast by the Council. The Webcasting Protocol (contained within Part 5 of the Constitution) shall apply to all meetings which are webcast.
- (b) Other filming, recording and use of social media is permitted during meetings which are open to the public under these rules, provided that:
  - (i) The recording or transmission must create no disturbance disruption or distraction to the good order and conduct of the meeting;
  - (ii) Notice has been given (on the meeting agenda and signage outside the meeting) so that everyone attending the meeting is made aware that they may be recorded and that by attending the meeting they are deemed to consent to this;
  - (iii) Any recording must be overt, not covert;
  - (iv) There is to be no recording or transmission of proceedings dealing with any exempt or confidential information;
  - (v) The Chair shall have discretion, subject to proper consideration of any relevant representations and legal advice, to prohibit a recording or exclude anyone reasonably considered to be in breach of these rules; and
  - (vi) The person making the recording or transmission shall be solely responsible for complying with all applicable legal obligations arising from their actions.

## 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 Council's website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)) and on the public notice board at County Hall, Atlantic Wharf, Cardiff.
- (b) Where the meeting or part of the meeting is open to the public and;
  - (i) If the meeting is held through remote means only, the notice will details of the time of the meeting and how to access it;
  - (ii) If the meeting is held partly through remote means or is not held through remote means, the notice will give details of the time and place of the meeting and how to access it.

- (c) Where the meeting is not open to the public and;
  - (i) If the meeting is held partly through remote means or is not held through remote means, the notice will give details of the time and place of the meeting and the fact that it is not open to the public;
  - (ii) If the meeting is held through remote means only, the notice will give details of the time of the meeting, and the fact that it is being held through remote means only and is not open to the public.
- (d) 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**

- (a) 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.
- (b) Where a meeting is open to the public and is not held through remote means only, the Council will make available for use by members of the public present at the meeting a reasonable number of copies of the agenda and reports for the meeting.

## **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 and Other Documents after a Meeting (other than meetings of the Cabinet or a Cabinet Committee)**

- (i) Within 7 working days after a meeting, the Council will publish on its website a note setting out:

- (a) the names of the members who attended the meeting, and any apologies for absence;
  - (b) any declarations of interest;
  - (c) any decision taken at the meeting, including the outcomes of any votes, but excluding any exempt information.
- (ii) The Council will publish on its website copies of the following documents for a period of 6 years after a meeting:
- (a) the minutes of the meeting 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 publish background papers on its website, unless it is not reasonably practicable to do so, in which case, a copy will be made available for public inspection at the Council’s principal offices. Background papers shall remain accessible for public inspection for 6 years after the date of the meeting.

## **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):

<b>CATEGORY</b>	<b>QUALIFICATION</b>	<b>LEGISLATIVE REFERENCE</b>
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

CATEGORY	QUALIFICATION	LEGISLATIVE REFERENCE
<p>3. Information relating to the financial or business affairs of any particular person (including the Council)</p> <p><i>Note : 'financial or business affairs' includes contemplated, as well as past or current, activities</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>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> <li>(a) the Companies Acts (as defined in Section 2 of the Companies Act 2006)</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 2011</li> </ul>	<p>Paragraph 14 of Schedule 12A, Part 4 of the Local Government Act 1972</p>

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 2018 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 – 7 and 9 - 11. For the avoidance of doubt Rules 1 – 7 and 9 - 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 Executive Decisions**

- (a) After any meeting of the Cabinet or a Cabinet Committee, 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 statement in respect of every Executive Decision taken at that meeting as soon as reasonably practicable. The statement will include:
  - (i) a record of the decision including the date it was made,
  - (ii) the reasons for the decision,
  - (iii) the names of the Cabinet members who attended the meeting and any apologies for absence,

- (iv) details of any declaration of interest and a note of any dispensation granted by the Standards and Ethics Committee, and
- (v) details of any consultation undertaken or the reasons why no consultation has taken place.

(b) 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.

(c) The written statement referred to in Rule 13(a) above will be published in the Executive Decision Register and will be circulated to all Members by the Cabinet Business Office. The Executive Decision Register and any reports considered at the meeting will be published on the Council's website and available for public inspection at County Hall. Nothing in this Rule shall require the disclosure of any exempt or confidential information.

## **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, a Corporate Director or Director will be included in the published Officer Decision Register.

## **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) 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, 7, 8, 9 or 10 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

19.1 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.

19.2 The register kept under Rule 19.1 above shall be published on the Council's website and made available for public inspection at County Hall, but the information open to public inspection shall not include a Member's address.

## 20 **Members' Correspondence Address**

The Council will publish an electronic and postal address for each member of the Council to which correspondence for the Member may be sent.



## PART 5 – CODES AND PROTOCOLS

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### PROTOCOL FOR ALL PARTY COUNCIL GROUPS

#### 1. Purpose

The purpose of an All Party Council Group ('an APCG') is to provide opportunities for debate and promote specific issues within the Council's corporate and service priorities and increase opportunities for non-Executive Members to contribute towards policy development.

#### 2. Subject Matter

The subject matter for an APCG must relate to a matter for which the Council has responsibility or to the role of members or member development.

#### 3. Powers / Functions

An APCG is not intended to have any formal decision making powers, but may (if it wishes) make suggestions or recommendations by letter to a relevant Cabinet member or Committee Chair; or seek to secure a debate at Council by way of a Motion promoted by a party group. (Any such Motion would count as one of the Motions allocated to the relevant party group).

#### 4. Membership

- (i) The minimum number of members for an APCG shall be five members.
- (ii) Membership must be open to all members of all party groups, including Independent Members.
- (iii) Each APCG must consist of members from more than one party group.

#### 5. Procedure

- (i) The members proposing to establish an APCG must notify the Monitoring Officer so that the Group is included on the Register of APCGs.
- (ii) Each APCG must meet at least three times each year.
- (iii) If the APCG wishes to raise any issued formally, it may do so by writing to the relevant Cabinet portfolio holder or Committee Chair.
- (iv) Each APCG must produce an annual report to be circulated to all members of the Council (but not to be discussed at full Council).
- (v) In all other respects, the procedure and regulation of meetings shall be a matter for Members.
- (vi) Officer support [for](#) APCG meetings shall be limited, due to resource constraints, to booking rooms for meetings, and will not cover clerking or other administrative support (such as agenda planning or minute taking). [Officers will, if given reasonable notice and resources permit, provide written answers to factual queries raised by an APCG. Officers shall not be required to attend an APCG meeting, unless agreed by the relevant Cabinet member.](#)

- (vii) The statutory public access rights to meetings and information (under Part VA of the Local Government Act 1972) do not apply to meetings of an APCG.

**CONSTITUTION COMMITTEE:****9 November 2022**

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**REPORT OF THE DIRECTOR GOVERNANCE & LEGAL SERVICES**

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**FORWARD WORK PLAN****Reason for this Report**

1. To consider and approve the Constitution Committee Forward Work Plan for 2022-23.

**Background**

2. The Constitution Committee is responsible for reviewing the Council's Constitution, recommending any changes to Council and/or Cabinet. It has authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-
  - a) Drafting improvements to enhance clarity and remove minor anomalies.
  - b) Updating to reflect legislative changes and matters of record.
  - c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).

**Issues**

3. The Forward Work Plan gives notice of, and transparency to, matters under review and for decision during the municipal year and reflects the Committees objective to improve and enhance governance of the Council; to have effective outcomes; and to ensure that it complies with legal obligations and identifies potential risks.
4. The Forward Work Plan needs to reflect the time commitment required for Committee Members and the resources available within the Council to meet the Committee's ambitions.
5. The Committee is requested to consider, within its terms of reference, any constitutional issues it would wish to review and include in its Forward Work Plan for 2022/23. A draft Forward Work Plan 2022/23 is attached as **Appendix A** for the Committee's consideration and approval, with any changes considered appropriate.

**Legal Implications**

6. There are no direct legal implications arising from the content of this report.

## **Financial Implications**

7. There are no direct financial implications arising from this report, provided the work can be met from within existing resources.

## **RECOMMENDATION**

The Committee is recommended to consider and approve the Forward Work Plan 2022-23, and the areas considered as priorities as set out in **Appendix A**, with any agreed changes.

**Davina Fiore**

**Director of Governance & Legal Services and Monitoring Officer**

**3 November 2022**

### Appendices

Appendix A – Constitution Committee Forward Work Plan 2022/23

### Background Papers

Constitution Committee report, 'Forward Plan 2021/22', 13 December 2021

**CONSTITUTION COMMITTEE – FORWARD WORK PLAN 2022/23****APPENDIX A**

<b>TOPIC</b>	<b>OBJECTIVE/OUTCOME</b>	<b>WHO IS RESPONSIBLE?</b>	<b>PRIORITY</b>	<b>REPORT TO COMMITTEE</b>
(1) Review of Planning Rules	To review current rules and proposed changes	Director of Governance and Legal Services / Head of Planning	Medium	March 2023
(2) Constitution Update	To consider any recommended constitution changes	Director of Governance and Legal Services	Medium	On agenda (November 2022)
(3) Council Petition Scheme	To review the Petition Scheme	Head of Democratic Services / Director of Governance & Legal Services	Medium	March 2023
(4) Review of Contract Standing Orders and Procurement Rules and Financial Procedure Rules	To reflect new legislation and ensure the rules remain up to date and fit for purpose.	Corporate Director, Resources / Director of Governance and Legal Services	Medium	Spring / Summer 2023
(5) Review of Council Meeting Procedure Rules	To review current rules and consider any potential changes	Director of Governance and Legal Services	Medium	On agenda (November 2022)

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