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**REPORT OF THE MONITORING OFFICER**

**AGENDA ITEM: 2**

**THE CONSTITUTION**

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**Reason for this Report**

1. To provide Members with the opportunity to consider proposed amendments to the Council's Constitution, arising from the ongoing officer review of that document.

**Background**

2. The Committee, at its last meeting, received an updating report concerning the ongoing officer review of the Constitution.
3. The Committee approved, subject to the approval of Council, proposed amendments to the Constitution in relation to notices of motions. The Committee also authorised me to amend the Constitution to reflect other proposed amendments, and requested that an amended document with track changes be reported to this meeting.

**Issues**

4. The Committee's approved Terms of Reference is 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).
5. Proposed amendments to the Council's Financial and Contracts procedure rules will be the subject of a further report to this Committee in October.

6. The attached track changed document (Appendix A), highlights proposed changes to the Constitution, which broadly fall under the following categories:
- Updating to reflect legislative changes
  - Drafting improvements to enhance clarity and remove minor anomalies
  - Correcting inconsistencies, inaccuracies and omissions
  - Updating to reflect the Council's current practices

With the agreement of the Committee, I will take Members through these proposed changes at the meeting.

7. To minimise the amount of Members' time required to consider these proposals, a number of amendments, relating to changes in titles, have been made that are not highlighted in the attached document. These changes are set out below:

- Chief Financial Services Officer **to City and County Treasurer**
- Chief Legal Services Officer, Chief/Head of Legal Service and Democratic Services **to City and County Solicitor**
- Chief Human Resources Officer **to Chief People and Organisation Development Officer**
- Chief Scrutiny Services Officer **to Chief Scrutiny, Performance and Governance Officer**
- Chief ICT Officer **to Head of ICT**
- Corporate Managers **to Corporate Directors**
- Cardiff County Council **to Cardiff Council**
- Vice **to Deputy** for Lord Mayor and Chair of Council
- Standing Orders **to Rules of Procedure**
- Cabinet **to Executive**
- References to the Assistant Chief Executive deleted

8. The Committee may consider that its time may not be best served by receiving future reports on proposed changes to the Constitution that are:
- (a) Drafting improvements to enhance clarity and remove minor anomalies; and
  - (b) Updates to reflect legislative changes and matters of record.
9. The City and County Solicitor and Monitoring Officer has previously been given delegated authority from the Constitution Committee (meeting on 9 March 2005) to amend typographical and minor drafting errors. The Committee may wish to extend this delegation to include such amendments as set out in paragraph 8 (above).

## **Legal Implications**

10. The Local Government Act 2000 requires the Council to keep its Constitution under review and up to date, and Article 14 of the Constitution provides for review and revision of the Constitution. The authority delegated to the Constitution Committee in this respect is as set out in the Committee's terms of

reference, reproduced in paragraph 4 of the report. There are no legal impediments to the proposals in this report.'

### **Financial Implications**

11. There are no financial implications arising from this report.

### **Recommendations**

12. That Committee

- (i) Give consideration to the proposed amendments to the Constitution as set out in Appendix 1 to this report;
- (ii) Approve any such amendments for which the Committee has authority to do so, as set out in paragraph 4 of this report;
- (iii) Recommend to Council any such amendments for which the Committee does not have authority to approve; and
- (iv) Consider extending the City and County Solicitor and Monitoring Officer's delegation to amend the Constitution to include:
  - (a) Amending typographical and minor drafting errors
  - (b) Drafting improvements to enhance clarity and remove minor anomalies; and
  - (c) Updating to reflect legislative changes and matters of record.

**Kate Berry**

City and County Solicitor

Dated: 1 September 2008

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COUNCIL

**CARDIFF COUNCIL**

**CONSTITUTION**

**Agreed 16 May 2002  
With effect from 30 May 2002**

**Last amended on 20<sup>th</sup> August 2008**

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# PART 1 - SUMMARY AND EXPLANATION

## The County Council's Constitution

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

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## What's in the Constitution?

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

## How the Authority operates

### Council Arrangements

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4. The Council is composed of 75 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
5. Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards & Ethics Committee advises them on the Code of Conduct and on development needs linked with conduct.
6. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. The Council decides the Authority's strategic policies, as set out in Article 4 and sets the budget each year.

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## Executive Arrangements

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

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## Scrutiny

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

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## The Authority's Employees

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

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## Citizens' Rights

10. Citizens have a number of rights in their dealings with the Authority. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Authority's own processes.
11. Where members of the public use specific Authority services, for example as a parent of a school pupil or as a council tenant, they have additional rights, which are not covered in this Constitution.

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Citizens may:

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- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Executive, Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- contribute to investigations by the Scrutiny Committees;



- see reports and background papers, and any record of decisions made by the Council and Executive except where they contain personal or confidential information;
- complain to the Authority with regard to a perceived dissatisfaction about the standard of service, action or lack of action by the Authority or its staff. All complaints will be dealt with in accordance with the Authority's Complaints Policy, which provides an effective framework for review should the complainant be dissatisfied with the initial response;
- complain to the Commission for Local Administration in Wales (Ombudsman) if they think the Authority has not followed its procedures properly. However, the Authority expects a complainant to allow it the opportunity to resolve the complaint using the Authority's own Complaints Policy before contacting the Ombudsman, and the Ombudsman normally expects this too;
- complain to the Ombudsman if they have evidence which they think shows that a Councillor or Co-Opted Member has not followed the Members' Code of Conduct; and
- inspect the Authority's accounts and make their views known to the external auditor.

The Authority welcomes participation by its citizens in its work.

## PART 2 – ARTICLES OF THE CONSTITUTION

### Article 1 – The Constitution

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#### 1.1 Powers of the Authority

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

#### 1.2 The Constitution

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

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

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

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#### 1.4 Review of the Constitution

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

## Article 2 – Members of the Council

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### 2.1 Composition

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

### 2.2 Election and terms of Councillors

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

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### 2.3 Roles and functions of all Councillors

#### (a) Key roles.

Councillors will:

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

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#### (b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and this Constitution.
- (ii) Councillors may visit any land or premises of the Authority subject to the following:-

- they must properly identify themselves to the person in control of the premises and may not issue instructions to employees;
  - or interview any employee other than a Corporate Manager, Chief Officer or senior officer nominated for that purpose on matters of policy or principle, or any matter which is either under consideration by the Council or Executive or likely to be brought before it or any of its Committees;
  - visits to residential establishments must have regard to the privacy and safety of residents and therefore may only be undertaken following proper notice to the relevant Chief Officer or his/her nominee and the visit may then be made in accordance with arrangements specified.
- (iii) Councillors will not make public information which is confidential information or exempt information without the consent of the Authority or divulge information given in confidence to anyone other than a Councillor, officer or other person legally entitled to know it.

## 2.4 Conduct

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

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

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The giving of the Cardiff Undertaking will take place at:

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

## 2.5 Allowances

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

## Article 3 – Citizens and The Council

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### 3.1 Citizens' rights

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

#### (a) Voting and petitions.

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

#### (b) Information.

Citizens have the right to:

(i) attend meetings of the Council, its Committees and the Executive except those parts of meetings where confidential information or exempt information is likely to be disclosed, and that business is conducted in private;

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(ii) see reports and background papers of meetings held in public, and any records of decisions made by the Council, the Executive and designated senior officers; and

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

#### (c) Participation.

(i) Citizens have the right to contribute to investigations by Scrutiny Committees in accordance with the Scrutiny Procedure Rules, as set out in Part 4 of this Constitution;

(ii) ask questions at meetings of the Council, of members of the Executive or the Chairperson of a Committee.

#### (d) Complaints.

Citizens have the right to complain to:

(i) the Authority itself under its complaints procedure;

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

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

### 3.2 **Citizens' responsibilities**

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

## Article 4 – The Council

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### 4.1 Functions of the Council

Only the Council will exercise the following functions:-

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

### 4.2 Meanings

(a) **Policy Framework.**

The policy framework means the following plans and strategies:-

- Best Value Performance Plan;
- Plans to approve Young People's Partnership Strategic Plans and a Children and Young People's Framework Partnership

**Comment [KA1]:** Amended to reflect new Regulations

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- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Early Years Development Plan;
- Single Education Plan;
- Local Transport Plan;
- Local Development Plan;
- Welsh Language Scheme;
- Youth Justice Plan.
- Corporate Plan;
- Housing Strategy;
- Health and Well-Being Strategy
- Lifelong Learning Development Plan;
- Race Equality Scheme;
- Policy agreements;

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**Deleted:** Education Strategic

**Deleted:** <#>Food Law Enforcement Service Plan;¶

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

(b) **Budget.**

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

(c) **Housing Land Transfer.**

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

4.3 **Audit Panel** <sup>1</sup>

The Council has established an independent audit panel to which 3 independent persons are appointed. The panel, supported by the 3 statutory officers (Head of Paid Service, Monitoring Officer and Section 151 Officer) receives and considers internal and external audit reports directed to Members. Any report or recommendations the Panel wishes to make is reported directly to the Executive (for executive functions) or to the Council (for Council functions) together with a copy of the said internal or external report.

<sup>1</sup> Approved by Council 19<sup>th</sup> Sept 2002, Min 59.



#### 4.4 **Council meetings**

There are three types of Council meeting:

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

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

#### 4.5 **Responsibility for functions**

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

## Article 5 – Chairing The Council

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### 5.1 Role and function of the Lord Mayor

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

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- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters before the meeting and the place at which Councillors who are not members of the Executive, are able to hold the Executive to account.

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## Article 6 – Scrutiny Committees

### 6.1 Terms of Reference & Membership

The Council has appointed the Scrutiny Committees set out in the left hand column of the table below to discharge the functions as set out in the Terms of Reference in relation to the matters set out in the right hand column of the same table.

Membership of Scrutiny Committees is restricted to those Councillors who are not members of the Executive.

Committee	Terms of Reference
<p><b>SCRUTINY</b></p> <p><b>Children &amp; Young People Scrutiny</b></p>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of children and young people, including :</p> <ul style="list-style-type: none"> <li>• School Improvement</li> <li>• Schools Organisation</li> <li>• School Support Services</li> <li>• Education Welfare &amp; Inclusion</li> <li>• Early Years Development</li> <li>• Special Educational needs</li> <li>• Governor Services</li> <li>• Children's Social Services</li> <li>• Children &amp; Young Peoples Partnership</li> <li>• Youth Services and Justice</li> <li>• Play Services</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>
<p><b>Community &amp; Adult Services</b></p>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of community and adult services, including:</p> <ul style="list-style-type: none"> <li>• Public and Private Housing</li> <li>• Disabled Facilities Grants</li> <li>• Community Safety</li> <li>• Neighbourhood Renewal and Communities Next</li> <li>• Advice &amp; Benefit</li> <li>• Consumer Protection</li> <li>• Older Persons Strategy</li> <li>• Adult Social Care</li> <li>• Community Care Services</li> <li>• Mental Health &amp; Physical Disabilities</li> </ul>

Committee	Terms of Reference
	<ul style="list-style-type: none"> <li>• Commissioning Strategy</li> <li>• Health Partnership</li> <li>• Local Service Board</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Assembly Government, Assembly-sponsored public bodies and quasi-departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p>
<b>Economy &amp; Culture</b>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of economic regeneration.</p> <ul style="list-style-type: none"> <li>• Cardiff Business Partnership</li> <li>• Cardiff &amp; Co Marketing Initiative</li> <li>• South East Wales Economic Forum</li> <li>• Economic Strategy &amp; Employment</li> <li>• European Funding &amp; Investment</li> <li>• SME Support</li> <li>• Cardiff Harbour Authority</li> <li>• Lifelong Learning</li> <li>• Leisure Centres</li> <li>• Sports Development</li> <li>• Parks &amp; Green Spaces</li> <li>• Libraries, Arts &amp; Culture</li> <li>• Civic Buildings</li> <li>• Events &amp; Tourism</li> <li>• Strategic Projects</li> <li>• Innovation &amp; Technology Centres</li> <li>• Local Training &amp; Enterprise</li> </ul> <p>To assess the impact of external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>

Committee	Terms of Reference
<b>Environmental</b>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of environmental sustainability, including:</p> <ul style="list-style-type: none"> <li>• Strategic Planning Policy</li> <li>• Sustainability Policy</li> <li>• Environmental Health Policy</li> <li>• Public Protection Policy</li> <li>• Licensing Policy</li> <li>• Waste Management</li> <li>• Strategic Waste Projects</li> <li>• Street Cleansing</li> <li>• Cycling and Walking</li> <li>• Streetscape</li> <li>• Strategic Transportation Partnership</li> <li>• South East Wales Transport Alliance</li> <li>• Transport Policy and Development</li> <li>• Intelligent Transport Solutions</li> <li>• Public Transport</li> <li>• Parking Management</li> </ul> <p>To assess the impact of external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>
<b>Policy Review &amp; Performance</b>	<p>To scrutinise, monitor and review the overall operation of the Cardiff Programme for Improvement and the effectiveness of the general implementation of the Council's policies, aims and objectives, including:</p> <ul style="list-style-type: none"> <li>• Strategic Policy Development</li> <li>• Strategic Programmes</li> <li>• Community Planning &amp; vision Forum</li> <li>• Voluntary Sector Relations</li> <li>• Citizen Engagement &amp; Consultation</li> <li>• Corporate Communications</li> <li>• International Policy</li> <li>• Council Business Management and Constitutional Issues</li> <li>• Equalities</li> <li>• Finance and Corporate Grants</li> <li>• Organisational Development</li> <li>• Fundamental Operational Review</li> <li>• E-Government and ICT</li> <li>• Property and Procurement</li> <li>• Carbon Management</li> <li>• Contact Centre Services and Service Access</li> <li>• Legal Services</li> </ul>

Committee	Terms of Reference
	<p>To scrutinise, monitor and review the effectiveness of the Council's systems of financial control and administration and use of human resources.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>

## 6.2 General

Within their terms of reference, the Scrutiny Committees will:

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

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## 6.3 Specific functions

### (a) Policy Review and Performance

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

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

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\* Para 6.02 (iv) – See Call-in

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

(b) **Scrutiny**

Scrutiny Committees will:

- (i) review and scrutinise the decisions made by and performance of the Executive and/or committees and employees both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Authority in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive and committees and/or employees about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Resources**

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

(d) **Annual Report**

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

6.4 **Proceedings of Scrutiny Committees**

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

## Article 7 – The Executive

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### 7.1 Role

The Executive 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

#### Executive

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

The Council elects the Leader.

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

### 7.3 Leader

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

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor or from being Leader or from being a member of the Executive 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 Executive Members

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

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

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A Councillor appointed as an Executive 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 Executive 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 Executive Members**

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

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

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

#### **7.6 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive 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 Executive among the following persons:-

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

To the extent that the functions which are the responsibility of the Executive 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 Executive, Executive Committees, Executive 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 Executive Procedure Rules set out in Part 4 of this Constitution.

Any person who or body which has arranged for the discharge of any functions in accordance with the powers conferred by section 15 of the Local Government Act 2000 shall notify the Proper Officer in writing of such arrangements and the Proper

Officer will maintain a record of such arrangements as they may be from time to time in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

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

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

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

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

## Article 9 – The Standards & Ethics Committee

### 9.1 Standards & Ethics Committee

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

### 9.2 Composition

#### Political Balance

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

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#### (a) Membership

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

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

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#### (b) Term of office

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

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- (iii) The Community Committee Member will have a term of office of no more than four years or until the next ordinary elections for the community council following his/her appointment, whichever is the shorter. He or she shall cease to be a member of the Standards & Ethics Committee if he or she ceases to be a member of a community

council in the Council's area. He or she may be re-appointed for one further consecutive term only.

(c) **Quorum**

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

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

(d) **Voting**

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

(e) **Community committee members**

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

(f) **Chairing the Committee**

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

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9.3 **Community Councils Sub-Committee**

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

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9.4 **Role and Function**

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

- (a) promoting and maintaining high standards of conduct by the Leader, Councillors, co-opted members and church and parent governor representatives;
- (b) assisting Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;

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

## Article 10 – Joint Arrangements

### 10.1 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions, which are not Executive Functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

(c) The Executive may appoint Executive Members to a joint committee . The Executive may also appoint non-Executive Members to represent the Executive and in doing so the non-Executive Members shall report to the Executive not the Council. Such Members need not reflect the political composition of the local authority as a whole.

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(d) Details of any joint arrangements under Articles 10.1(a) and (b) including any delegations to joint committees will be found in the scheme of delegations in Part 3 of this Constitution.

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### 10.2 Access to information

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

### 10.3 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Executive may delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

### 10.4 Contracting out

The Council or Executive may arrange for the Council to contract out to another body or organisation functions which may be exercised by an officer. Contracting out to another local authority can be arranged under S 101 of the Local Government Act 1972. Special statutory provisions permit joint arrangements with Health Bodies, but otherwise there may be a need for order under Section 70 of the Deregulation and Contracting Out Act 1994, unless the contracting arrangements provide that the

contractor acts as the Council's agent under usual contracting principles, and provided there is no delegation of the Authority's discretionary decision making.

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## Article 11 – Council Employees

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### 11.1 Management structure

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

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

- (a) **Discharge of functions by the Council**  
The Head of Paid Service has a right to report to the Council on any matter relating to the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees.
- (b) **Restrictions on functions**  
The Head of Paid Service may not be the Monitoring Officer but may hold the post of the Section 151 Officer if a qualified accountant.

### 11.3 Constitutional functions of the Monitoring Officer

- (a) **Maintaining the Constitution**  
The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, employees and the public. For this purpose the Monitoring Officer has been delegated the power to amend the Constitution to give effect to any decisions of the Council or the Executive, and to take account of any changes of fact or law.
- (b) **Ensuring lawfulness and fairness of decision making**  
After consulting with the Head of Paid Service and S.151 Officer, the Monitoring Officer will report to the Council or to the Executive in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Provided that the decision has not already been implemented such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards & Ethics Committee**  
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Ethics Committee.

(d) **Receiving reports**

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

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(e) **Conducting investigations**

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

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

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

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

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

(h) **Providing advice**

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

(i) **Corporate management**

The Monitoring Officer will contribute to the corporate management of the authority, particularly by providing advice on constitutional issues, lawfulness and propriety.

(j) **Restrictions on posts**

The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

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

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council or to the Executive in relation to an Executive Function and the Authority's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Authority is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Corporate management**

The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

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

(e) **Give financial information**

The Section 151 Officer will provide financial information to members of the public and the community, as necessary and appropriate.

### 11.5 **The Statutory Officers**

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

### 11.6 **Conduct**

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

### 11.7 **Employment**

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

## Article 12 – Decision Making

### 12.1 Responsibility for decision making

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

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### 12.2 Principles of decision making

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

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

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### 12.3 Types of decision

- (a) **Decisions reserved to the Council**  
Decisions relating to the functions listed in Article 4.1 will be made by the Council and not delegated.
- (b) **Decision making by the Council**  
Subject to Article 12.4, the Council meeting will follow the Council Meeting Procedure Rules when considering any matter.
- (c) **Decision making by the Executive**  
Subject to Article 12.4, the Executive will follow the Executive Procedures Rules when considering any matter.
- (d) **Decision making by Scrutiny Committees and any sub-committees of Scrutiny Committees**  
Scrutiny Committees and their sub-committees will follow the Committee Meeting Procedure Rules and the Scrutiny Procedures Rules when considering any matter.
- (e) **Decision making by other committees and sub-committees established by the Council**  
Subject to Article 12.4, other committees and sub-committees will follow the Committee Meeting Procedures Rules as apply to them.
- (f) **Decision making by Officers**  
Officer decisions will be made in accordance with Part 3, Section 4 of this Constitution.

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

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

## 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 City and County Solicitor 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 City and County Solicitor considers that such action is necessary to protect the Council's interests.

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### 13.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the City and County Solicitor 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.

**Deleted:** Chief Legal Services Officer

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

### 13.5 Common Seal of the Council

The Common Seal of the Authority will be kept in a safe place in the custody of the City and County Solicitor. 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 City and County Solicitor should be sealed. The affixing of the Common Seal will be attested by the City and County Solicitor or some other employee authorised by him/her.

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## Article 14 – Review and Revision of the Constitution

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### 14.1 Duty to monitor and review the constitution

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

### 14.2 Changes to the Constitution

#### (a) Approval

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

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

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

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

**Deleted:** Changes to the Executive Procedure Rules may be made by the Executive and the Scheme of Delegations for Executive Functions may be changed by the Leader.

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

### 15.1 Suspension of the Constitution

- (a) **Limit to suspension**  
The Articles of this Constitution may not be suspended. The Council Procedure Rules may be suspended in whole or in part by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend**  
A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### 15.2 Interpretation

- (a) Where the Constitution permits the Authority to choose between different courses of action, the Authority will always choose that option which it thinks is closest to the purposes stated in Article 1.
- (b) The ruling of the Lord Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.
- (c) The following words, phrases and terms shall have the meanings ascribed to them unless the context requires or it is otherwise provided at law.

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The Constitution shall be interpreted in accordance with the provisions set out in these provisions unless the context otherwise requires.¶

Word, phrase or term	Meaning
Access to Information Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Article	An Article of this Constitution
Authority	The corporate body being the County Council of the City and County of Cardiff
Budget	Has the meaning set out in Article 4.2(b)
Budget and Policy Framework Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Executive	The Executive of the Council
Call in	The referral of a decision in accordance with the Scrutiny Procedure Rules
Cardiff Undertaking	A commitment given by the presentation at a meeting of the Council (which is open to the public) of a signed document undertaking to uphold the highest standards of conduct and to serve the interests of the Council, Cardiff, its citizens and those to whom the Council owes a duty. Such commitment to be in the form or like form to that set out in Part 5 of the Constitution.
Chair	The person elected by the Council as the Chair of a Committee or appointed as the Chair of a sub-committee or in his or her



Word, phrase or term	Meaning
	absence the Deputy Chair of such committee or sub-committee where one has been elected or appointed or the person presiding at the meeting of a committee or sub-committee
Chairman	The person who presides at a meeting of the Council or a Committee pursuant to the provisions of this Constitution
Clear Days	Mean days excluding the day when the document is first made available for inspection or dispatched to Councillors and the date of the meeting to which it relates but includes any intervening date when the document is available for public inspection
Committee	A committee or sub-committee of the Authority
Committee Meeting Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Confidential information	Confidential information as defined by section 100A(3) of the Local Government Act 1972 as more particularly set out in Article 10.3
Constitution	This constitution, <del>as amended</del>
Contract Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Council	The Authority meeting together in accordance with Schedule 12 of the Local Government Act 1972
Council Meeting Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Council Procedure Rules	The rules set out in Part 4 of the Constitution
Councillor	A member of the Authority
Employee	An employee of the Authority
Employment Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Executive Decision	A decision made for the purpose of discharging an Executive Function
Executive Function	A function of the Authority which is determined to be an executive function in accordance with section 13 of the Local Government Act 2000
Executive Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Exempt information	Information of a nature described in Schedule 12A of the Local Government Act 1972 as more particularly set out in Article 10.4 <a href="#">of the Access to Information Procedure Rules</a>
Financial Procedure Rules	The rules so titled set out in Part 4 of the Constitution

**Deleted:** and any amendments made thereto from time to time

Word, phrase or term	Meaning
<u>Forward Plan</u>	<u>The agreed plan of business for the Executive, to be published on a monthly basis, setting out all the business to be undertaken by the Executive for a 12 month period</u>
Head of Paid Service	The officer of the Council designated by the Council under section 4 of the Local Government and Housing Act 1989
Leader	executive leader as defined in section 48 of the Local Government Act 2000
Lord Mayor	The Lord Mayor for the time being and in his / her absence the <u>Deputy</u> Lord Mayor
Member	Unless otherwise stated means a member of the committee or body to which the rule or requirement applies
Members' Allowances Scheme	The scheme referred to in Part 6 of the Constitution
Members Code of Conduct	The Code of Conduct adopted by the Council in accordance with section 51 of the Local Government Act 2000
Monitoring Officer	The officer of the Council designated by the Council under section 5 of the Local Government and Housing Act 1989
Ombudsman	Commission for <u>Public</u> Administration in Wales
Petition	A petition in writing requesting some action or redress in respect of a matter within the jurisdiction of the Council.
Policy Framework	The plans and strategies referred to in Article 4 paragraph 4.2 of the Constitution
Proper Officer	An officer of the Authority designated for that purpose by the Authority and in the absence of such designation the Head of the Paid Service will deemed to be the Proper Officer
Regulatory committee	Any committee <u>with statutory recognised regulatory functions, for example, Licensing Committee, Planning Committee and Public Protection Committee. A Scrutiny Committee or a Committee of the Executive cannot be a Regulatory Committee.</u>
Section 151 Officer	The officer of the Council designated by the Council under section 151 of the Local Government Act 1972 as the person having responsibility for the administration of the financial affairs of the Authority
Scrutiny Committees	Those committees of the Authority appointed in accordance with Article 6
Scrutiny Procedure Rules	The rules so titled set out in Part 4 of the Constitution

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Word, phrase or term	Meaning
Working Day	Means any day on which the main offices of the Authority are open for usual business and for the avoidance of doubt the phrase 'clear working days' shall exclude the day when notice is given or the documents is made available for inspection or is dispatched to Councillors as the case may be and the date of the meeting or event to which it relates
Writing	A requirement that something shall be submitted in writing will be satisfied by the submission by email to an address designated by the proper Officer for that purpose provided that it is transmitted by the Councillor concerned from the Councillor's email address and in such circumstances will be deemed to have been signed by the Councillor concerned

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

### 15.3 Publication

- (a) The Monitoring Officer will give a printed copy of this Constitution to each Councillor of the Authority.
- (b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be

**Deleted:** upon delivery to him/her of that individual's declaration of acceptance of office on the Councillor first being elected to the Council.

purchased by members of the local press and the public on payment of a reasonable fee.

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

#### 15.4 **Transitional Provisions**

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

## **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

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**Section 1A - Council Meeting**  
**1B - Non-Executive Functions**

**Section 2 - Executive Functions**

**Section 3 - Local Choice Functions**

**Section 4 - Delegations to Officers**  
**4A - Introduction**  
**4B - General Delegations to Chief Executive/Corporate Directors**  
**4C - General Delegations to Chief Officers/Heads of Function**  
**4D - General Delegations to Operational Managers**  
**4E - Specific Delegations to Statutory Officers**  
**4F - Specific Delegations to other Officers**

**Section 5 - Delegations to Joint Committees**

**Annex 1 - Responsibility for Non-Executive Council Functions**

**Annex 2 - Terms of Reference for Committees**

## Section 1A - Council Meeting

### Functions of the Council

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

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

The policy framework includes the plans and strategies listed in Schedule 3 to the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, as follows:

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Plans and Strategies	Reference
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c.27)
Community Strategy	Section 4 of the Local Government Act 2000 (c.22)
Corporate Plan	Section 2 of the Local Government Act 2000
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998 (c.37)
Local Transport Plan	Section 108 of the Transport Act 2000
Race Equality Scheme	Race Equality (Amendment) Act

<b>Plans and Strategies</b>	<b>Reference</b>
Single Education Plan	Section 26 of the School Standards and Framework Act 1998.
Plans and alterations which together comprise the Development Plan	Section 10A of the Town and Country Planning Act 1990
Welsh Language Scheme	Section 5 of the Welsh Language Act 1993
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c.37)
Health & Well Being Strategy	Section 24 of the National Health Act 2002
Plans to approve Young Peoples Partnership Strategic Plans and a Children and Young Peoples Framework Partnership.	Sections 123, 124 and 125 of the Learning and Skills Act 2000
Housing Strategy	Section 87 of the Local Government Act 2003 (c.26)

[Together with such other plans and strategies which the Authority may decide should be adopted by the Council as a matter of local choice, as set out in Article 4.2\(a\) of this Constitution.](#)

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

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

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

Non-Executive Functions are detailed at Annex 1.

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

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

## Section 2 Executive Functions

The Council have determined that the following functions can only be exercised by the Executive i.e. a meeting of the Executive.

1	To recommend to Council any policy, plan or strategy which the Authority has resolved shall be subject to approval by Council as part of the Policy Framework and any amendment of any policy plan or strategy forming part of the Policy Framework.
2	To take any urgent decisions which are contrary or not wholly in accordance with the approved Budget or contrary to the Policy Framework.
3	To develop a medium term financial strategy, with priorities and targets, over a rolling three year period.
4	To prepare, agree and, if appropriate, consult on the Authority's plans, policies and strategies which do not form part of the Policy Framework.
5	To initiate and guide reviews of the Authority's Policy Framework.
6	To lead the integration of strategic objectives across the Authority.
7	To make arrangements for the making of in-year changes to the Policy Framework, to the extent authorised by the Authority.
8	To agree responses to consultation papers from the Government (including White and Green papers), from the Welsh Assembly Government, LGA, WLGA and all other bodies in respect of strategic policy.
9	To determine the response to reports from the Overview and Scrutiny Committees.
10	To recommend to the Council and to review the Treasury Management policies and annual limits
11	To receive financial forecasts including the medium term financial strategy and the monitoring of financial information and indicators
12	To recommend to the Council the annual budget, including the Capital and Revenue Budgets, the Prudential indicators, authorised borrowing limit and the level of Council Tax
13	To ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time and between annual budgets. This will include recommending to Council any changes to policy that will materially reduce or increase the services of the Authority or create significant financial commitments in future years.
14	To review and monitor the Authority's strategy and overall implementation in relation to e-Government, telecommunications, information systems and information technology
15	To agree and oversee the Authority's overall policy in relation to grants to external bodies and to agree the Authority's strategy for the payment of grants.
16	To approve the purchase, sale or appropriation of land and buildings in any case where arrangements have not been made for discharge of the function by an officer of the Authority.

**Comment [KA2]:** Council has delegated authority to Constitution Committee to amend these Procedure Rules, subject to advice of s.151 officer – see Constitution Committee Terms of Reference in Part 3 Annex 2

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**Deleted:** *To consider and recommend to the Council amendments to Financial Procedure Rules, the Contracts Procedure Rules and the Procedure Rules for the Acquisition or Disposal of*

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17	To approve the letting or taking of a lease, tenancy or license of land and/or premises in any case where arrangements have not been made for discharge of the function by an officer of the Authority
18	To authorise the making of compulsory purchase orders <a href="#">except for compulsory purchase orders made in respect of single houses under Part II of the Housing Act 1985 and or the Acquisition of Land Act 1981</a>
29	To consider, at least annually, the level of reserves, provisions and balances held by the Authority and to make recommendations to Council where appropriate.
20	To approve writing-off of debts in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
21	To approve the write-off of stocks, stores and other assets in any case where arrangements have not been made for discharge of the function by an officer of the Authority
22	To recommend the Corporate Asset Management Plan to the Authority and approve a rolling programme of property disposals.
23	To receive reports on contract overspends in accordance with limits set out in Financial Procedure Rules and recommend the action to be taken.
24	To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has been amended or in any case where arrangements have not been made for discharge of the function by an officer of the Authority and within the Policy and Budgetary Framework.
25	To agree to the provision of new primary and secondary schools, nursery and special schools, and to provide sites for new, substituted or transferred voluntary schools.
26	To approve the publication of proposals for the closure or significant change or significant enlargement of schools and to enact the closure or change or enlargement of any schools once the agreement of the Welsh Assembly Government has been given.
27	To approve any arrangements for joint service provision with the National Health Service.
28	To develop, and to recommend to the Council, a Housing Strategy and Operational Plan.
29	To agree revisions to the Authority's Housing Allocations Policy.
30	To agree the Authority's Policy and strategy for the setting of fees and charges.
31	To agree changes to overall eligibility criteria for access to services of the Authority.
32	To approve the making of bids to the Welsh Assembly Government and other bodies for capital funding (except where these are within the Policy and Budgetary Framework).
33	To authorise the implementation of any capital project not within the approved capital programme and not otherwise funded by a body or person other than the Authority.
34	To authorise the invitation of tenders, offers or bids in accordance with the Contracts Procedure Rules and where appropriate for that purpose approve select lists of contractors, suppliers and tenderers in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
35	To authorise issue or approve variations within the contract in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).

36	To identify and agree appropriate tender evaluation criteria and the relative importance/weighting of each factor in accordance with the Contracts Procedure Rules so that tenders can be evaluated to determine which tender represents the Best Value to the Authority in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
37	To approve the acceptance of tenders in accordance with the Contracts Procedure Rules in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
38	To consider the reports of external review bodies on matters of strategic service delivery.
39	To approve the variation of capital expenditure by the addition, deletion or material modification of an existing project by virement to or from another which is already in the programme in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
40	To initiate or respond to appropriate Parliamentary matters (other than the promotion or opposition to personal or local Bills).
41	To determine any matter delegated to an officer, where that officer considers it more appropriate for it to be dealt with by the Executive.
42	To approve the establishment or closure (except any temporary closure for maintenance or refurbishment or in the case of an emergency) of any facility for the provision of or at which direct services to the public will be provided by the Authority to service users (e.g. libraries, leisure centres, day centres).
43	To perform any Executive Function in any case where arrangements have not been made for discharge of the function by an officer of the Authority. (As set out in Section 4).
44	To agree any amendments or variations to, and arrangements under an agreement dated 27 March 2000 made under Section 165 of the Local Government Planning and Land Act 1980 between the Cardiff Bay Development Corporation and the Authority.
45	To carry out the functions and obligations and exercise the powers of the Authority under the Cardiff Bay Barrage Act 1993 (except to the extent that such functions are non Executive Functions) in any case where arrangements have not been made for discharge of the function by an officer of the Authority.
46	To perform the functions of the Authority as harbour authority in any case where arrangements have not been made for discharge of the function by an officer of the Authority.

### Section 3 Responsibility for Local Choice Functions

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

Function	Decision Making Body	Delegation
The discharge of any function by the Authority acting as a Harbour Authority.	Executive	
Any function under a local Act other than a function specified or referred to in Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 as amended.	Council	
The determination of an appeal against any decision made by or on behalf of the authority.	Appeals Committee	
Functions in relation to the revisions of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000.	Council	Monitoring Officer
The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002.	Executive	Monitoring Officer
The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).	Executive	Monitoring Officer
The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Executive	Monitoring Officer
The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Council	
The making of appointments under paragraphs 2 to 4 (appointment of Members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council	
The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Executive	

Function	Decision Making Body	Delegation
Any function relating to contaminated land.	Public Protection Committee	
<p>The discharge of any function relating to the control of pollution or the management of air quality.</p> <p>The service of an abatement notice in respect of a statutory nuisance.</p> <p>The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.</p> <p>The inspection of the authority's area to detect any statutory nuisance.</p> <p>The investigation of any complaint as to the existence of a statutory nuisance.</p> <p>The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.</p> <p>The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>The making of agreements for the execution of highways works.</p> <p>The appointment of any individual:-</p> <p>(a) to any office other than an office in which he/she is employed by the authority;</p> <p>(b) to any body other than:</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment.</p>	<p>Public Protection Committee</p> <p>Public Protection Committee</p> <p>Public Protection Committee</p> <p>Public Protection Committee</p> <p>Public Protection Committee</p> <p>Executive and non-Executive Committees</p> <p>Executive</p> <p>Council</p> <p>Council</p>	<p></p> <p>Chief Officer</p> <p>Chief Officer</p> <p>Chief Officer</p> <p>Chief Officer</p> <p>Chief Officer</p> <p>Chief Officer</p> <p>All Chief Officers</p> <p>Monitoring Officer and Chief Officer</p>

Function	Decision Making Body	Delegation
Power to make payments or provide other benefits in cases of maladministration etc.	Council	
Functions in respect of the calculation of council tax base in accordance with any of the following:-	Council	
<ul style="list-style-type: none"> <li>(a) the determination of an amount for item T in section 33(1) and 44(1) of the Local Government Finance Act 1992;</li> <li>(b) the determination of an amount for item TP in sections 34(3), 45(3), 48(3) and 48(4) of the Local Government Finance Act 1992;</li> <li>(c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.</li> </ul>		
Licensing functions in accordance with Part 2 of the Licensing Act 2003 except Section 6.	Licensing Committee	
Functions in respect of gambling in accordance with any of the following—		
<ul style="list-style-type: none"> <li>(a) a resolution not to issue casino licenses in accordance with section 166 of the Gambling Act 2005 (c</li> <li>(b) prescribing of fees in accordance with section 212 of the Gambling Act 2005;</li> <li>(c) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005;</li> <li>(d) authorised persons in accordance with section 304 of the Gambling Act 2005;</li> <li>(e) prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005;</li> <li>(f) three-year licensing policy in accordance with section 349 of the Gambling Act 2005.</li> </ul>	Licensing Committee	

## SECTION 4

### FUNCTIONS DELEGATED TO OFFICERS

#### SUB-SECTION A

### INTRODUCTION

#### 1. Overall Basis

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

- A - Introduction
- B - General Delegations to Chief Executive/Corporate Directors
- C - General Delegations to Chief Officers/Heads of Functions
- D - General Delegations to Operational Managers
- E - Specific Delegations to Statutory Officers
- F - Specific Delegations to other Officers

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

1.2 In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties.

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

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

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

#### 2. Overall Limitations

2.1 This scheme does not delegate to officers:-

- (1) Any matter reserved to full Council
- (2) Any matter which by law may not be delegated to an officer
- (3) Any matter expressly withdrawn from delegation by this scheme or at any time by the Executive.

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

- \* the taking of decisions which make, amend or are not in accordance with the budget and policy framework
- \* the setting or changing of policy and associated service standards
- \* the review of performance
- \* the setting of overall service area budgets
- \* responding to formal central government consultation in respect of strategic policy

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

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

- (1) Any statutory restrictions
- (2) The Council's Constitution, including Financial and Land Procedure Rules and Contracts Procedure Rules
- (3) The Council's budget and policy framework
- (4) Any other policies
- (5) The Code of Conduct for Members
- (6) The Code of Conduct for Employees

2.4 In exercising delegated powers officers shall:-

- (1) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by the Contracts and Financial Procedure Rules;
- (2) have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Financial Officer under Section 114 of the Local Government Finance Act 1988;
- (3) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the City and County Solicitor (for decisions taken within the Scheme, the form of evidence required is shown in sub-sections B, C and D); and
- (4) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

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### 3. Further Provisions

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

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in a register kept by the City and County Solicitor under Section 100G of the Local Government Act 1972. Sub-delegations may be made across departmental boundaries and to other Councils and their officers as appropriate.

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#### 4. Record of Exercise of any Function

4.1 In the case of decisions taken by Full Council, Committee, Executive Meeting, Chief Executive, or a Corporate Director:-

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

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4.2 All decisions made under section 4.1 by the Executive Business Meeting will be published in the Executive Decision Register. Similarly all decisions made by the Chief Executive, or a Corporate Director will be published in the Executive Decision Register.

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4.3 In the case of decisions by an employee other than the Chief Executive, or a Corporate Director:-

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

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



## SUB-SECTION B

### GENERAL DELEGATIONS TO CHIEF EXECUTIVE AND CORPORATE DIRECTORS

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

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

#### General Delegation:

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

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1.1 To make any decisions relating to any matter within their area of responsibility, 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 Executive or a Statutory Officer.

1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.

1.3 To exercise the following Delegations:-

Ref.	Delegation	Form of Evidence
<b>Human Resources</b> CD1	<p>Authority to manage the human resources within their area of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein, except where any proposal:-</p> <p>(1) involves the probability of redundancies and/or cannot be implemented within existing budgets, and/or</p> <p>(2) has significant effects on the employment of existing staff in that or any other Council Service Area</p> <p>(Note: in relation to the above it remains the Council's policy to avoid compulsory redundancies where possible.</p>	Relevant HR Form

Ref.	Delegation	Form of Evidence
	Officer delegations can only be discharged within the Council's Human Resources policies and procedures). <b>Qualification: This may not be further delegated.</b>	
CD2	Authority to consider and approve, as appropriate, in consultation with the <u>Chief People and Organisational Development Officer, City and County Treasurer</u> and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff (aged 50 or over) in the following circumstances:  (1) in the interests of the efficiency of the service (2) who request voluntary retirement  <b>Qualification: This may not be further delegated.</b>	Relevant HR Form
Procurement CD3	To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to management consultancy) where the estimated value does not exceed £5,000,000, subject to compliance with the Contracts Procedure Rules and the Policy and Budget Framework.  <b>Qualification: This may not be further delegated.</b>	Contract Pre and Post Tender Forms
CD4	To authorise, issue or approve variations in accordance with the values, as set out in the Contracts Procedure Rules.	
CD5	To appoint persons to undertake management consultancy up to a value of £500,000 where the sum is allocated in the budget and for that purpose, subject to compliance with the Contracts Procedure Rules and the Policy and Budget Framework.  <b>Qualification: This may not be further delegated.</b>	Contract Pre and Post Tender Forms
Other CD6	Within Service Areas to vire sums not exceeding £250,000 provided under specific public revenue budget heads to other purposes (revenue only), subject to compliance with the Financial Procedure Rules.  <b>Qualification: This may not be further delegated.</b>	Virement Form
CD7	Within service areas to vary the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £250,000 to or from another project but subject to the Policy and Budgetary Framework and in accordance with Financial Procedure Rules.  <b>Qualification: This may not be further delegated.</b>	Virement Form
CD8	To authorise the disposal or acquisition of land and to be the Designated Body for the purposes of the Procedure Rules for the Acquisition or Disposal of Land in the following cases: For disposals or acquisitions not exceeding £5,000,000, where the amount offered is greater than that	Acquisition/ Disposal of Land Form

**Deleted:** Chief Human Resources Officer

**Deleted:** Chief Financial Services Officer

Ref.	Delegation	Form of Evidence
	<p>estimated by the Lead Strategic Estates Manager or no more than ten percent below that estimate, the offer may be accepted</p> <p>For disposals or acquisitions not exceeding £1,000,000 in value where the proposal is to accept the best offer reasonably obtainable but that is determined other than on price alone</p> <p>For taking or granting of leases at rents not exceeding £1,000,000 pa and agreeing the renewal or restructuring of existing leases for rents not exceeding £1,000,000 pa</p> <p>And provided that the offer that represents the best price reasonably obtainable by the Authority</p> <p><b>Qualification: This may not be further delegated.</b></p>	
CD9	In accordance with any policy or strategy approved by the Executive to consider and determine applications for financial assistance (grants) or assistance in kind and to approve or reject applications having a value not exceeding £1,000,000 per grant.	Grant Application Form

## SUB-SECTION C

### GENERAL DELEGATIONS TO ALL CHIEF OFFICERS AND HEADS OF FUNCTION

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

**1. General Delegation:**

All Chief Officers and Heads of Function shall be authorized:-

**1.1 To make any decisions relating to any matter within their area of responsibility, 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 Executive, a Statutory Officer, the Chief Executive or Corporate Directors.

Deleted: , Assistant Chief Executive

**1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.**

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

Ref.	Delegation	Form of Evidence
<b>Human Resources</b> CO1	<p>Authority to manage the human resources within their area of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council’s HR and financial procedures and subject to appropriate consultation as outlined therein, except where any proposal:-</p> <p>(1) involves the probability of redundancies and/or cannot be implemented within existing budgets, and/or</p> <p>(2) has significant effects on the employment of existing staff in that or any other Council Service Area</p> <p>(Note: in relation to the above it remains the Council’s policy to avoid compulsory redundancies where possible. Officer delegations can only be discharged within the Council’s Human Resources policies and procedures).</p> <p><b>Qualification: This may not be further delegated.</b></p>	Relevant HR Form

Ref.	Delegation	Form of Evidence
CO2	<p>Authority to consider and approve, as appropriate, in consultation with the <u>Chief People and Organisational Development Officer</u>, <u>City and County Treasurer</u> and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff (aged 50 or over) in the following circumstances:</p> <p>(1) in the interests of the efficiency of the service  (2) who request voluntary retirement</p> <p><b>Qualification: This may not be further delegated.</b></p>	Relevant HR Form
<b>Procurement</b> CO3	<p>To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to management consultancy) where the estimated value does not exceed £1,000,000 subject to compliance with the Contracts Procedure Rules and the Policy and Budget Framework.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Contract Pre and Post Tender Forms
CO4	To authorise, issue or approve variations in accordance with the values, as set out in the Contracts Procedure Rules.	
<b>Other</b> CO5	To make any applications under the planning legislation to the Authority as Local Planning Authority in relation to development of land for which the Chief Officer is responsible including Planning Applications to develop any land held by the Authority or for the development of any land by the Authority whether on its own or jointly.	
CO6	To manage any operational land or premises or assets and to secure such maintenance, repair or renewal of the same, save that the purchase repair, leasing, hire, disposal and maintenance of vehicles will be managed in accordance with arrangements made by the officer who is for the time being the Authority's Transport Manager.	
CO7	<p>Within the service area to vary the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £100,000 to or from another project subject to the Policy and Budget Framework and in accordance with Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form
CO8	<p>Within service areas to vire sums not exceeding £50,000 provided under specific published revenue budget heads to other purposes (revenue only) subject to compliance with Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated.</b></p>	Virement Form
CO9	In accordance with any policy or strategy approved by the Executive to consider and determine applications for financial assistance (grants) or assistance in kind and to approve or reject applications having a value not exceeding £250,000.	Grant Application Form

**Deleted:** Chief Human Resources Officer

**Deleted:** Chief Financial Services Officer

Ref.	Delegation	Form of Evidence
	<b>Qualification: This may not be further delegated.</b>	
CO10	In accordance with any policy or strategy approved by the Executive to set fees and charges which may be made by the Authority and to waive such fees or charges or grant concessions where it would be likely to promote the economic, social or environmental well being of the Authority's area.	Concessionary Letting Form
CO11	To make applications or submit bids for funding or financial assistance or assistance in kind, to any person or body and take all necessary steps to accept this assistance.	Grant Submission Form

## SUB-SECTION D

### DELEGATIONS TO OPERATIONAL MANAGERS

**1 General Delegation:**

All Operational Managers and Heads of Function, shall be authorized:-

**1.1 To make any decisions relating to any matter within their area of responsibility, 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 Executive, a Statutory Officer, the Chief Executive, Corporate Directors, Chief Officers or Heads of Function.

Deleted: , Assistant Chief Executive

**1.2 To take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.**

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

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

## SUB-SECTION E

### SPECIFIC DELEGATIONS TO STATUTORY, LEGAL, FINANCIAL & HUMAN RESOURCE OFFICERS

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

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

<b>Chief Executive &amp; Head of Paid Service</b>		
CE1	To exercise any Executive Function (even where such matters are reserved to the Executive) in any case of urgency or where it is impracticable for the matter to be considered by the Executive and unless action is taken then the Authority would be likely to suffer a financial or other serious disadvantage or unlikely to be able to take advantage of a material opportunity.	
CE2	To be Head of Paid Service.	
CE3	To exercise corporate Council functions as appropriate.	
CE4	To incur expenditure in the event of a civil emergency.	
CE5	In cases of urgency or emergency, to take any decision on behalf of the Council (after consultation with the Leader).	
CE6	For the purposes of the Local Government (Contracts) act 1997, authority for the <u>City and County Treasurer</u> and any one of the following – Chief Executive, Monitoring Officer and <u>City and County Solicitor</u> , to sign each certificate given under the Act.	<b>Deleted:</b> Chief Financial Services Officer
CE7	To the Chief Executive or Nominee ( <u>Chief People and Organisational Development Officer</u> ) 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>	<b>Deleted:</b> Head of Legal and Democratic Services
CE8	Functions of the Returning Officer.	<b>Deleted:</b> Chief Human Resources Officer
CE9	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 <u>Chief People and Organisational Development Officer</u> .	<b>Deleted:</b> Chief Human Resources Officer
CE12	To approve new operational HR employment policies and changes to existing policies as required. (CIS <u>4.HR.154</u> )	
CE13	To declare land/property as surplus to operational requirements in consultation with the <u>City and County Treasurer</u> and the Chief Officer of the relevant service area.	<b>Deleted:</b> Chief Financial Services Officer
<b>Qualification: These may not be further delegated.</b>		



**City and County Solicitor & Monitoring Officer**

Deleted: Chief Legal and Democratic Services Officer

LD1	To 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 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.
LD4	<b><u>Local Government Act 1972 Part V – General Provisions as to Members &amp; Proceedings of Local Authorities</u></b> Section 83(1) to (4) – Witness and Receipt of Declarations of Acceptance of Office.
LD5	Section 84 – Receipt of Declaration of Resignation of Office.
LD6	Section 88(2) – Convening meeting to fill casual vacancy of Chairman.
LD7	Section 89(1)(b) – Receipt of Notices of Casual Vacancy.
LD8	Section 96(1) – Receipt of notices of Pecuniary Interest.
LD9	Section 96(2) – Keeping Record of Disclosure of Pecuniary Interest under Section 94, and of Notices under Section 96 (1).
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	<b><u>Part V A – Access to Information</u></b> <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	<b><u>Part XI General Provision – Documents and Notices etc</u></b> <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>

<u>City and County Solicitor &amp; Monitoring Officer</u>	
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	<p><b><u>Local Government (Committees &amp; Political Groups) Regulations 1990</u></b></p> <p>Regulation 8 – Receipt of notice of formation of political groups and changes in membership of political groups.</p>
LD16	<p><b><u>Constitution (including <u>Rules of Procedure</u>)</u></b></p> <p>To exercise Delegations as set out in the Constitution (including <u>Rules of Procedure</u>)</p>
LD17	<p><b><u>Appointments</u></b></p> <p>To appoint councillors/added 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 added-member nominating body.</p>
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	<p><b><u>Representing the Council in the Courts, Tribunals or at Public Enquiries</u></b></p> <p>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.</p>
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 Chief Officer and the <u>Chief People and Organisational Development Officer</u> any Employment Tribunal proceedings.

**Deleted:** Chief Legal and Democratic Services Officer

**Deleted:** Standing Orders

**Deleted:** Standing Orders

**Deleted:** Chief Human Resources Officer

<b><u>City and County Solicitor &amp; Monitoring Officer</u></b>	
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 Executive.</p>
LD26	<p><b><u>Orders</u></b></p> <p>To make all Statutory Orders.</p>
LD27	<p>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.</p>
<b><u>City and County Treasurer and Section 151 Officer</u></b>	
FS1	<p>Delegated Powers conferred on the <u>City and County Treasurer</u> under Financial Procedure Rules.</p>
FS2	<p>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.</p>
FS3	<p>To nominate a properly qualified member of staff to deputise should the <u>City and County Treasurer</u> be unable to perform his/her duties under Section 114 of the Local Government Finance Act 1988.</p>
FS4	<p>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.</p>
FS5	<p>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 and all other funds established under statutory requirements.</p>

**Deleted: Chief Legal and Democratic Services Officer**

**Deleted: Chief Financial Services Officer**

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**City and County Treasurer and Section 151 Officer**

FS6	For the purpose of the Local Government (Contracts) Act 1997, authority for the <u>City and County Treasurer</u> and any one of the following – Chief Executive, Monitoring Officer and <u>City and County Solicitor</u> , 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 II of the Local Government Finance Act 1988 (except Sections 47 and 56 and Schedules 7 and 7A (Administration and Collection of Non-Domestic Rates).
FS10	To operate the Authority's main bank account and arrange for all cheques to bear the signature of the <u>City and County Treasurer</u> .
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 £50,000.
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.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

**Deleted:** Head of Legal and Democratic Services

**Deleted:** Chief Financial Services Officer

**City and County Treasurer and Section 151 Officer**

Deleted: Chief Financial Services Officer

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	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:- <ul style="list-style-type: none"><li>unpaid Council Taxes and penalties under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; by way of an application for the issue of a warrant of commitment to prison under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; to require financial information, to make an Attachment of Earnings Order; to levy the appropriate amount by distress and sale goods; and to exercise all other enforcement powers of the County Council under the Council Tax (Administration and Enforcement) Regulations 1992 and any subsequent amendments of such Regulations</li><li>unpaid rates; by way of an application for the issue of a warrant of commitment; and to exercise all other powers of enforcement of the County Council under the Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989 and any amendment thereto.</li></ul>
FS24	To engage the services of bailiffs for the service of summonses and warrants of commitment, obtaining financial information, the levying of distress warrants and the sale of goods and any appropriate action for the recovery of outstanding Community Charges under the Local Government Finance Act 1988 and any regulations made thereunder and outstanding Council Taxes and penalties under the Local Government Finance Act 1992 and any Regulations made thereunder.
FS25	To engage the services of bailiffs to serve such summonses, distress warrants, liability orders or warrants of commitment, to levy distress and to sell goods as may be necessary to recover outstanding rates.
FS26	The settlement of claims, in special circumstances (individual claims for loss or damage to employees' personal effects up to a maximum of £100). (CIS 4.F.IN.021A)
FS27	To approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has not been amended.
FS28	In accordance with any policy or strategy decided by the Authority to approve decisions relating to the management of the pension fund and the administration of pension benefits.

**City and County Treasurer and Section 151 Officer**

FS29	To authorise the disposal of land or an interest in land having a value of not more than £100,000 and to be the Designated Body for the purposes of the Procedure Rules for the Acquisition or Disposal of Land for disposal of land or an interest in land not exceeding £100,000 provided that the offer that represents the best price reasonably obtainable by the Authority and provided that the offer so accepted is on price alone
FS30	To approve the acquisition of land or an interest in land at a cost not exceeding £100,000 providing that the value does not exceed the market value
FS31	To take or grant leases at rents not exceeding £100,000 pa.
FS32	To agree rent reviews where the change in rent does not exceed £100,000 pa.
FS33	To agree renewal or restructuring of existing leases where the rent does not exceed £100,000 pa.
FS34	To grant tenancies at the Service's managed Workshops where the rent does not exceed £100,000 pa.
FS35	To be the Designated Body for the purposes of paragraphs 2.1 (Invitation of Offers); 2.2 (Determination whether disposals will be by way of sealed offer, private treaty or auction) and paragraph 7.2 (instructions to the <u>City and County Solicitor</u> for the preparation and completion of documentation) of the Procedure Rules for the Acquisition or Disposal of Land
FS36	To be the Designated Body for the purposes of paragraph 2.3 (Determination of Private Treaty or offer from one person) of the Procedure Rules for the Acquisition or Disposal of Land
FS37	To grant the release or modification of restrictive covenants
FS38	To agree the acquisition of land or an interest in land up to £100,000.
FS39	To accept offers for disposals of land/or an interest in land where the value does not exceed £100,000.
FS40	To grant grazing licences, easements, leases to utility undertakings for operational purposes, temporary licences and renewals.
FS41	To grant landlord's consent to alterations to land involving change of use (other than A4.8).
FS42	To approve the Selection Panel's selection of tenderers for individual contracts.
FS43	To agree the sale of residential freehold reversions.
FS44	To grant the release or modification of restrictive covenants for alterations to residential premises.
FS45	To settle Part 1 claims under the Land Compensation Act 1973.
FS46	To grant landlord's consent to the assignment of existing tenancies.
FS47	To grant landlord's consent to the subletting of existing tenancies.
FS48	To grant landlord's consent to alterations to land involving no change of use.
FS49	To agree Council House sales under Right to Buy provisions.
FS50	Represent Cardiff Council at the Cardiff Bus AGM.
FS51	To carry out functions relating to local government pensions etc pursuant to Regulations under Section 7, 12 or 24 or the Superannuation Act 1972; and functions relating to pensions, allowances and gratuities pursuant to Regulations under Section 18(3A) of the Local Government and Housing Act 1989.

Deleted: Chief Financial Services Officer

Deleted: Chief Legal Services Officer

<b>Chief Human Resource 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> )

## SUB-SECTION F

### SPECIFIC DELEGATIONS TO OFFICERS

1 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 Executive, a Statutory Officer, the Chief Executive, Corporate Directors, Chief Officers or Heads of Function.

Deleted: , Assistant Chief Executive

Ref.	Delegation
Operational Manager, Consumer Protection & Proper Officer	<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 act as the proper officer for the registration service and to exercise the functions assigned to the Council under the Registration Acts.</li> </ul>
Corporate Director – Opportunities	<ul style="list-style-type: none"> <li>• To decide on the reception of persons into guardianship of the Authority under sections 7 and 37 of the Mental Health Act 1983, 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>
Chief Strategic Planning & Environment Officer	<ul style="list-style-type: none"> <li>• To exercise all functional responsibilities delegated by the Planning Committee, the Licensing Committee and the Public Protection Committee.</li> </ul>
<u>Corporate Director – Environment</u>	<ul style="list-style-type: none"> <li>• <u>To make compulsory purchase orders in respect of single houses under Part II of the Housing Act 1985 and or the Acquisition of Land Act 1981</u></li> </ul>

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## Section 5 - Delegations to Joint Committees

<u>Glamorgan Archives Joint Committee</u>	<u>All powers and duties in connection with the care preservation maintenance and management of archives and records except the power of setting a budget or borrowing money</u>
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## Responsibility for Non-Executive Council Functions

Function	Responsibility
<p><b>Functions relating to town and country planning and development control</b></p> <ol style="list-style-type: none"> <li>1. Power to determine application for planning permission.</li> <li>2. Power to determine applications to develop land without compliance with conditions previously attached.</li> <li>3. Power to grant planning permission for development already carried out.</li> <li>4. Power to decline to determine application for planning permission.</li> <li>5. Duties relating to the making of determinations of planning applications.</li> <li>6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.</li> <li>7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.</li> <li>8. Power to enter into agreement regulating development or use of land.</li> <li>9. Power to issue a certificate of existing or proposed lawful use or development and power to revoke such a certificate.</li> <li>10. Power to serve a completion notice.</li> <li>11. Power to grant consent for the display of advertisements.</li> <li>12. Power to authorise entry onto land.</li> <li>13. Power to require the discontinuance of a use of land.</li> <li>14. Power to serve a planning contravention notice, breach of condition notice or stop notice.</li> <li>15. Power to issue an enforcement notice.</li> <li>16. Power to apply for an injunction restraining a breach of planning control.</li> <li>17. Power to determine applications for hazardous substances consent, and related powers.</li> <li>18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.</li> <li>19. Power to require proper maintenance of land.</li> <li>20. Power to determine application for listed building consent, and related powers.</li> <li>21. Power to determine applications for conservation area consent.</li> <li>22. Duties relating to applications for listed building consent and conservation area consent.</li> <li>23. Power to serve a building preservation notice, and related powers.</li> <li>24. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.</li> <li>25. Powers to acquire a listed building in need of repair and to serve a repairs notice.</li> <li>26. Power to apply for an injunction in relation to a listed building.</li> <li>27. Power to execute urgent works.</li> <li>28. Power related to mineral working</li> <li>29. Power related to footpaths and bridleways (in respect of section 257 of the Town and Country Planning Act 1990).</li> <li>30. Power as to certification of appropriate alternative development.</li> <li>31. Duties in relation to purchase notices</li> <li>32. Powers related to blight notices</li> <li>33. Powers relating to the preservation of trees.</li> <li>34. Powers relating to the protection of important hedgerows</li> </ol>	<p><b>Planning Committee</b></p>

Function	Responsibility
<p><b>Functions relating to Licensing and registration:-</b></p> <ol style="list-style-type: none"> <li>1. Power to issue licences authorising the use of land as a caravan site (“site licences”).</li> <li>2. Power to license the use of moveable dwellings and camping sites.</li> <li>3. Power to license hackney carriages and private hire vehicles.</li> <li>4. Power to license drivers of hackney carriages and private hire vehicles.</li> <li>5. Power to license operators of hackney carriages and private hire vehicles.</li> <li>6. Power to register pool promoters.</li> <li>7. Power to grant track betting licences.</li> <li>8. Power to license inter-track betting schemes.</li> <li>9. Power to grant permits in respect of premises with amusements machines.</li> <li>10. Power to register societies wishing to promote lotteries.</li> <li>11. Power to grant permits in respect of premises where amusements with prizes are provided.</li> <li>12. Power to issue entertainments licences</li> <li>13. Power to license sex shops and sex cinemas.</li> <li>14. Power to license performances of hypnotism.</li> <li>15. Power to license premises for acupuncture, tattooing earpiercing and electrolysis.</li> <li>16. Power to license pleasure boats and pleasure vessels.</li> <li>17. Power to license market and street trading.</li> <li>18. Duty to keep list of persons entitled to sell non-medicinal poisons.</li> <li>19. Power to license dealers in game and the killing and selling of game.</li> <li>20. Power of register and license premises for the preparation of food.</li> <li>21. Power to register scrap yards.</li> <li>22. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</li> <li>23. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</li> <li>24. Duty to promote fire safety.</li> <li>25. Power to license premises for the breeding of dogs.</li> <li>26. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</li> <li>27. Power to register animal trainers and exhibitors.</li> <li>28. Power to license zoos.</li> <li>29. Power to license dangerous wild animals.</li> <li>30. Power to enforce regulations in relation to animal by-products.</li> <li>31. Power to license the employment of children.</li> <li>32. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.</li> <li>33. Power to issue a permit to conduct charitable collections.</li> <li>34. Power to grant consent for the operation of a loudspeaker.</li> <li>35. Power to grant a street works licence.</li> <li>36. Duty to register the movement of pigs.</li> <li>37. Power to enforce regulations in relation to the movement of pigs.</li> <li>38. Power to issue a licence to move cattle from a market.</li> </ol>	<p><b>Public Protection Committee</b></p>

Function	Responsibility
<p>39. Power to sanction use of parts of buildings for storage of celluloid.</p> <p>40. Duty to enforce and execute Regulations (EC) No 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.</p> <p>41. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.</p> <p>42. Powers in respect of registration of motor salvage operators.</p> <p>43. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>(a) An exchange of lands effected by an order under Section 19(3) of, or paragraph 6 (4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or</p> <p>(b) An order under Section 147 of the Enclosure Act 1845 (c.8 &amp; 9 Vict.c.118).</p> <p>44. Power to register variation of rights to common.</p>	<p><b>Public Protection Committee</b></p>
<p>Functions in respect of establishing a Licensing Committee (pursuant to section 6 of the Licensing Act 2003)</p>	<p><b>Council</b></p>
<p><b>Functions relating to Health and Safety at Work</b></p> <p>Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of Health and Safety at Work etc. Act 1974), to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.</p>	<p><b>Public Protection Committee</b></p>
<p><b>Functions relating to Elections</b></p> <p>1. Duty to appoint an electoral registration officer.</p> <p>2. Power to assign officers in relation to requisitions of the registration officer.</p> <p>3. Power to dissolve community councils.</p> <p>4. Power to make orders for grouping communities.</p> <p>5. Power to make orders for dissolving groups and separating community councils from groups.</p> <p>6. Duty to appoint returning officer for local government elections.</p> <p>7. Duty to provide assistance at European Parliamentary elections.</p> <p>8. Duty to divide constituency into polling districts.</p> <p>9. Power to divide electoral divisions into polling districts at local government elections.</p> <p>10. Powers in respect of holding of elections.</p> <p>11. Power to pay expenses properly incurred by electoral registration officers.</p> <p>12. Power to fill vacancies in the event of insufficient nominations.</p> <p>13. Duty to declare vacancy in office in certain cases.</p> <p>14. Duty to give public notice of a casual vacancy.</p> <p>15. Power to make temporary appointments to community councils.</p> <p>16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.</p>	<p><b>Council</b></p>

Function	Responsibility
<p>17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.</p> <p>18. Miscellaneous electoral functions under Part II, SI 2003/284.</p>	<p><b>Council</b></p>
<p><b>Functions relating to Name and Status of Areas and Individuals</b></p> <p>Note: The following Council functions are not delegated to any committee and will be discharged by the Council itself:-</p> <ol style="list-style-type: none"> <li>1. Power to change the name of a county or county borough.</li> <li>2. Power to change the name of a community</li> <li>3. Power to confer title of honorary alderman or to admit to be an honorary freeman</li> <li>4. Power to petition for a charter to confer county borough status.</li> </ol> <p><b>Power to make, amend, revoke or re-enact byelaws.</b></p> <p><b>Power to promote or oppose local or personal Bills.</b></p>	<p><b>Council</b></p>
<p><b>Functions relating to Pensions</b></p> <ol style="list-style-type: none"> <li>1. Functions relating to local government pensions, etc pursuant to Regulations under Section 7, 12 or 24 of the Superannuation Act 1972</li> <li>2. Functions relating to pensions, allowances and gratuities pursuant to Regulations under Section 18(3A) of the Local Government and Housing Act 1989.</li> </ol>	<p><b>City and County Treasurer</b></p>
<p><b>Miscellaneous Functions</b></p> <ol style="list-style-type: none"> <li>1. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).</li> <li>2. Functions relating to sea fisheries.</li> <li>3. Power to make standing orders</li> <li>4. Power to make standing orders as to contracts.</li> <li>5. Power to consider reports from the Public Services Ombudsman for Wales.</li> <li>6. Duty to determine affordable borrowing limit.</li> <li>7. Approval of annual investment strategy in accordance with guidance</li> </ol>	<p><b>Council</b></p>

Function	Responsibility
<ol style="list-style-type: none"> <li>1. Appointment and dismissal of Chief Officers, Corporate Directors and Chief Executive</li> <li>2. Power to appoint officers for particular purposes (appointment of “proper officers”)</li> <li>3. Duty to designate an officer as the head of the authority’s paid service, and to provide staff, etc.</li> <li>4. Duty to designate an officer as the monitoring officer and to provide staff, etc.</li> <li>5. Duty to make arrangements for proper administration of financial affairs</li> </ol>	<p><b>Appointments Committee</b></p>
<p><b>The promotion and maintenance of high standards of conduct within the Council</b></p> <ol style="list-style-type: none"> <li>1. To advise the Council on the adoption or revision of its Code of Conduct.</li> <li>2. To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Public Services Ombudsman for Wales and recommendations of case tribunals under section 80 of the Local Government Act 2000.</li> <li>3. To determine complaints referred by the Public Services Ombudsman for Wales.</li> </ol> <p><b>Assistance to Members and Co-opted Members of the Authority</b></p> <p>To ensure that all Members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that Members are aware of the standards expected from local Councillors under the Code.</p>	<p><b>Standards &amp; Ethics Committee</b></p>

## TERMS OF REFERENCE FOR COMMITTEES

Committee	Terms of Reference
<b>Appointments</b>	To shortlist, interview, make the appointments of <u>Corporate Directors</u> and Chief Officers and conclude contractual matters with the successful applicants on behalf of the Council.
<b>Disciplinary &amp; Grievance Appeals</b>	<p>To hear and determine:</p> <p>(a) all appeals by employees of the Council who may have a right to appeal to Councillors in accordance with disciplinary and grievance procedures approved by the Council; and</p> <p>(b) all other appeals from disciplinary actions which may be referred to it, whether by the Council or a Committee.</p> <p>On hearing an appeal the Committee shall be empowered, on behalf and in the name of the Council, to make such order as it considers appropriate, except where retirement or redundancy is contemplated, when consultation with the Executive will take place prior to determination of the matter.</p> <p>The Committee, when sitting to hear an appeal, shall comprise not less than three nor more than five members. From the members appointed to serve on the Committee, those who are to sit to hear any particular appeal shall be chosen by rota subject to the exclusion of any member who:</p> <p>(c) is a member of the Executive or of a Committee principally concerned with the service in which the appellant is employed; or</p> <p>(d) has been concerned in any previous consideration of the matter which has given rise to the disciplinary action from which the appeal arises.</p> <p>At each sitting of the Committee to hear an appeal into a disciplinary decision, the Committee shall, firstly, ensure that the matter of complaint has been clearly put to the appellant and, secondly, that the appellant has been afforded the opportunity of being represented at the hearing of his/her appeal by such friend, trade union officer, lawyer or other representative as he/she may choose.</p> <p>In hearing an appeal the Committee shall conform to the rules of natural justice.</p>
<b>Licensing</b>	To be the Council's Licensing Committee as required by the Licensing Act 2003 and Gambling Act 2005 and any re-enactment or modification thereof; and as full delegate of the Council to exercise all the powers and functions permitted under those Acts.
<b>Public Protection</b>	(a) Those functions listed in Sections B and C, and paragraphs 9 and 10 of Section I, of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities)(Wales) Regulations 2007 (the Regulations), any amendments thereto and any matters ancillary thereto as defined in Regulation 2 (2) to (4) of the Regulations, except to the extent that such matters fall to the Licensing Committee by virtue of Section 7 of the Licensing Act 2003.

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Committee	Terms of Reference
<b>Public Protection</b>	<p>(b) In relation to those functions acting as Appeal Committee where appropriate.</p> <p>(c) The discharge of any function relating to the control of pollution or the management of air quality.</p> <p>(d) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.</p> <p>(e) Any function relating to contaminated land.</p> <p>(f) The service of an abatement notice in respect of a statutory nuisance.</p> <p>(g) Any function under a local Act of a licensing or regulatory nature.</p>
<b>Planning</b>	<p>(a) Those functions listed in Section A of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and any amendments thereto and any matters ancillary thereto as defined in Regulation 2(2) to (4) of the Regulations.</p> <p>(b) Those functions listed in paragraphs 3 and 4 of Section I of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and any amendments thereto and any matters ancillary thereto as defined in Regulation 2(2) to (4) of the Regulations.</p>
<b>Council Appeals</b>	<p>To hear and determine appeals (other than those appeals which are within the Terms of Reference of any other Committee) from determinations and decisions of the Authority where there is a statutory requirement for there to be an appeal to Members of the Council or where such appeal is allowed for in any policy or procedure approved by the Council.</p> <p>On hearing an appeal the Committee shall be empowered, on behalf and in the name of the Council, to make such order as it considers appropriate, within the range of decisions permissible at law.</p> <p>The Committee, when sitting to hear an appeal, shall not include any Members of the <del>Executive</del>, or Members of any Committee principally concerned with the service by which the decision or determination has been made, or Members who have been concerned in any previous consideration of the matter, which has given rise to or from which the appeal rises.</p> <p>At each sitting of the Committee to hear an appeal, the Committee shall, firstly, ensure that the appeal has been properly made and, secondly, that the appellant has been afforded the opportunity of being represented at the hearing of his/her appeal by such friend, lawyer or other representative as he/she may choose.</p> <p>In hearing an appeal the Committee shall conform to the rules of natural justice.</p>
<b>Standard &amp; Ethics</b>	<p>(a) To monitor and scrutinise the ethical standards of the Authority, its Members, employees and any associated providers of Authority's services and to report to the Council on any matters of concern.</p>

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Committee	Terms of Reference
<b>Standard &amp; Ethics</b>	<p>(b) To advise the Council on the content of its Ethical Code and to update the Code as appropriate.</p> <p>(c) To advise the Council on the effective implementation of the Code including such matters as the training of Members and employees on the Code's application.</p> <p>(d) To consider and determine the outcome of complaints that Councillors and co-opted members have acted in breach of the Code in accordance with procedures agreed by the Standards Committee, including the imposition of any penalties available to the Committee.</p> <p>(e) To oversee and monitor the Council's whistleblowing procedures and to consider ethical issues arising from complaints under the procedure and other complaints.</p> <p>(f) To grant or refuse requests for dispensations in respect of Members' interests under the Members Code of Conduct in accordance with the relevant statutory provisions.</p> <p>(g) <u>To undertake those functions in relation to community councils situated in the area of the Council and members of those community councils which are required by law</u></p> <p>(h) To recommend to Council and the Executive any additional guidance on issues of probity.</p> <p>(i) To hear and determine any complaints of misconduct by Members or a report of the Monitoring Officer, whether on reference from the Ombudsman or otherwise.</p> <p>(j) To recommend the provision to the Monitoring Officer of such resources as he/she may require for the performance of his/her duties.</p>
<b>Employment Conditions</b>	<p>(a) To consider and determine policy and issues arising from the organisation, terms and conditions of individual employees at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) where this is necessary.</p> <p>(b) To decide requests for regrading of posts at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) whether by way of appeal by an employee against a decision to refuse a regrading application or to decide applications for regrading which are supported.</p>
<b>Constitution</b>	<p>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:-</p> <p>(a) Drafting improvements to enhance clarity and remove minor anomalies.</p> <p>(b) Updating to reflect legislative changes and matters of record.</p> <p>(c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).</p>

**Deleted:** To consider whether individuals should be determined as vexatious or persistent complainants under relevant procedures.

Committee	Terms of Reference
<p><b>SCRUTINY</b></p> <p><b>Children &amp; Young People Scrutiny</b></p>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of children and young people, including :</p> <ul style="list-style-type: none"> <li>• School Improvement</li> <li>• Schools Organisation</li> <li>• School Support Services</li> <li>• Education Welfare &amp; Inclusion</li> <li>• Early Years Development</li> <li>• Special Educational needs</li> <li>• Governor Services</li> <li>• Children's Social Services</li> <li>• Children &amp; Young Peoples Partnership</li> <li>• Youth Services and Justice</li> <li>• Play Services</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>
<p><b>Community &amp; Adult Services</b></p>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of community and adult services, including:</p> <ul style="list-style-type: none"> <li>• Public and Private Housing</li> <li>• Disabled Facilities Grants</li> <li>• Community Safety</li> <li>• Neighbourhood Renewal and Communities Next</li> <li>• Advice &amp; Benefit</li> <li>• Consumer Protection</li> <li>• Older Persons Strategy</li> <li>• Adult Social Care</li> <li>• Community Care Services</li> <li>• Mental Health &amp; Physical Disabilities</li> <li>• Commissioning Strategy</li> <li>• Health Partnership</li> <li>• Local Service Board</li> </ul> <p>To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Assembly Government, Assembly-sponsored public bodies and quasi-departmental non-governmental bodies and health services on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures which may enhance the Authority's performance in this area.</p>

Committee	Terms of Reference
<b>Economy &amp; Culture</b>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of economic regeneration.</p> <ul style="list-style-type: none"> <li>• Cardiff Business Partnership</li> <li>• Cardiff &amp; Co Marketing Initiative</li> <li>• South East Wales Economic Forum</li> <li>• Economic Strategy &amp; Employment</li> <li>• European Funding &amp; Investment</li> <li>• SME Support</li> <li>• Cardiff Harbour Authority</li> <li>• Lifelong Learning</li> <li>• Leisure Centres</li> <li>• Sports Development</li> <li>• Parks &amp; Green Spaces</li> <li>• Libraries, Arts &amp; Culture</li> <li>• Civic Buildings</li> <li>• Events &amp; Tourism</li> <li>• Strategic Projects</li> <li>• Innovation &amp; Technology Centres</li> <li>• Local Training &amp; Enterprise</li> </ul> <p>To assess the impact of external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>
<b>Environmental</b>	<p>To scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of environmental sustainability, including:</p> <ul style="list-style-type: none"> <li>• Strategic Planning Policy</li> <li>• Sustainability Policy</li> <li>• Environmental Health Policy</li> <li>• Public Protection Policy</li> <li>• Licensing Policy</li> <li>• Waste Management</li> <li>• Strategic Waste Projects</li> <li>• Street Cleansing</li> <li>• Cycling and Walking</li> <li>• Streetscape</li> <li>• Strategic Transportation Partnership</li> <li>• South East Wales Transport Alliance</li> <li>• Transport Policy and Development</li> <li>• Intelligent Transport Solutions</li> <li>• Public Transport</li> <li>• Parking Management</li> </ul>

Committee	Terms of Reference
<b>Environmental</b>	<p>To assess the impact of external organisations including the National Assembly for Wales, Assembly Sponsored Public Bodies and quasi-departmental non-governmental bodies on the effectiveness of Council service delivery.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>
<b>Policy Review &amp; Performance</b>	<p>To scrutinise, monitor and review the overall operation of the Cardiff Programme for Improvement and the effectiveness of the general implementation of the Council's policies, aims and objectives, including:</p> <ul style="list-style-type: none"> <li>• Strategic Policy Development</li> <li>• Strategic Programmes</li> <li>• Community Planning &amp; vision Forum</li> <li>• Voluntary Sector Relations</li> <li>• Citizen Engagement &amp; Consultation</li> <li>• Corporate Communications</li> <li>• International Policy</li> <li>• Council Business Management and Constitutional Issues</li> <li>• Equalities</li> <li>• Finance and Corporate Grants</li> <li>• Organisational Development</li> <li>• Fundamental Operational Review</li> <li>• E-Government and ICT</li> <li>• Property and Procurement</li> <li>• Carbon Management</li> <li>• Contact Centre Services and Service Access</li> <li>• Legal Services</li> </ul> <p>To scrutinise, monitor and review the effectiveness of the Council's systems of financial control and administration and use of human resources.</p> <p>To report to an appropriate Executive or Council meeting on its findings and to make recommendations on measures, which may enhance Council performance in this area.</p>

## PART 4 – RULES OF PROCEDURE

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### COUNCIL MEETING PROCEDURE RULES

No. Rule

#### 1. BUSINESS OF COUNCIL MEETINGS

The business of any meeting of the full Council, namely the agenda for the meeting and the timings for individual items of business, shall be considered by the Council's Business Committee, at a meeting of the Business Committee to be convened at least 5 working days prior to the date of the Council meeting.

#### 2. ANNUAL MEETING OF THE COUNCIL

##### 2.1 Timing and business

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

The business of the annual meeting will be as set out in Rule 2.2 below.

Save the business referred to in Rule 2.2a below, the items of business referred to in Rule 2.2b may be held over to the next ordinary meeting or extraordinary meeting of the Council provided that such meeting will take place within the period of time allowed for the annual meeting as set out above.

##### 2.2 Business to be transacted at the annual meeting

The annual meeting will

(a)

- (i) elect a person to preside at the meeting if the Lord Mayor is not present;
- (ii) elect the Lord Mayor;
- (iii) appoint the Deputy Lord Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive declarations of interests from Councillors (such declarations to be in accordance with the Members Code of Conduct);
- (vi) through the Lord Mayor receive from Councillors the Cardiff Undertaking in years where an ordinary election has taken place
- (vii) receive any announcements from the Lord Mayor (if any);
- (viii) elect the Leader (where such election falls due);
- (ix) appoint members of the Executive (where such election falls due);
- (x) consider such other matter or matters which the Lord Mayor has certified as being urgent.

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(b)

- i) receive announcements from the Leader (if any) relating to the arrangements for conduct of executive business, the executive scheme of delegations and the planned programme of executive

- ii) business for the coming municipal year
- iii) decide on any amendment to the standing committees of the Council including their size and terms of reference as set out in the Council's constitution subject to any statutory constraints or limitations and provided that the Council shall appoint at least one overview and scrutiny committee, a Standards and Ethics Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions of this Constitution;
- iv) decide on the allocation of seats on committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989;
- v) receive nominations of members to serve on each of the standing committees;
- vi) receive nominations of members to serve on each outside body to which the Council may appoint and to make such appointments except where appointment to those bodies has been delegated by the Council or is only exercisable by the Executive;
- vii) elect a chair and (where the terms of reference allow) a deputy chair for each of those committees;
- viii) agree any changes, amendments or revisions to the Council's scheme of delegation;
- ix) Approve a Scheme of Members Allowances
- x) approve a programme of ordinary meetings of the Council for the year;
- xi) approve a provisional programme of ordinary meetings of committees;
- xii) consider any business set out in the notice convening the meeting;
- xiii) for any year in which an ordinary election has taken place, receive a report from the Returning Officer of the Councillors elected

### 3. ORDINARY MEETINGS

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

- (a) elect a person to preside if the Lord Mayor and Deputy Lord Mayor are not present (such person not being a member of the Executive);
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest (such declarations to be in accordance with the Members Code of Conduct);
- (d) receive by the Lord Mayor from relevant Councillors the Cardiff Undertaking (eg. where a Councillor has not given the Cardiff Undertaking at an annual meeting or where a by-election has taken place immediately before the meeting)
- (e) receive any petitions;
- (f) receive questions and answers in accordance with the Public Question Time Procedure Rules;
- (g) receive any announcements from the Lord Mayor or Leader;
- (h) receive written statements from the Leader and/or members of the Executive (which statements shall be taken as read) and any questions and answers on any of the statements;
- (i) receive questions and answers raised in accordance with the Council Meeting Procedure Rules;
- (j) deal with any business from the last Council meeting;

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- (k) receive reports from the Executive introduced by the relevant Portfolio holder, and any questions, answers and observations on any of those reports;
- (l) receive reports from the Council's Scrutiny Committees introduced by the relevant Scrutiny Committee chairperson, and any questions, answers and observations on any of those reports;
- (m) receive reports from the Council's Regulatory Committees introduced by the relevant Regulatory Committee chairperson, and any questions, answers and observations on any of those reports;
- (n) receive reports from any of the Council's statutory officers;
- (o) receive quarterly reports from the Monitoring Officer on any urgent decision/s taken by the Executive and or Officers, to include the reasons for their urgency, and any questions, answers and observations on such reports
- (p) receive any other report that the Chief Executive considers is required to be placed before Council;
- (q) receive reports about and any questions and answers on the business of joint arrangements and external organisations;
- (r) consider motions of which notice has been given;
- (s) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework; and
- (t) such other matter or matters which the Lord Mayor has certified as being urgent.

#### 4. EXTRAORDINARY MEETINGS

##### 4.1 Calling extraordinary meetings

(a) Those listed below may call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Lord Mayor;
- (iii) any five Councillors if they have signed a requisition presented to the Lord Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

(b) Those listed below may ask the Lord Mayor to call Council meetings in addition to ordinary meetings:

- (i) the Leader;
- (ii) the Head of Paid Service;
- (iii) the Monitoring Officer;
- (iv) any five Councillors of the Council if they have signed a requisition presented to the Lord Mayor.

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

##### 4.2 Business

Any meeting called in addition to ordinary meetings pursuant to Rule 4.1 will:

- (a) elect a person to preside if the Lord Mayor and vice Lord Mayor are not present;
- (b) receive any declarations of interest from Councillors (such declarations to be made in accordance with the Members Code of Conduct);
- (c) consider the item or items of business specified in the request or requisition;
- (d) consider such other matter or matters which the Lord Mayor has certified as being urgent.

## 5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Council or in the case of meetings called under Rule 4.1(a)(ii) by the Lord Mayor and in the case of meetings called under Rule 4.1(a)(iii) by the Proper Officer and notified in the summons.

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

## 6. NOTICE OF AND SUMMONS TO MEETINGS

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

## 7. CHAIR OF MEETING

### 7.1 Power of person presiding at meeting

The person presiding at the meeting may exercise any power or duty of the Lord Mayor.

### 7.2 Conduct of meeting by Lord Mayor

The Lord Mayor shall conduct the meeting to secure a proper, full and effective debate of business items where a decision is required and a committee or sub-committee has not previously considered the matter. The steps the Lord Mayor may take include:-

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

## 8. QUORUM

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



Lord Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. DURATION OF MEETING

### 9.1 Allocation of additional time for debate

If an item of business under discussion has not been concluded within the period of time recommended by the Council's Business Committee, the Lord Mayor may ask the meeting to indicate their agreement by a majority vote of those present, to extend the period of time for debate on the item.

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**Deleted:** and the Councillor speaking must immediately sit down. Subject to Rule 9.2(a) the Lord Mayor must call for the vote on the item under discussion. The Councillor with the right to reply under Rule 14.9 may exercise that right but thereafter the vote will then be taken in the usual way without further discussion

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**Deleted:** Motions which may be moved in the case of Rule 9.1

**Deleted:** During the process set out in Rule 9.1 the only other motions which may be moved are: ¶  
¶  
<#>that the period for consideration of the item under discussion be extended provided that such motion is moved immediately after the interruption by the Lord Mayor under Rule 9.1; and¶  
<#>that the matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report (except where the function is an Executive function).¶

## 10. QUESTIONS BY COUNCILLORS

### 10.1 On reports of and statements by the Executive or Committees

A Councillor may ask a member of the Executive or the Chair of a Committee or Sub-Committee any question without notice upon the contents of a statement made at the meeting or an item in a report of the executive or a committee when that statement or item (as the case may be) is being received or under consideration by the Council. A Councillor asking a question may ask one supplementary question and further questions at the discretion of the Lord Mayor who will have regard to the need to secure a fair and proper discussion of matters for decision.

### 10.2 Questions on notice at Council

Subject to Rule 10.3, a Councillor may ask:

- the Lord Mayor;
- a member of the Executive;
- the chair of any committee or sub-committee;
- nominated members of the Police or Fire Authorities;

a question on any matter in relation to which the Council has powers or duties and which affects the administrative area of the Council.

### 10.3 Notice of questions

A Councillor may only ask a question under Rule 10.2 if either:

- he or she has given notice in writing of the question to the proper officer by 9.00am on the last working day before the meeting; or
- the question relates to urgent matters, he or she has the consent of the Councillor to whom the question is to be put and written notice of the question is given to the Proper Officer by 12.00pm on the day of the meeting or at least three hours (which must be within the working day) before the meeting which ever is the earlier.

### 10.4 Written responses to questions

Written responses to all questions asked under Rule 10.2 shall be circulated before the commencement of the meeting to the Questioner and all Councillors present. The questions and written answers will be ordered in accordance with a protocol

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approved by the Council from time to time and, in the absence of such a protocol, in rotation by reference to each of the political groups in size order followed by questions from members not in political groups and in the order in which notice of them was received except that the Lord Mayor may group together similar questions or questions asked to the same Councillor.

#### 10.5 Rejection of Questions

The proper officer in the case of any question submitted in accordance with Rule 10.2 and the Lord Mayor in any other case may reject a question if in his/her opinion it:-

- (a) is not about a matter for which the Council has a responsibility and which affects the administrative area of the Council;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given;
- (d) the question concerns an item of business which is the subject of a report to the meeting;
- (e) requires the disclosure of confidential or exempt information where there is no demonstrable need to know.

#### 10.6 Withdrawal of questions

A question of which notice has been given under Rule 10.2 may not be withdrawn except with the consent of the person of whom it is asked.

#### 10.7 Supplementary questions to questions on notice

A Councillor asking a question under Rule 10.2 may ask one supplementary question (without notice) of the Councillor to whom the first question was asked. One further supplementary question may be asked by a Councillor provided that Councillor is neither the original questioner nor a member of the same political group as the original questioner. A supplementary question must arise directly out of the original question or the reply. Where a supplementary question is divided into parts or demands a series of answers the Lord Mayor may treat each part or each element requiring a response as a separate question and in which case the first such part or element shall be treated as the supplementary question

#### 10.8 Time limits

- (a) The maximum time allocated for answering any supplementary questions asked under Rule 10.7 is ten minutes in relation to each member to whom such questions are addressed provided that if at the expiry of the allocated time the answer to the supplementary question has not been completed then the Lord Mayor shall allow a reasonable period for the completion of the answer, the asking of further supplementary questions and the giving of answers to such supplementary questions.
- (b) Supplementary questions to questions asked under Rule 10.2 will:-
  - (i) fall if the time limit allocated for answering questions has elapsed;
  - (ii) in the case of questions relating to items of business before the meeting, be answered at the time when that item of business is under

consideration.

## 10.9 Responses to Supplementary Questions

- (a) Supplementary questions will be answered without discussion and subject to Rule 10.9(b) an answer may take the form of:-
  - (i) an oral answer given by the Councillor to whom the question is addressed or another Councillor nominated by him or her;
  - (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication;
  - (iii) where the reply cannot conveniently be given orally, a written answer circulated later to Councillors of the Council.
- (b) A Councillor to whom a supplementary question is addressed may decline to answer subject to stating the reason for declining to answer which reason may include the fact that the Councillor submitting the question is not in attendance at the meeting provided that a written answer will be given if a Councillor present so requests.
- (c) Except with the agreement of the meeting no more than three minutes will be allowed for response to any one question.

## 10.10 Written note of Supplementary Questions and the Response to them

10.10.1 Subject to Rule 10.10.2 a written note of supplementary questions that are put at the meeting together with the response provided by the Executive Member or Chair as appropriate, will be circulated by or on behalf of the Clerk to the Council to all Members and the Media who attended the meeting by no later than 5.00pm on the Thursday following the day of the Council meeting.

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- 10.10.2 (a) Prior to issue the written note of a response to a supplementary question must be checked for accuracy by the responding Executive Member or Chair as appropriate; and
- (b) No written note of a response to a supplementary question will be provided to the Media before being provided to Members.

## 11. PUBLIC QUESTIONS

11.1. Any person who resides *or works* in the area of the City and County of Cardiff may ask questions of members of the Executive or of the chairpersons of committees of the Council at ordinary meetings of the Council. A period of up to 15 minutes at the beginning of each meeting shall be allowed for questions to be put and answered and for any supplementary questions and the answers thereto under these rules. No Councillor may ask a question under these procedure rules.

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

11.3.1 A question may only be asked if notice has been given by delivering it in

writing or by electronic mail to the Proper Officer no later than 5pm, 5 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must specify the member of the Executive (either by name or portfolio) or the chairperson of committee (either by name or name of committee) to whom it is to be put.

- 11.3.2 In the absence of the questioner named in the notice referred to in Rule 11.3.1, a nominated substitute may ask the submitted question
- 11.4.1 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.
- 11.4.2 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 Lord Mayor.
- 11.5. The Proper Officer may reject a question if it:
  - 11. 5.1 is not about a matter for which the local authority has a responsibility or which affects the area of the Authority;
  - 11.5.2 is defamatory, frivolous or offensive;
  - 11. 5.3 is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - 11.5.4 requires the disclosure of confidential or exempt information;
  - 11.5.5 relates to an individual, group or business or the questioner's own particular circumstances;
  - 11.5.6 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;
  - 11.5.7 relates to the personal circumstances or conduct of any officer and Councillor or conditions of service of employees;
  - 11.5.8 relates to the activities and aims of a political party or organisation;
  - 11.5.9 relates to a Regulatory Decision or a matter which may result in a Regulatory Decision; or
  - 11. 5.10 is a statement and not a genuine enquiry.

In addition the Lord Mayor may rule that a question shall not be answered because the preparation of the answer would require the expenditure of a disproportionate amount of time, money or effort. The ruling of the Lord Mayor as advised by the Proper Officer in the above matter shall be final.

- 11.6. The Proper Officer will make a record of each question received and the date and time at which it was received and a copy of the question will be open to public inspection. The Proper Officer will send a copy of the question to the Councillor to whom it is to be put. Rejected questions will be open for inspection with a record of the decision for the rejection which shall include the reasons for rejection. Copies of all questions to be asked at a

particular meeting will be circulated to all Councillors and will be made available to the public attending the meeting. The minutes of the meeting will record the details of the questions that have been asked (including any supplementary questions) and by whom, together with the answers given.

- 11.7. Each questioner will be required to identify himself/herself at the meeting when the question is called for answer by the Chair. When the questioner has identified himself/herself the question will be deemed to have been asked. If the questioner is absent or fails to identify himself/herself then the question will be deemed to be withdrawn.
- 11.8. A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must relate to the answer given *and be limited to one minute*. The Lord Mayor may reject a supplementary question on any of the grounds in 5 above.
- 11.9. Written answers. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer and a copy of the answer will be recorded in the minutes of the meeting.
- 11.10.
  - 11.10.1 Questions and supplementary questions will be answered without discussion and an answer may take the form of:-
    - (a) an oral answer given by the Councillor to whom the question is addressed or another Councillor nominated by him or her;
    - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
    - (c) where the reply cannot conveniently be given orally, a written answer circulated later to Councillors of the Council, to the Questioner and recorded in the minutes.
  - 11.10.2 A Councillor to whom a question is addressed may decline to answer subject to stating the reason for declining to answer.
  - 11.10.3 Except with the agreement of the meeting no more than five minutes will be allowed for a response to any one question.
- 11.11. Any Councillor may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

## 12. **MOTIONS AND AMENDMENTS ON NOTICE**

### 12.1 **Notices of Motion**

- (a) No motion moved by notice pursuant to this Rule 12.1 will be debated at the Annual Meeting of the Council.

- (b) Except for motions which can be moved under Rule 12.5 or without notice under Rule 13, notice of every motion shall only be properly given if it is:-
- within Rule 12.3;
  - in writing, signed by the proposer, and seconded; and
  - delivered to the proper officer not later than 5.00pm at least eight clear days before the date of the meeting or, in any case where the Lord Mayor certifies that the subject matter is urgent and at the meeting gives reasons for its urgency, delivered to the proper officer before the start of the meeting.
- (c) Every notice of motion properly delivered will be dated and registered by the proper officer in the order in which they were received and open to Councillors' inspection after the deadline for receipt under Rule 12.1b.
- (d) No notice of 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 seconded has been delivered to the proper officer; or
  - (ii) in accordance with rule 14.8.

## **12.2 Number and sequence of motions of which notice has been given**

- (a) The motions of which notice has been given which may be moved at a meeting shall be limited to a maximum total of 20 motions in each municipal year, allocated by agreement between the political groups, and such allocation to be reviewed annually by the Council's Business Committee.
- (b) Motions for which notice has been given under Rule 12.1 and which will be considered at the meeting by virtue of the operation of Rule 12.2(a) will be listed on the agenda in the order in which the notices were received.

## **12.3 Scope**

- 12.3.1 Subject to Rule 12.3.2 motions for which notice may be given under Rule 12.1 must be about matters for which the Council has a responsibility and which substantially affect the well-being of the administrative area of the Council.
- 12.3.2 Any notice of 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.
- 12.3.3 If any notice of motion submitted appears to the Proper Officer to be unlawful and/or not presently contained within the approved Council Budget for the year in question, the notice of motion will, subject to Rule 12.3.1, be included on the agenda for the meeting with a statement from the Proper Officer to this effect and stating that the notice of motion shall be deferred to the next ordinary meeting of Council in order that written legal and financial advice may be placed before Members when the matter is debated.

## **12.4 Amendments to Motions of which Notice have been given under Rule 12.1**

An amendment to a motion of which notice has been given under Rule 12.1 may not be moved unless notice of the amendment has been given to the proper officer in writing signed by the proposer, and seconded by 9.00am on the last working day before the meeting.

## 12.5 Urgent Motions

12.5.1 An urgent motion may be presented, with the permission of the Lord Mayor, provided it has been notified to the Monitoring Officer and City and County Solicitor by 5.00 pm on the day prior to the Council meeting.

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12.5.2 The Lord Mayor has the authority to agree to take an urgent motion which is not on the agenda, and the discretion is entirely that of the Lord Mayor who alone needs to be satisfied as to the need for urgency.

12.5.3 The general authority referred to in 12.5.2 above is qualified in that an urgent motion should not be taken unless:

- (a) the motion has arisen between the deadline for the submission of motions and the date of the meeting;
- (b) the motion requires an urgent decision in the public interest which cannot be dealt with by other means; and
- (c) the Lord Mayor confirms his/her agreement to the motion being discussed.

12.5.4 In all cases, the reason for the urgency shall be clearly stated, and the Lord Mayor will explain to the Council the reason why he or she has accepted a motion not listed on the agenda as urgent.

12.5.5 The Lord Mayor will ask the Council to decide whether the motion should be:

- Discussed at the meeting; or
- Deferred until the next meeting to consider with the benefit of written officer advice; or
- Referred for consideration and decision to the Executive or a Committee.

## 12.6 Amendment to Minutes of Committee referred for decision

Except as provided in Rule 12.8 an amendment to a minute of a Committee or a Sub-committee before the Council for decision may not be moved unless notice of the motion to amend has been given to the proper officer in writing and signed by a Councillor no later than 9.00am on the day of the meeting (or if the meeting is due to commence on or before 12.00pm, no later than 12.00pm or the last working day prior to the day of the meeting).

## 12.7 Moving motion of which notice given

A motion of which notice is given under Rule 12.1 or notice of motion to amend under Rule 12.4 or Rule 12.5 must be formally moved and seconded at the relevant meeting. In the absence of the recorded proposer or seconder, another Councillor may propose or second the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn.

## 12.8 Amendments to Regulatory Decision

(a) No amendment may be moved to a minute which is 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 these Rules 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 2001.

#### 12.9 Amendments to reports before Council

An amendment to a report before Council may not be moved unless written notice of the amendment has been given to the Proper Officer, signed by the proposer and seconded, by 9.00am on the last Working Day before the meeting.

#### 13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes of the Council;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
- (e) to disapprove any recommendation (except one to which rule 12.8(b) applies) which is before the meeting, without further debate, provided that the Lord Mayor is satisfied that the matter has been sufficiently debated previously;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to receive reports and/or to adopt recommendations of committees or officers;
- (h) to receive reports and/or to adopt recommendations of the Executive;
- (i) to withdraw a motion;
- (j) to amend a motion except one to which Rule 12 applies;
- (k) to propose a resolution which differs from that recommended in a report upon which the Council is called to make a decision;
- (l) to proceed to the next business;
- (m) that the question be now put;
- (n) to adjourn a debate;
- (o) to adjourn a meeting;
- (p) that the period for consideration of the item under discussion be extended;
- (q) to extend the time limit for a speech;
- (r) to suspend a particular council procedure rule;
- (s) to consider motions submitted under Rule 12.1 in excess of the number specified in Rule 12.2
- (t) to exclude the public and press in accordance with the Access to Information Procedure Rules, as set out in Part 4 of this Constitution;
- (u) to not hear further a Councillor named under Rule 21.3 or to exclude him or her from the meeting under Rule 21.4;
- (v) to give the consent of the Council where its consent is required by this Constitution;
- (w) that a matter raised by a question under the Public Question Time Procedure Rules be referred to the Executive or the appropriate committee



- or sub-committee; and
- (x) urgent motions, provided the requirements of Rule 12.5 are satisfied.

## 14. RULES OF DEBATE

### 14.1 No speeches until motion seconded

No speeches may be made after the mover has moved a motion until the motion has been seconded provided that the Lord Mayor 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 by notice pursuant to Rule 12.

### 14.2 Right to require motion in writing

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

### 14.3 Seconded's speech

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

### 14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. A proposer of a motion may speak for up to six minutes but no other speech may exceed three minutes without the consent of the meeting.

### 14.5 When a Councillor may speak again

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

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

### 14.6 Amendments to motions

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

- (i) to leave out words;
- (ii) to leave out words and insert or add others;
- (iii) to insert or add words; or
- (iv) to substitute another proposition;

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

- (b) Any amendments to motions of which notice has been given under Rule 12 will

be called by the Lord Mayor either in the order in which they were tabled or in the order determined by the Lord Mayor to facilitate coherent debate. Each amendment will be proposed and seconded and then put to the vote in the order in which it was tabled.

- (c) Once amendments have been put to the vote, the principal motion, amended as appropriate if any amendments have been carried, will be debated and then put to the vote.
- (d) If no amendments have been tabled and selected, the Lord Mayor will call Members to speak on the motion proposed.

#### 14.7 **Alteration of motion**

- (a) A Councillor may alter a motion of which he/she has given notice as proposer with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 14.8 **Withdrawal of motion**

- (a) A Councillor may withdraw a motion of which he/she has given notice under Rule 12 at any time after the meeting has commenced provided that he/she has not moved the motion or spoken on it and has the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may withdraw any other motions which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 14.9 **Right of reply**

- (a) The rights of reply at the close of a debate are as follows:
  - (i) Except where a motion has been amended following a debate and a vote, and where the motion is to move disapproval under Rule 13(e) above, the mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
  - (ii) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
  - (iii) The mover of the amendment has no right of reply to the debate on his or her amendment.
  - (iv) In relation to a motion which has been amended where the amendment has been altered or accepted by the mover, the mover of the original motion has the right of reply.
  - (v) In relation to a motion which has been amended following debate and a vote, the mover of the amendment has the right to reply to the debate.
- (b) A Councillor exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion. Members may not speak after the owner of a motion has exercised a right of reply, except to seek clarification of a particular matter before the owner of the motion

concludes his or her speech. A Member may not speak after a proposition has been voted on except on a point of order relating to it.

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the period of debate for an item or items of business be extended beyond the time stated in the summons;
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (i) to not hear further a Councillor named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### **14.11 Closure motions**

- (a) Subject to Rule 14.11(e) a Councillor may move, without comment, the following motions at the end of a speech of another Councillor:-
  - (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) Subject to Rule 14.11(c) if a motion to proceed to next business is seconded the Lord Mayor will allow the right of reply to be exercised and then put the procedural motion to the vote.
- (c) Subject to Rule 14.11(e) if a motion that the question be now put is seconded the Lord Mayor will put the procedural motion to the vote. If it is passed he/she will give the relevant Councillor a right of reply before putting the motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded the Lord Mayor will put the procedural motion to the vote without allowing the relevant Councillor to exercise the right of reply.
- (e) In any case where the Lord Mayor thinks that an item has not been sufficiently discussed, the Lord Mayor may reject a motion to proceed to the next business or that the question be now put and the debate will be allowed to continue but without prejudice to any subsequent motion moved pursuant to Rule 14.11(a).

#### **14.12 Point of order**

A Councillor may raise a point of order at any time. The Lord Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Councillor must first state the rule or law to which he/she is referring and then commencing with the words 'is it in order for' indicate the way in which he/she considers it has been broken. The ruling of the Lord Mayor on the matter will be final.

#### **14.13 Personal explanation**

A Councillor may make a personal explanation at any time. A personal explanation may only relate to one of the following:

- (i) some material part of an earlier speech by the Councillor in the present debate which may appear to have been misunderstood;
- (ii) to reply to an allegation of misconduct made against the Councillor giving the explanation; or
- (iii) to make an apology to the Council.

The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

#### 14.14 **Declarations of interest**

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

### 15. **STATE OF CARDIFF DEBATE**

**Comment [CC3]:** Take to Constitution Committee, recommend deletion of this section as unused

#### 15.1 **Calling of debate**

The Leader will call a state of the Cardiff debate annually on a date and in a form to be agreed with the Lord Mayor.

#### 15.2 **Form of debate**

The Leader will decide the form of the debate with the aim of encouraging wide public interest.

#### 15.3 **Chairing of the debate**

The debate will be chaired by the Lord Mayor.

#### 15.4 **Results of debate**

The results of the debate will be:-

- (a) disseminated widely within the community and to agencies and organisations in the area;
- (b) considered by the Executive in proposing the budget and policy framework to the Council for the coming year.

### 16. **PREVIOUS DECISIONS AND MOTIONS**

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

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

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

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

## **17. VOTING**

### **17.1 Majority**

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

### **17.2 Lord Mayor's casting vote**

Except in the case of a vote under Rule 17.7, if there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.

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

Unless a recorded vote is demanded under Rule 17.4, the Lord Mayor will take the vote by show of hands or by use of an electronic voting system if available, whichever the Lord Mayor decides, or if there is no dissent, by the affirmation of the meeting.

### **17.4 Recorded vote**

If seven Councillors present at the meeting stand and demand it or the Lord Mayor so requires, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

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

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

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

- (a) 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.
- (b) 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 Councillor 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.

### **17.7 Voting on employee appointments**

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

**18. MINUTES**

**18.1 Signing the minutes**

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

**18.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

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

**18.3 Form of minutes**

Save as provided hereafter the form of the minutes will be a matter for the proper officer:-

- (a) Minutes will contain all motions and amendments in the exact form and order the Lord Mayor put them.
- (b) Replies given to questions of which notice has been given under Rule 10.2 will be recorded in the minutes.

**19. RECORD OF ATTENDANCE**

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

**20. EXCLUSION OF PUBLIC**

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

**21. COUNCILLORS' CONDUCT**

**21.1 Standing to speak**

When a Councillor speaks at full Council he or she must stand if able to do so and

**Deleted:** including:¶  
 ¶  
 <#>where a Councillor attends after the commencement of the meeting the Councillor should record the time when he or she first joined the meeting and¶  
 <#>where a Councillor leaves the meeting before its conclusion the Councillor must record the fact of his/her leaving and if then the Councillor rejoins the meeting the Councillor should record the fact of his/her rejoining and the time at which the Councillor re-entered the meeting room. .  
 ¶  
 Each Entry on the record of attendance must be signed personally by the Councillor and must be made as soon as practicable and in any event before the conclusion of the meeting.¶  
 ¶  
 For the avoidance of doubt and for the purposes of this rule only a Councillor will be deemed to be present until the conclusion of the meeting unless a contrary entry is made in the record of attendance in accordance with this procedure rule.

address the meeting through the Lord Mayor. If more than one Councillor stands, the Lord Mayor will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless he or she wishes to make a point of order or a point of personal explanation or to declare an interest. The Lord Mayor may agree in the interests of the proper conduct of the meeting that a Councillor or Councillors generally may remain seated when whilst addressing the meeting.

#### **21.2 Lord Mayor standing**

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

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

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

#### **21.4 Councillor to leave the meeting**

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

#### **21.5 General disturbance**

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

### **22. DISTURBANCE BY PUBLIC**

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

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

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

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

### **23. RECORDINGS OF MEETINGS OF THE COUNCIL**

No recording shall be made of the proceedings of meetings of the Council whether audio or visual and by whatever method except with the express authorisation of the meeting. If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the Lord Mayor will order their removal from the meeting room and shall not permit them to be admitted to a further meeting except on a written undertaking to desist from such recording and

on the destruction of such recordings as may have been made and anything derived from them.

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

### **24.1 Suspension**

All or any of these Council Rules of Procedure except Rule 17.5 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors is present. Suspension can only be for the duration of the meeting.

### **24.2 Amendment**

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

## **25. 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 Lord Mayor, 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.

## **26. APPLICATION OF COUNCIL PROCEDURE RULES**

None of the Council Procedure rules apply to meetings of the Executive or to meetings of committees and sub-committees but the Council Meeting Procedure rules will apply when the Council is sitting as a committee of the Council comprising all Councillors.

## **27. PETITIONS**

Where a Councillor delivers a petition to the Council in accordance Rule 3e the Councillor may outline the request by the petitioners, the reason for the request and the number of the signatories provided that in any event the Councillor may not speak under this rule for more than one minute.



## **COMMITTEE MEETING PROCEDURE RULES**

No. Rule

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

#### **1.1 Establishment**

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

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

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

#### **1.3 Period of office**

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

### **2. ORDINARY MEETINGS**

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

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

### **3. EXTRAORDINARY MEETINGS**

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

- (a) Those listed below may request the proper officer to call a meeting of the committee in addition to ordinary meetings:-
  - (i) the Council by resolution;
  - (ii) the chair of the committee;

No. Rule

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

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

**3.2 Business**

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

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

**4. TIME AND PLACE OF MEETINGS**

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

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

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

**6. CHAIR OF MEETING**

**6.1 Chair of the meeting**

The chair of the committee will chair a meeting of the committee and in his or her absence the meeting will be chaired by the deputy chair of the committee (if any). In the absence of the chair and the deputy chair of the committee, the committee will choose a chair to chair the committee. The person presiding at the meeting may exercise any power or duty of the chair.

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

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

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

## 7. **QUORUM**

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

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

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

- (a) to appoint a chair of the meeting;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
- (e) to appoint a sub committee of the committee arising from an item on the agenda for the meeting subject to statutory constraints;
- (f) to receive reports and/or to adopt recommendations of committees or officers;
- (g) to receive reports and/or to adopt recommendations of the Executive;
- (h) to delegate powers to an officer of the Council or a sub-committee subject to the constraints in this Constitution and of law;
- (i) to propose a resolution which differs from that recommended in a report;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (o) to not hear further a member named under Rule 15.3 or to exclude him or her from the meeting under Rule 15.4.

## 9. **RULES OF DEBATE**

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

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

### 9.2 **Point of order**

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

### 9.3 **Personal explanation**

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

### 9.4 **Declarations of interest**

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

## 10. **PREVIOUS DECISIONS AND MOTIONS**

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

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

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

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

## 11. **VOTING**

### 11.1 **Majority**

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

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

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

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

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

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

- (a) In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is

the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the chair will have a casting vote.

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

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

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

### 12. **MINUTES**

#### 12.1 **Signing the minutes**

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

#### 12.2 **Form of minutes**

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

### 13. **RECORD OF ATTENDANCE**

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

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

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

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

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

- (a) When a petition contains signatures of not less than fifty Cardiff electors with their addresses, a substantial proportion of whom could reasonably be expected to be affected by the matter to which the petition relates, one person from amongst those signing the petition may address a committee to which the petition has been referred on the subject matter of the petition for up to three minutes.
- (b) In any case where the petitioners object to an application which is to be considered by the Planning Committee or the Licensing Committee the applicant will also be given an opportunity to be heard.

**Deleted:** including ¶  
¶  
(a) . where a Councillor attends after the commencement of the meeting the Councillor should record the time when he or she first joined the meeting and ¶  
¶  
(b) . where a Councillor leaves the room in which the meeting is being held before its conclusion the Councillor should record fact of his leaving and the time of leaving and if then the Councillor rejoins the meeting the Councillor must record the fact of his rejoining and the time at which the Councillor re-entered to meeting room ¶  
¶  
Each entry in the record of attendance must be signed personally by the Councillor and must be made as soon as practicable and in any event before the conclusion of the meeting. ¶  
¶  
For the avoidance of doubt and for the purposes of this rule only a Councillor will be deemed to be present until the conclusion of the meeting unless a contrary entry is made in the record of attendance in accordance with this procedure rule.

- (c) Any petition presented direct to a committee shall be delivered to the relevant Chief Officer at least seven clear days prior to the date of the meeting of the committee at which it is to be presented, to enable the applicant to be notified if appropriate and to be present at the meeting of the committee if the applicant so wishes.
- (d) When a petitioner has been heard by a committee under this Committee Meeting Procedure Rule no further petition on the same item shall be considered and no further address shall be heard on that item, within six months of the committee meeting at which the petition was first considered or the petitioner heard.

## 15. MEMBERS' CONDUCT

### 15.1 Members wishing to speak

When a member speaks at a committee he or she must address the meeting through the chair. If more than one member speaks, the chair will ask one to speak and the others must remain silent until invited to speak unless he or she wishes to make a point of order or a point of personal explanation or to declare an interest.

### 15.2 Chair seeking order

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

### 15.3 Member not to be heard further

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

### 15.4 Member to leave the meeting

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

### 15.5 General disturbance

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

## 16. DISTURBANCE BY PUBLIC

### 16.1 Removal of member of the public

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

16.2 **Clearance of part of meeting room**

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

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

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

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

**Deleted:** Chief Legal Services Officer

18. **RECORDING OF PROCEEDINGS OF COMMITTEES**

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

19. **SUSPENSION OF COMMITTEE PROCEDURE RULES**

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

20. **APPLICATION OF COMMITTEE PROCEDURE RULES**

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

## ACCESS TO INFORMATION PROCEDURE RULES

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### 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 Executive (together called meetings).

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

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

### 3 Openness Policy

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

### 4 Rights of the Public to attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules. The right to attend meetings does not extend to taking photographs or the making of video or audio transmissions or recordings without consent. The right to attend meetings is subject to the Council's right to exclude persons if their conduct is disorderly or if they misbehave at the meeting. The Press may attend that part of any meeting open to the public.



## **5 Notices of Meetings**

- (a) The Authority will give at least three clear days notice of any meeting by posting details of the meeting on the public notice board at County Hall, Atlantic Wharf, Cardiff and on the Council's Website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)).
- (b) Special Urgency – If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide 3 clear days notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the body concerned, the Monitoring Officer is authorised to call such a meeting, subject to the agenda and reports being available to the public at the time at which the meeting is convened.

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

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

## **7 Supply of Copies**

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

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

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

- (a) The Council will make available copies of the following for six years after a meeting:
  - (b) the minutes of the meeting (or record of decisions taken together with reasons, for all meetings of the Executive) excluding any part of the minutes or proceedings which disclose exempt or confidential information;
  - (c) 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;
  - (d) the agenda for the meeting; and
  - (e) 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 Executive reports, the advice of any political advisor).

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

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

## **10 Confidential and Exempt Information**

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

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

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

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

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

Confidential information means information given to the Council by a Government Department (including the Welsh Assembly Government) on terms which forbid its public disclosure or information which cannot be publicly disclosed by virtue of any enactment or Court Order.

### **10.4 Meaning of Exempt Information**

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

CATEGORY	QUALIFICATION
1. Information relating to any 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
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
<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> <p>(a) the Companies Act 1985  (b) the Friendly Societies Act 1974  (c) the Friendly Societies Act 1992  (d) the Industrial and Provident Societies Acts 1965 to 1978  (e) the Building Societies Act 1986  (f) the Charities Act 1993</p>
<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>	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
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any</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

CATEGORY	QUALIFICATION
enactment	
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
<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 60(2) or (3), 64(2), 70(4) or (5), or 71(2) of the Local Government Act 2000
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 60(2) or (3), 64(2), 70(4) or (5), or 71(2) of the Local Government Act 2000
10. The deliberations of the Standards and Ethics Committee or of a Sub-Committee of the Standards and Ethics Committee in reaching any finding on a matter referred under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.	

Information falling within any of paragraphs 1 to 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 Country Planning General Regulations 1992.

#### **10.5 Disclosure by Members**

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

#### **10.6 Public Interest**

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

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

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

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

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

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

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

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

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

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

## **13 Record of Decisions**

After any meeting of the Executive, whether held in public or private, the Monitoring Officer, the Monitoring Officer's representative or, where no officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as reasonably practicable. The record will include a statement of the date, the reasons for each Executive Decision, details of any alternative options considered and rejected at the meeting either directly or by reference to the report, details of any declaration of interest and details of any consultation that was taken and generally comply with legal requirements as to the recording of the Executive Decision.

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

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

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

The Executive will decide whether meetings where no Executive Decisions are to be made will be held in public or private. Members of the Executive 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 Executive, and by the Chief Executive and Corporate Directors under delegated powers. Each corporate director, and/or chief officer in partnership with the relevant Executive Member is responsible for identifying future decision-making needs and for informing the Executive Business Office. The Head of Executive Business maintains the Forward Plan which is available for public inspection at County Hall and on the Council's internet site.

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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 Executive 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 Executive would usually make a proposal to Council. For such decisions, the engagement of scrutiny is required before the Executive 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 Executive 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 Executive**

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

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

Where a decision is taken by an employee under delegated powers, that employee is responsible for retaining a record of such decision and the reason for such decision sufficient for audit and evidential purposes and for ensuring that all those that need to know are informed promptly of the decision and that the decision and the record of it accords with the requirements of the relevant scheme of delegations under which it is made, and any guidance on decision making issued by the Monitoring Officer. Decisions made by the Chief Executive or a Corporate Director will be included in the published Executive Decision Register. (see Rule 13).

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### **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 Executive, or its committees and which contains material relating to :

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

#### **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 Executive 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
- (ii) the Executive (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 Executive where allowed by the Scheme of delegations immediately after the decision has been made

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

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information in Rule 10 or it contains exempt information falling within paragraph 6 of those categories relating to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- (b) in respect of Executive material it contains the advice of a political adviser.

### **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 Executive Members**

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

- (a) the name and address of every Councillor who is a member of the Executive and the ward the Councillor represents;
- (b) the name and address of every member of each committee of the Executive;
- (c) the functions of the Executive which for the time being are exercised by individual members of the Executive; and
- (d) as respects each function, the name of the member of the Executive by whom it is exercisable.

## Budget and Policy Framework Procedure Rules

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### 1. The framework for Executive decisions

(a) The Council will be responsible for the adoption of the Budget and Policy Framework. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive to implement it.

(b) The future business of the Executive will be set out in the Forward Plan to be published on a monthly basis.

### 2. Process for developing the framework

- (a) The Executive will publicise by including in the Business Statement a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairs of Scrutiny Committees will also be notified.
- (b) The Executive will then draw up firm proposals having regard to any responses to consultation. If a relevant Scrutiny Committee wishes to respond to the Executive in the consultation process then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committees to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (c) Once the Executive has approved the firm proposals, they will be referred at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Executive proposals, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (f) A copy of the decision shall be given to the Leader.
- (g) An in-principle decision will automatically become effective five clear working days from the date of the Council's decision, unless (i) the Leader informs the proper officer in writing within that time he/she objects to the decision becoming effective and provides reasons why and (ii) he/she does so before 8 February of that year.
- (h) In that case, the proper officer will call a Council meeting to take place within a further ten clear working days. The Council will be required to re-consider its decision and the written submission within at that meeting. The Council may:-

- (i) approve the initial Executive recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Executive by a simple majority.
- (i) The decision shall then be made public and shall be implemented immediately.
  - (j) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

**3. Decisions outside the Budget or Policy Framework**

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

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

- (a) The Executive, a committee of the Executive, an individual Member of the Executive or employees, (area committees) or joint arrangements discharging Executive Functions may take a decision which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget approved by Council if the decision is urgent. However, the decision may only be taken:
  - (i) if it is not possible to convene a quorate meeting of the full Council; and
  - (ii) if the chair of a relevant Scrutiny Committee agrees that the decision is urgent.

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

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

#### 5. **Virement**

- (a) The Council shall have budget heads reflecting the Council's Service Area arrangements and taking into account recommended accounting practice.
- (b) Steps taken by the Executive, an individual member of the Executive or employees, or joint arrangements discharging Executive Functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads in accordance with Financial Regulations. Beyond that limit, approval to any virement across budget heads shall require the approval of the Council.

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

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, an individual member of the Executive or employees, (area committees) or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except changes that have been specified or categorised by Council as permissible changes.

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

- (a) Where a Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then it shall seek advice from the Head of Paid Service, Monitoring Officer and/or Section 151 Officer, who will report on the matter.
- (b) In respect of functions which are the responsibility of the Executive, the report of the Head of Paid Service, Monitoring Officer and/or Section 151 Officer shall be to the Executive with a copy to every Councillor. Regardless of whether the decision is delegated, the Executive must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Head of Paid Service, Monitoring Officer or the Corporate Manager with Section 151 Responsibilities conclude that the decision was a departure from the Budget or Policy Framework, and to the Scrutiny Committees if the Head of Paid Service, Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Head of Paid Service, Monitoring Officer and/or Section 151 Officer is that the decision is or would be contrary

to the Policy Framework or contrary to or not wholly in accordance with the Budget or ultra vires the power of the Executive, the Executive or the relevant Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten clear working days of the request by the Executive or the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive, Monitoring Officer and/or the Section 151 Officer. The Council may either:-

- (i) endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

- (ii) amend the Authority's financial procedures or Policy Framework to encompass the decision or and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

or

- (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget or ultra vires the power of the Executive, and does not amend the existing Policy Framework to accommodate it or ratify the ultra vires decision., the decision will be a nullity but the Council may require the Executive to reconsider the matter in accordance with the advice of either the Chief Executive, Monitoring Officer or Section 151 Officer.

## **Executive Procedure Rules**

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### **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 Executive,
- (b) any member of the Executive,
- (c) any committee of the Executive, and
- (d) any officers of the authority.

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

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

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

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

To the extent the Leader, the Executive, a Executive committee or a member of the Executive 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 Executive, a committee of the Executive or a member of the Executive 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 Executive for decision.

#### 1.5 **Executive meetings**

- (a) The Executive will meet at times and dates to be agreed by the Executive.
- (b) Those listed below may ask the proper officer to call Executive meetings in addition to those agreed by the Executive:
  - (i) the Leader;
  - (ii) the Head of Paid Service;
  - (iii) the Monitoring Officer;
  - (iv) the section 151 Officer
  - (v) any three members of the Executive.

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.

- (c) Executive meetings will generally be held in public in accordance with the provisions of the Access to Information Procedure Rules.
- (d) 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 Executive or a committee of the Executive even though he/she is not a member of the Executive or Executive 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 Executive or any committee of the Executive 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 Executive or the committee of the Executive (as the case may be) should withdraw;

Provided that nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

## 1.6 **Quorum**

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

## 1.7 **Decisions of the Executive**

- (a) Executive Decisions which have been allocated or delegated to the Executive will be taken by majority vote of those present at a meeting convened in accordance with the Access to Information Procedure Rules, with the person presiding having a second or casting vote.
- (b) Where Executive Decisions are allocated or delegated to an Executive committee, the rules shall be the same as those applying to decisions taken by the Executive.
- (c) Executive Decisions which have been allocated or delegated to individual Executive Members will be taken in accordance with Executive Procedure Rules.

## 2. **CONDUCT OF EXECUTIVE MEETINGS**

### 2.1 **Chairing the Meeting**

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

### 2.2 **Attendance**

- (a) Meetings of the Executive are generally open to any person who wishes to attend in accordance with the Access to Information Procedure Rules.
- (b) Subject to paragraph (c) below only Executive Members, employees or persons asked to or with a duty to advise Executive or other persons asked by the Executive to do so may speak at an Executive meeting.
- (c) A Councillor may attend any meeting of the Executive or an Executive committee (whether or not they are a member of the Executive or of the Executive 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 Executive or a committee of the Executive (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 City and County Solicitor or his/her representative advises that as a matter of law non-members of the Executive or Executive committee (as the case may be) should withdraw.

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### 2.3 Business

(i) At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Executive (whether by a Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
- (d) consideration of reports from Scrutiny Committees;
- (e) other matters set out in the agenda for the meeting;
- (f) to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules; and
- (g) 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.

(ii) The future business of the Executive 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 Executive 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 Executive. On receipt of such request the proper officer will include such matter or item on the next suitable agenda.
- (b) The Head of Paid Service, Monitoring Officer and/or the Section 151 Officer may, in pursuance of their statutory duties, require an item to be included on the agenda of a Executive meeting and to have the item discussed. In other circumstances, where any two of the Head of Paid Service, Section.151 Officer and Monitoring Officer are of the opinion that a meeting of the Executive 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 Executive meeting and to have the item discussed.

- (c) There will be a standing item on the agenda of each meeting of the Executive for matters referred by Scrutiny Committees.
- (d) The agenda for any relevant meeting will include items determined under the above, unless otherwise required by law.

### **Executive Committees**

#### 3.1 Chairperson of Executive Committees

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

#### 3.2 Quorum

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

#### 3.3 Conduct of business of Executive Committees

The rules for the calling and conduct of meetings of the Executive 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 Executive committee provided that any reference in the rules to the Leader shall in the case of a Executive Committee be construed as a reference to the chairperson of the Executive Committee

## Scrutiny Procedure Rules

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### 1. Scrutiny Committees

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

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

### 2. Members of Scrutiny Committees

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

### 3. Co-opted Members

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

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

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

### 4. Meetings of the Scrutiny Committees

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

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

### 5. Quorum

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

### 6. Chairperson

Scrutiny Chairpersons will be appointed by the Council.

## 7. Scrutiny Role and Conduct of Business

Within their terms of reference, Scrutiny Committees:-

- (a) Will set their own work programmes and submit Annual Reports for consideration by the Council. Such reports will outline previous, and ongoing, investigations, and set out any known future work programme.
- (b) May make proposals to the executive regarding policy and service development and scrutinise and review decisions made, or actions, taken in connection with the discharge of any Council functions.
- (c) May use the budgets allocated to them, relevant Council employees, advisers and assessors to assist them in fulfilling their role. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and/or expenses for doing so. They must comply with the Council's procedures and keep within the budgets allocated to them in so doing.
- (d) As far as possible, will ensure that the objectives of any proposed business are set out in its programme.

## 8. Agenda items

- (a) Any member of a Scrutiny Committee may give notice to the Chief Scrutiny, Performance and Governance Officer that he/she wishes an item relevant to the functions of that committee to be included on the agenda for a future meeting. On receipt of such a request, the Chairperson will ensure that it is included as an item on the next suitable agenda.
- (b) Scrutiny Committees shall respond, as soon as their work programme permits, to requests from the Council or the Executive, to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings, and any recommendations, back to the Executive and/or Council, as appropriate.

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## 9. Reports from Scrutiny Committees

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

- (d) Where a scrutiny committee prepares a report for consideration by the Executive in relation to a matter where the decision making power has been delegated to an individual member of the Executive, then the Scrutiny Committee will submit a copy of their report to him/her for consideration. The member with delegated decision-making power must consider the report and respond in writing to the Scrutiny Committee. The member will also attend a future meeting of the Scrutiny Committee to present their response.

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

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

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

- (a) Scrutiny Committees may receive written submissions or call witnesses to assist them in their examination of topics.
- (b) They may require any Executive Member and/or Council officer to attend to explain, in relation to matters within their remit:-
  - (i) any decision or series of decisions;
  - (ii) the extent to which actions taken implement Council policy; and/or
  - (iii) the performance of any Council service within their portfolio or management responsibility

and it is the duty of those persons to attend if so required.

- (c) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chairperson of that Committee, or an officer acting at their behest, will inform the member or officer in writing, giving at least ten calendar days notice of the meeting at which he/she is required to attend, except in cases of urgent necessity, when at least 48 hours notice will be given. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (d) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the scrutiny committee shall, in consultation with the member or officer, arrange an alternative date for attendance, or may seek a written submission.
- (e) A Scrutiny Committee may invite anyone whom it believes can make a useful contribution to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and can invite such people to attend.
- (f) Scrutiny Committees will programme their agendas as effectively as possible and will in particular give any witness called to appear before them a time by which they can

expect their contribution to be completed. At the expiry of that time period, the witness can leave unless he/she agrees to remain longer.

## 12. Call-in Procedure

- (a) When an executive decision is made by the Executive, a Committee of the Executive, the Leader an Executive Member, or the Chief Executive or a Corporate Director, the decision shall be published on the Council's Intranet Site, and shall be available at the main offices of the Council, normally within two days of being made. Members of those Committees who request it (in respect of decisions falling within their Committee's terms of reference) and Chairpersons of all Scrutiny Committees will also be sent copies of the records of all such decisions within the same timescale by the proper officer.
- (b) The notice will bear the date on which it is published and will specify that the decision will be implemented on the expiry of seven clear working days after the publication of the decision ("the call-in period"), unless the decision is called in as set out below.
- (c) Any non executive member of the Council (or a co-opted member of the Children and Young People Scrutiny Committee, in the case of a decision relating to an education matter) may call-in a decision of which notice has been given as set out above, by giving notice in writing to the Chief Scrutiny, Performance and Governance Officer within the call-in period. The Chief Scrutiny, Performance and Governance Officer shall then notify the Executive Office of the call-in. He/she shall call a meeting of the relevant committee on such date as he/she may determine, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in ("the scrutiny period"). At its meeting, the Scrutiny Committee may consider the called-in decision itself or decide to refer the issue to the Council for scrutiny, if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within ten clear working days of this referral ("the Council scrutiny period") unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.
- (d) Having considered the decision, the Scrutiny Committee or the Council (if the decision has been referred to Council) may refer it back to the Executive or the decision maker for reconsideration, setting out in writing the nature of its concerns. The Executive or decision maker shall then reconsider the matter before adopting a final decision, arranging for the decision to be changed to reflect points made by the Scrutiny Committee, or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate will be advised of the outcome at its next meeting.
- (e) If following a call-in, the matter is not referred back to the Executive or decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or Council meeting which considers the issue, or the expiry of the scrutiny period or the Council scrutiny period as appropriate, whichever is the later.
- (f) The role of Scrutiny Committees calling in a decision is:
- (i) To test the merits of the decision
  - (ii) To consider the process by which the decision has been formulated.

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- (iii) To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider).
- (iv) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision making body).
- (v) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.

(f) In calling in a decision it is not sufficient for the Member requesting the call in to state that they wish to test the merits of the decision. A member requesting a call in shall specify precisely which aspects of the decision they wish to question or challenge.

(g) The Chief Scrutiny, Performance and Governance Officer may rule that a call in is not valid if:

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- (i) The call in request has not been made within the seven working days allowed for call in;
- (ii) It is not clear which Executive decision is being called in;
- (iii) The decision is exempt from call in on account of urgency provisions;
- (iv) The call in request provides too little information to enable Committee members or the decision taker to adequately prepare for the call in meeting.
- (v) The decision being called in, or broadly the same decision, has been called in during the last six months.

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

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

### 14. Procedure at Scrutiny Committee meetings

- (a) Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (to be made at the commencement of the agenda item in question);



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

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

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

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## SECTION 1 – STATUS

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

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## SECTION 2 – FINANCIAL MANAGEMENT

- General
- Managing Expenditure
- Accounting Policies
- Accounting Records and Returns
- Annual Statement of Accounts

### GENERAL

#### Why is this Important?

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

#### Key Controls

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

#### Responsibilities of the City and County Treasurer

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- 2.3 To be responsible, for the purposes of Section 151 of the Local Government Act, 1972 and Section 114 of the Local Government Finance Act, 1988, for the proper administration of the Authority's financial affairs.
- 2.4 As the Authority's financial adviser, to:-
- report to the Executive and the Council on resource availability and resources allocation.
  - advise the Executive and the Council of the financial implications of proposals submitted to them.
  - keep the Executive and the Council informed with respect to the Authority's finances and financial performance and other committees informed with respect to financial implications of their activities.
  - advise on financial systems and procedures for all service areas of the Authority including advice to the Executive and the Council if inadequate systems exist.
  - advise and participate in all aspects of Value For Money projects.
  - advise the Executive and the Council on the financial aspects of all policy matters.
- 2.5 To set the financial management standards and to monitor compliance with them.

- 2.6 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Authority.
- 2.7 To act, under the Trustee Investment Act, as adviser to the Authority in respect of its Pension Fund responsibilities.

*Responsibilities of Corporate Directors and Chief Officers*

2.8 To ensure that that the Financial Procedure Rules are followed and brought to the attention of all employees in their service areas.

- 2.9 To be responsible, in consultation with the City and County Treasurer for:
  - the financial administration of their service areas, including DSU and trading organisations, in compliance with the Financial Procedure Rules;
  - the monitoring and control of expenditure against their service area capital and revenue budgets.
  - the design and operation of systems of internal control capable of:
    - carrying out the activities of the Authority in an effective and efficient manner;
    - ensuring adherence to the Authority Policy Framework and Budget;
    - safeguarding assets;
    - securing, as far as possible the completeness and accuracy of records;
    - ensuring value for money and preventing waste.

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2.10 To agree with the City and County Treasurer any amendment to financial systems or introduction of new financial systems.

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2.11 To provide all information required by the City and County Treasurer for finance purposes on a timely basis, and to allow him/her or an authorised representative access to all information, records, documents and explanations that he/she requires.

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2.12 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

2.13 To establish and maintain sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

2.14 To allow the City and County Treasurer adequate opportunity to provide written comments for inclusion in all reports for decision by the Council or the Executive or for the purpose of exercising delegated powers.

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2.15 To consult with the City and County Treasurer with respect to any matter within his/her purview which is liable to materially affect the finances of the Authority, before any provisional or other commitment is incurred or before reporting thereon to the Executive or the Council.

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2.16 To inform the City and County Treasurer when officers intend to meet with representatives of Government Service areas or outside bodies on matters which may involve current or future financial or economic proposals and be given the opportunity of being represented or advised of the proposals as the City and County Treasurer considers necessary.

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2.17 To take action upon any internal audit reports to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

- 2.18 To ensure that all employees who are responsible for financial administration are issued with appropriate instructions.
- 2.19 To ensure that there is a clear separation of duties within the administration of all systems to ensure adequate controls are in place.
- 2.20 To maintain proper records of authorised signatories for all financial systems and to ensure that only these officers sign key documents such as orders, invoices, claims and payroll records.
- 2.21 To immediately notify the Audit and Risk Manager whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.
- 2.22 To liaise with the Audit and Risk Manager in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti Fraud and Anti Corruption Strategy.
- 2.23 To ensure that all employees comply with the Financial Procedure Rules and any instructions issued under them or any arrangements made for the purposes of them.
- 2.24 To ensure that any arrangements made under or for the purposes of the Financial Procedure Rules should be in writing and where necessary conveyed in writing to relevant employees.
- 2.25 To promote the financial management standards set by the City and County Treasurer in their service areas, and to monitor adherence to the standards and practices, liaising as necessary with the City and County Treasurer.
- 2.26 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

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## MANAGING EXPENDITURE

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

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

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

#### **Key Controls**

- 2.28 Key controls for the scheme of virement are:
- the overall revenue budget is drawn up by the Executive and approved by the full Council. Chief Officers and budget managers are, therefore, authorised to incur expenditure in accordance with the estimates that make up the budget as set out in the budget book. The rules below cover virement; that is, switching resources between approved budget headings:

- virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets;
- the capital programme is drawn up by the Executive and approved by the full Council and contains details of approved expenditure on capital schemes.

## Responsibility of the Executive

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

## Responsibility of Officers - Capital expenditure

### Corporate Directors

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

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2.31 To refer to the Executive for approval, virements in excess of £250,001 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the City and County Treasurer.

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### Chief Officers

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

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### City and County Treasurer

**Deleted:** Chief Financial Services Officer

2.33 To consult with the appropriate Corporate Directors or other Chief Officer, to vary within their service areas, the approved programme of capital expenditure, within the limits as outlined in these Financial Procedure Rules.

2.34 To refer to the Executive for approval, virements in excess of £250,001 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

2.35 To approve the use of reserves and to commit expenditure in future years up to a total in the year of up to £1m.

2.36 The Council sets a three year capital programme, with the latter two years indicative only. In order to ensure an effective capital programme, expenditure can be brought forward

only with the approval of the City and County Treasurer. The possibility of delaying spend into future years may be required in some cases and should be observed following any request from the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## Responsibility of Officers - Revenue expenditure

### Corporate Directors

2.37 In consultation with the City and County Treasurer to vire, within service areas, sums not exceeding £250,000 provided under specific published revenue budget heads to other purposes (revenue only).

**Deleted:** Chief Financial Services Officer

2.38 To refer to the Executive for approval, virements in excess of £250,001 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

2.39 No virement may be approved if the total cash limited budget of the Council or service area is likely to be overspent.

### Chief Officers

2.40 In consultation with the City and County Treasurer to vire, within service areas, sums not exceeding £50,000, provided under specific published revenue budget heads to other purposes (revenue only).

**Deleted:** Chief Financial Services Officer

### City and County Treasurer

**Deleted:** Chief Financial Services Officer

2.41 To consult with the appropriate Corporate Director or other Chief Officer, to vire sums, within their service area and within the limits as outlined in these Financial Procedure Rules.

2.42 To refer to the Executive for approval, virements in excess of £250,001 provided under the specific published budget heads. A report will be prepared by the appropriate Corporate Director, in consultation with the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

2.43 To approve the use of reserves and to commit expenditure in future years up to a total in the year of up to £1m.

2.44 No virement may be approved if the total cash limited budget of the Council or service area is likely to be overspent.

## TREATMENT OF YEAR END BALANCES

### Why is this Important?

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

### Key Controls

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

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer



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

### Responsibilities of Chief Officers

- 2.50 Internal trading unit surpluses may be carried forward to the following year subject to approval by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

## ACCOUNTING POLICIES

### Why is this Important?

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

**Deleted:** Chief Financial Services Officer

### Key Controls

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

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

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

## Responsibilities of Chief Officers

2.54 To adhere to the accounting policies and guidelines approved by the City and County Treasurer.

Deleted: Chief Financial Services Officer

## ACCOUNTING RECORDS AND RETURNS

### Why is this Important?

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

### Key Controls

2.56 The key controls for accounting records and returns are:

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

## Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

2.57 To determine the accounting procedures and records for the Authority.

2.58 To arrange for the compilation of all accounts and accounting records under his or her direction.

2.59 To comply with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
- officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

2.60 To make proper arrangements for the audit of the Authority's accounts in accordance with the current Accounts and Audit Regulations.

- 2.61 To certify and ensure that all claims for grants and other financial returns required by Government Service areas and other bodies are made by the due date.
- 2.62 To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement.
- 2.63 To determine the retention period of financial records where there are no requirements prescribed by statutory or other external regulations.

### Responsibilities of Chief Officers

2.64 To consult and obtain the approval of the City and County Treasurer before making any changes to accounting records and procedures.

**Deleted:** Chief Financial Services Officer

2.65 To comply with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them;
- employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

2.66 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

2.67 To ensure that the retention periods of financial records, as determined by the City and County Treasurer, are complied with. Where retention periods are prescribed by statutory or other external regulations, the Chief Officer should ensure that these are complied with.

**Deleted:** Chief Financial Services Officer

2.68 To ensure that financial records are not disposed of other than in accordance with prescribed statutory requirements and as approved by the Chief Financial Services.

2.69 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

## ANNUAL STATEMENT OF ACCOUNTS

### Why is this Important?

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

### Key Controls

2.71 The key controls for the annual statement of accounts are:

- the Authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the City and County Treasurer;

**Deleted:** Chief Financial Services Officer

- the Authority's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom.

### Responsibilities of City and County Treasurer

**Deleted:** Chief Financial Services Officer

- 2.72 To select suitable accounting policies and to apply them consistently.
- 2.73 To make judgements and estimates that are reasonable and prudent.
- 2.74 To comply with the Statement of Recommended Practice.
- 2.75 To sign and date the statement of accounts, stating that it presents fairly the financial position of the Authority at the accounting date and its income and expenditure for the year ended 31st March.
- 2.76 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### Responsibilities of Chief Officers

- 2.77 To comply with accounting guidance provided by the City and County Treasurer, and to supply the City and County Treasurer with information in the format, and by the date, requested.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## SECTION 3 – FINANCIAL PLANNING

- [Performance Plans](#)
- [Revenue Budgeting and Monitoring](#)
- [Capital Budgeting and Monitoring](#)
- [Maintenance of Reserves](#)

### PERFORMANCE PLANS

#### Why is this Important?

- 3.1 The Authority has a statutory responsibility to publish various performance plans, including Wales Programme for Improvement. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. External audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and publication of the Programme for Improvement.

#### Key Controls

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

#### Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

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

#### Responsibilities of Chief Officers

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

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

Deleted: Chief Financial Services Officer

## REVENUE BUDGETING AND MONITORING

### **Budget Format**

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

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

#### **Key Controls**

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

#### **Responsibilities of the City and County Treasurer**

Deleted: Chief Financial Services Officer

- 3.13 To advise the Executive on the format of the budget that is approved by the full Council.

#### **Responsibilities of Chief Officers**

- 3.14 To comply with accounting guidance provided by the City and County Treasurer.

Deleted: Chief Financial Services Officer

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

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

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

- 3.16 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for a local authority to budget for a deficit.
- 3.17 In considering the affordability of its capital plans the Council is required to consider all the resource currently available, and for the future together with an estimate of its requirements for the following year and each of the following two years. The Council is also required to consider known significant changes beyond this timeframe. This requires the development of rolling 3-year forecasts.

## Key Controls

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

## Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

- 3.19 To prepare a report annually on a budget strategy for the following financial year for consideration by the Executive. This will take account of the Policy Framework, commitments, resource constraints and shall include medium term prospects. It will cover all the services of the Authority. The report shall be made in accordance with the Budget and Policy Framework Rules. The Executive having considered the report of the City and County Treasurer and having consulted upon any proposals in accordance with the Budget and Policy Framework Procedure Rules the Executive will then agree a budget strategy.
- 3.20 To prepare, after the budget strategy has been agreed by the Executive, in conjunction with the Corporate Directors and Chief Officers, estimates of the income and expenditure of the various service areas and submit them to the Executive. The Executive shall consider the aggregate effect of these estimates upon the Authority's financial resources and, subject to any other considerations of policy and to any amendments which it proposes to make, shall draw up proposals for the Budget and the amount of Council Tax and Housing Rents to be levied for the ensuing financial year to be referred to the Council. The inclusion of items in approved revenue estimates shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.
- 3.21 To prescribe the Budget format required.
- 3.22 To advise on the medium term implications of spending decisions and prepare medium term plans.
- 3.23 To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 3.24 To advise the full Council on Executive proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

Deleted: Chief Financial Services Officer

- 3.25 To ensure all matters required to be taken into account are reported to the Executive and Council when setting and reviewing prudential indicators.

### Responsibilities of Chief Officers

- 3.26 To provide the City and County Treasurer with information to complete the medium term plan.

**Deleted:** Chief Financial Services Officer

- 3.27 To prepare, in conjunction with the City and County Treasurer, estimates of income and expenditure.

**Deleted:** Chief Financial Services Officer

- 3.28 To prepare budgets that are consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Executive. The budget format will be prescribed by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

- 3.29 To integrate financial and budget plans into service planning.

- 3.30 When drawing up draft budget requirements, to have regard to:

- spending / income patterns and pressures revealed through the budget monitoring process;
- legal requirements;
- policy requirements as defined by the full Council in the approved policy framework;
- initiatives already under way;
- Areas where savings/efficiencies can be made.

### Resource Allocation

#### Why is this Important?

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

#### Key Controls

- 3.32 The Key controls for resource allocation are:

- resources are acquired in accordance with the law and using an approved authorisation process;
- resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- resources are securely held for use when required;
- resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

- 3.33 To advise on Resources such as grants from WAG or the affordability of borrowing.



- 3.34 To advise on the suitability of proposals to introduce/modify financial procedures to control resources (e.g. stock control systems).
- 3.35 To assist in the allocation of resources to budget managers.

### **Responsibilities of Chief Officers**

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

### **Revenue Budget Monitoring and Control**

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

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

#### **Key Controls**

- 3.42 The Key controls for managing and controlling the revenue budget are:
- there is a nominated budget manager for each budget heading;
  - budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - budget managers follow an approved certification process for all expenditure;
  - income and expenditure are properly recorded and accounted for;
  - performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;

- specific budget approval is given for all expenditure;
- budget managers are appropriately trained to carry out their budgetary control responsibilities.

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

3.43 To establish an appropriate framework of budgetary management and control that ensures that:

- budget management is exercised within annual cash limits unless the full Council agrees otherwise;
- all Corporate Directors and Chief Officers are furnished with periodical statements of receipts and payments and such other relevant information as he/she has which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- in consultation with Corporate Directors and Chief Officers, reports are submitted, as determined by the City and County Treasurer, to the Executive, monitoring expenditure and comparing anticipated outturn with estimates;
- each profit centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision making processes that commits expenditure;
- significant variances from approved budgets are investigated and reported by budget managers regularly.

**Deleted:** Chief Financial Services Officer

3.44 To submit reports to the Executive and to the full Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.

3.45 To establish procedures for the monitoring of prudential indicators.

### Responsibilities of Corporate Directors and Chief Officers

3.46 To be responsible for keeping strict supervision of the expenditure of their respective service areas and for drawing the attention of the City and County Treasurer and the Executive and the Council to any contemplated expenditure not provided for in the estimates or which, if incurred, would exceed the amount allocated for the purpose in the estimates or not be in line with the Budget or the Policy Framework.

**Deleted:** Chief Financial Services Officer

3.47 To maintain budgetary control within their service areas, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for.

3.48 To ensure that budgetary provision is identified for all expenditure incurred.

3.49 To ensure that officers responsible for committing expenditure comply with relevant guidance and financial regulations.

3.50 To ensure, after consultation with the City and County Treasurer that there is prior approval by the full Council or Executive ( as appropriate) for new proposals, of whatever amount, that:

**Deleted:** Chief Financial Services Officer

- create financial commitments in future years;
- change existing policies, initiate new policies or cease existing policies;
- materially extend or reduce the authority's services.

3.51 To ensure compliance with procedures regarding virement.

## CAPITAL BUDGETING AND MONITORING

### Why is this Important?

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

### Key Controls

3.54 The Key Controls for capital programmes are:

- specific approval by the full Council for the programme of capital expenditure;
- a scheme and estimate, including project plan, options, progress targets and associated revenue expenditure is prepared for each capital project, for appraising by the City and County Treasurer;
- proposals for improvements and alterations to buildings must be approved by the appropriate Chief Officer in accordance with the Asset Management Plan;
- schedules for individual projects within the overall budget approved by the Council must be approved by the appropriate Chief Officer;
- accountability for each proposal is accepted by a named project manager;
- progress and expenditure should be monitored and compared to the approved budget.

Deleted: Chief Financial Services Officer

### Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

- 3.55 To issue guidance relating to the strategy and controls for capital schemes. The definition of 'capital' will be determined by the City and County Treasurer, having regard to Government regulations and accounting requirements.
- 3.56 To advise the Executive and Council on the affordability, prudence and sustainability of the Capital Programme by the preparation of prudential indicators as required by the prudential code for capital finance in Local Authorities.
- 3.57 To ensure all matters required to be taken into account are reported to the executive and Council when setting and revising prudential indicators.
- 3.58 To establish procedures for the monitoring of prudential indicators.
- 3.59 To prepare a report on the Capital Programme on the service area proposals, taking into account the Prudential Code of Borrowing, Policy Framework, commitments, resource constraints and Capital Receipts. This report shall compare the estimates with the finance available and propose the level of annual expenditure of each service area. The report will identify those schemes where expenditure may only be incurred after further work has been undertaken.

Deleted: Chief Financial Services Officer

3.60 To furnish all Corporate Directors and Chief Officers with periodical statements of expenditure and progress on individual schemes. It shall be the responsibility of the City and County Treasurer in consultations with each Corporate Director and Chief Officer to submit reports, as determined by the City and County Treasurer, to the Executive and the Council, monitoring expenditure and comparing with approved programme. The inclusion of items in the approved capital programme shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## Responsibilities of Chief Officers

3.61 To comply with guidance concerning capital projects and controls issued by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

3.62 To carry out an option appraisal before bidding / incurring capital expenditure to determine alternative methods of need.

3.63 To consider the revenue implications of Capital Projects over the whole life of projects and notify the City and County Treasurer when planning to undertake such schemes which do commit the authority to additional Revenue expenditure.

**Deleted:** Chief Financial Services Officer

3.64 To submit a prioritised list of bids as part of the Medium Term capital budgeting process representing the schemes required to deliver Service and Corporate strategy.

3.65 To ensure that approvals for all capital expenditure proposals are obtained from the City and County Treasurer prior to a schemes commencement.

**Deleted:** Chief Financial Services Officer

3.66 To prepare returns of projected estimated final costs of schemes, in the approved capital programme profiled annually, for submission to the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

3.67 To ensure that adequate records are maintained for all capital contracts and the preparation of grant claims.

3.68 To ensure compliance with the Authority's scheme of virement.

3.69 To prepare and submit an annual report, in consultation with the City and County Treasurer, to the Executive on the completion of all contracts where the final expenditure exceeds the approved contract sum.

**Deleted:** Chief Financial Services Officer

3.70 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the City and County Treasurer and, if applicable, approval of the scheme through the capital programme.

**Deleted:** Chief Financial Services Officer

3.71 To consult with the City and County Treasurer where the Chief Officer proposes to bid for Capital Funding to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme.

**Deleted:** Chief Financial Services Officer

3.72 To ensure all expenditure charged against capital budgets meets the definition of capital expenditure in accordance with the Local Government Act 2003 and recommended accounting practice.

## MAINTENANCE OF RESERVES

## Why is this Important?

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

## Key Controls

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

**Deleted:** Chief Financial Services Officer

## Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

- 3.77 To advise the Executive and/or the full Council on prudent levels of Reserves for the Authority.

## Responsibilities of Chief Officers

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

## SECTION 4 - RISK MANAGEMENT AND CONTROL OF RESOURCES

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

### RISK MANAGEMENT

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

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

#### **Key Controls**

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

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

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

- 4.3 To develop risk management controls in conjunction with Corporate Directors and other Chief Officers.
- 4.4 To ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.
- 4.5 To affect insurance cover, and to arrange for the negotiation of claims in consultation with other Chief Officers, where necessary.
- 4.6 To hold in safe custody all insurance policies of the Authority, arrange for payment of premiums by the due date, and manage the Authority's own Insurance Fund.
- 4.7 To prescribe procedures for dealing with claims on the Authority's own Insurance Fund.
- 4.8 To make arrangements to ensure that insurance records relating to liability policies and related correspondence must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be retained for six years. All employees will adhere to the requirements of the City and County Treasurer as to the retention of any documents of the nature referred to in this rule.

**Deleted:** Chief Financial Services Officer

### Responsibilities of Chief Officers

- 4.9 To take responsibility for risk management, having regard to advice from the City and County Treasurer, and other specialist officers (e.g. risk management champions, crime prevention, fire prevention, health and safety).
- 4.10 To ensure that there are regular reviews of risk within their service areas.
- 4.11 To ensure that risk management is brought to the attention of relevant staff in their service areas.
- 4.12 To notify the City and County Treasurer immediately in writing of any loss, liability or damage, or any event likely to lead to a claim by or against the Authority, and inform the Police, where necessary.
- 4.13 To submit claims in such a form as prescribed from time to time by the City and County Treasurer.
- 4.14 To arrange for the identification of all appropriate employees of the Authority who should be included in a suitable fidelity guarantee insurance, and shall make arrangements through the City and County Treasurer for such inclusion.
- 4.15 To notify the City and County Treasurer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

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

## INTERNAL CONTROLS

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

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

### **Key Controls**

- 4.25 The key controls are:
  - key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;



- managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, and CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom, and with any other statutory obligations and regulations;
- an effective Audit Panel which meets on a regular basis to consider internal control and auditing matters.

## Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

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

## Responsibilities of Chief Officers

- 4.27 To establish sound arrangements, consistent with guidance given by the City and County Treasurer, or the Audit and Risk Manager, for planning, appraising, authorising, and controlling their operations, in order to achieve:

Deleted: Chief Financial Services Officer

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

- 4.28 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Audit and Risk Manager. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.
- 4.29 To ensure staff have a clear understanding of the consequences of lack of control.

## INTERNAL AND EXTERNAL AUDIT

### *Internal Audit*

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

- 4.30 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'. The Accounts and Audit Regulations, more specifically, require that a 'relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems'.
- 4.31 Internal audit is an independent and objective appraisal function established by the Authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

#### **Key Controls**

- 4.32 The key controls for internal audit are:
- that it is independent in its planning and operation;
  - the Audit and Risk Manager has direct access to the Chief Executive, all levels of management and directly to elected members;
  - internal auditors comply with the Auditing Practices Board's guideline Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom;
  - that it reports to an Audit Panel.

#### **Responsibilities of the City and County Treasurer**

Deleted: Chief Financial Services Officer

- 4.33 To maintain a continuous and independent internal audit of the Authority's accounting, financial and other operations of the Authority.
- 4.34 To ensure that all employees carrying out auditing duties comply with the current CIPFA Code of Practice for Internal Auditors in Local Government in the UK.
- 4.35 To make arrangements for there to be undertaken a cyclical review of all financial systems throughout the Authority and to determine the appropriate level of audit coverage.
- 4.36 To ensure that internal auditors have the authority to:
- access authority premises at reasonable times, subject to the Audit and Risk Manager being satisfied as to any risk to health and safety;
  - access all assets, records, documents, correspondence and control systems;
  - receive any information and explanation considered necessary concerning any matter under consideration;
  - require any employee of the Authority to account for cash, stores or any other authority asset under his or her control;
  - access records belonging to third parties, such as contractors, when required;

- review, appraise and report on the adequacy and application of financial and other controls, and on the protection of the Authority's property and assets against loss due to fraud or wasteful practices.
- 4.37 To approve the strategic and annual audit plans prepared by the Audit and Risk Manager, which take account of the characteristics and relative risks of the activities involved.
- 4.38 To ensure that the Audit and Risk Manager has the right to report independently to the Council, the Audit Panel or an appropriate committee, in his/her own name.

### **Responsibilities of Chief Officers**

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

### **External Audit**

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

- 4.44 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- 4.45 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice sets out the auditor's objectives to review and report upon:
- the financial aspects of the audited body's corporate governance arrangements;
  - the audited body's financial statements;
  - aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the Best Value Performance Plan.
- 4.46 The Authority's accounts are scrutinised by the external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Authority and its income and expenditure for the year in question and complies with the legal requirements.

## Key Controls

- 4.47 External auditors are appointed by the Audit Commission, normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.
- 4.48 The external auditor attends all the meetings of the Audit Panel.

### Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

- 4.49 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 4.50 To ensure there is effective liaison between external and internal audit.
- 4.51 To work with the external auditor and advise the full Council, Executive and Chief Officers on their responsibilities in relation to external audit.

### Responsibilities of Chief Officers

- 4.52 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets, which the external auditors consider necessary for the purposes of their work.
- 4.53 To ensure that all records and systems are up to date and available for inspection.
- 4.54 To ensure that all employees have proper regard to the guidance issued by the City and County Treasurer in connection with any external audits, and any reports of the external auditor.

Deleted: Chief Financial Services Officer

## PREVENTING FRAUD AND CORRUPTION

### Why is it this Important?

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

### Key Controls

- 4.58 The key controls regarding the prevention of financial irregularities are that:

- the Authority has an effective anti-fraud and anti-corruption strategy and maintains a culture that will not tolerate fraud or corruption;
- all members and staff act with integrity and lead by example;
- senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt;
- high standards of conduct are promoted;
- the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
- whistle blowing procedures are in place and operate effectively;
- legislation, including the Public Interest Disclosure Act 1998, is adhered to;
- matters relating to fraud and corruption are reported to an Audit Panel.

Deleted: Chief Financial Services Officer

## Responsibilities of the City and County Treasurer

- 4.59 To develop and maintain an anti-fraud and anti-corruption strategy.
- 4.60 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 4.61 To ensure that all suspected financial irregularities are reported to the Audit and Risk Manager. The Audit and Risk Manager shall take steps as he/she considers necessary by way of investigation, in liaison with service area management where appropriate, and in line with the Authority's Anti Fraud and Corruption Strategy. Where sufficient evidence exists to believe that a criminal offence may have been committed by an external party, the matter will be referred in conjunction with the Audit and Risk Manager to the police.

## Responsibilities of Chief Officers

- 4.62 To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Audit and Risk Manager.
- 4.63 To immediately notify the Audit and Risk Manager whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority.
- 4.64 To liaise with the Audit and Risk Manager in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud and Corruption Strategy.
- 4.65 Where sufficient evidence exists to believe that a criminal offence may have been committed by a member of staff, to call a Police Referral Panel. Where a decision is taken by this Panel to refer the matter to the Police, the Chief Officer shall do so without delay.
- 4.66 To instigate the Authority's disciplinary and suspension procedures where the outcome of an investigation indicates improper behaviour by a member of staff.
- 4.67 To ensure that employees comply with Council guidance regarding the acceptance of hospitality, gifts and other benefits.

## **SECURITY OF ASSETS**

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

- 4.68 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.
- 4.69 Obsolete, non-repairable or unnecessary assets should be disposed of in accordance with the regulations of the Authority.
- 4.70 Misuse of computer resources can seriously affect the business interests of the Authority.
- 4.71 Intellectual property is a generic term that includes inventions and writing. If these are created by an employee or consultant during the course of employment, then, as a general rule, they belong to the employer. Various acts of Parliament cover different types of intellectual property. Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development.

### **Key Controls**

- 4.72 The key controls for the security of resources such as land, buildings, vehicles, plant, machinery, furniture equipment, software and information are:
- resources are used only for the purposes of the Authority and are properly accounted for;
  - resources are available for use when required;
  - resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits;
  - an asset register is maintained for the Authority - assets are recorded when they are acquired by the Authority and this record is updated as changes occur with respect to the location and condition of the asset;
  - assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction;
  - procedures for disposal of stocks and equipment shall be in accordance with the Authority's guidance for disposal of "surplus" goods and materials;
  - procedures should protect staff involved in the disposal of assets from accusations of personal gain;
  - all staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act, Freedom of Information Act and software copyright legislation;
  - all staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to

the information held on them and compliance with the Authority's information security and internet security policies;

- in the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with any approved intellectual property procedures.

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

### **Responsibilities of the City and County Treasurer**

**Deleted: Chief Financial Services Officer**

- 4.73 To maintain a terrier of all properties owned by the Authority and an asset register for all 'material' fixed assets, in accordance with good practice.
- 4.74 To receive information required for accounting and costing in order to calculate capital charges and depreciation for all properties, and to maintain the asset management revenue account.
- 4.75 To ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom.
- 4.76 To determine arrangements for the acquisition and disposal of land and buildings.
- 4.77 To advise on the financial implications of any purchase, sale or holding of property on the Authority's behalf.

### **Responsibilities of the City and County Solicitor – Land and Buildings**

**Deleted: Chief Legal Services Officer**

- 4.78 To ensure the safe custody of all title deeds under arrangements agreed with the City and County Treasurer.

**Deleted: Chief Financial Services Officer**

### **Responsibilities of Chief Officers - Land and Buildings**

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

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

### **Responsibilities of the City and County Treasurer**

**Deleted: Chief Financial Services Officer**

- 4.82 To issue guidance to service areas on the maintenance of inventories and the disposal of assets.
- 4.83 To ensure appropriate accounting entries are made to include all material assets and to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

4.84 To agree procedures for the disposal of lost property.

### **Responsibilities of Chief Officers - Vehicles, Furniture and Equipment**

4.85 To ensure the proper security and safe custody of all vehicles, equipment and furniture, belonging to or under the control of the Authority, and shall make contingency plans for the continuity of service in the event of disaster or system failure.

4.86 To maintain inventories of furniture, equipment, vehicles and plant, including items leased by the Authority. This shall be kept up to date and shall be in a form approved by the City and County Treasurer and in accordance with the guidance issued by the Audit and Risk Manager. Chief Officers shall make arrangements to ensure that inventories shall include for each item, information relating to date of purchase, cost, location and any technical features, which might affect its value or usefulness.

**Deleted:** Chief Financial Services Officer

4.87 To make arrangements to ensure that an annual, independent, check of all items on the inventory is carried out, in order to verify location, review, and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders shall be identified with security markings as belonging to the Authority.

4.88 To ensure that the Authority's property shall not be removed from its ordinary location otherwise than in accordance with the ordinary course of the Authority's business except in accordance with specific directions issued by the Chief Officer concerned or used otherwise than for the Authority's purposes. A record should be kept of all authorised removals.

4.89 To ensure that no Authority asset is subject to personal use by an employee without proper authorisation.

4.90 To make arrangements to ensure that any disposal of any vehicle, furniture, fittings, equipment, plant and machinery is in accordance with the Authority's guidance for Disposals.

4.91 Before disposal to check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease.

4.92 To ensure that income received for the disposal of an asset is properly banked and coded.

4.93 If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory.

4.94 To notify the City and County Treasurer of the purchase or disposal of any material asset, to enable the asset register to be updated.

**Deleted:** Chief Financial Services Officer

4.95 Any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the Audit and Risk Manager.

### **Security of Assets - Stocks and Stores**

#### **Responsibilities of the City and County Treasurer**

**Deleted:** Chief Financial Services Officer



- 4.96 To issue guidance to service areas on the maintenance of stock and stores.
- 4.97 To approve the write off of stock and stores in accordance with Executive Delegations.
- 4.98 To ensure that appropriate accounting entries are made in relation to stock balances and write offs.

**Responsibilities of Chief Officers**

- 4.99 To make arrangements for the recording of and the care and safe custody of the stocks and stores held by their service area.
- 4.100 To ensure that stocks and stores records must be in a form to be agreed by the City and County Treasurer.
- 4.101 To make arrangements to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check, at least annually. Each Chief Officer must make arrangements for discrepancies to be investigated and pursued to a satisfactory conclusion.
- 4.102 To advise the Audit and Risk Manager immediately of any significant discrepancy in stocks.
- 4.103 To provide the City and County Treasurer with such information as he/she requires in relation to stores for accounting and costing purposes.

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**Deleted:** Chief Financial Services Officer

**Security of Assets - Cash**

**Responsibilities of the City and County Treasurer**

**Deleted:** Chief Financial Services Officer

- 4.104 To issue guidance to service areas on cash handling.
- 4.105 To agree, in consultation with the appropriate Chief Officer, the maximum limits for cash holdings.
- 4.106 To approve the write off of stolen cash, not covered by insurance.
- 4.107 To authorise the depositing of unofficial funds or valuables in a safe.

**Responsibilities of Chief Officers**

- 4.108 To agree with the City and County Treasurer, the maximum limits for cash holdings and to ensure that these limits shall not be exceeded without his /her express permission.
- 4.109 To ensure that cash holdings are kept to a minimum, and do not exceed the insurance limit for that safe.
- 4.110 To ensure that cash handling is carried out in accordance with guidance issued by the Audit and Risk Manager.

**Deleted:** Chief Financial Services Officer

- 4.111 To notify the Audit and Risk Manager and the Insurance Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the City and County Treasurer.
- 4.112 To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Authority.
- 4.113 To ensure that a schedule is kept of the officers who hold keys to safes and similar receptacles.
- 4.114 To ensure that the keys to safes and similar receptacles are held securely at all times. Arrangements shall be made for the nomination (from amongst employees) of key holders and substitute key holders who must be available in the absence of the principal key holder(s). The loss of any such keys must be reported by the key holder, or nominated substitute, to the relevant Chief Officer forthwith, who shall take appropriate steps to protect the interests of the Authority.
- 4.115 To ensure that safe key holders do not accept unofficial funds or valuables for depositing in the safe unless authorised by the City and County Treasurer. In such circumstances, it must be made clear by the key holder to the depositor, that the Authority is not to be held liable for any loss, and the key holder must obtain an acknowledgment to that effect before accepting the deposit.

Deleted: Chief Financial Services Officer

Deleted: Chief Financial Services Officer

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

### **Responsibilities of Head of ICT**

Deleted: Chief ICT Officer

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

### **Responsibilities of Chief Officers**

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

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

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

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

#### **Responsibilities of the City and County Treasurer**

**Deleted:** Chief Financial Services Officer

- 4.126 To develop and disseminate good practice.

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

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

### **Security of Assets - Clients Private Property**

#### **Responsibilities of Chief Officers**

- 4.129 The Chief Adult Services Officer and any other Chief Officer affected, shall take all necessary steps to prevent or mitigate loss or damage of a client's (being a person other than the Council) moveable property, where responsibility lies within the National Assistance Act 1948 and shall arrange for an itemised inventory in each case to be prepared in the presence of two officers, in a form prescribed by the City and County Treasurer.
- 4.130 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title shall, unless in any case otherwise decided by the Chief Executive be deposited with the Chief Adult Services Officer and any other Chief Officer affected, for safe custody. Any loss of property shall be reported to the City and County Treasurer, without delay.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## TREASURY MANAGEMENT AND TRUST FUNDS

### Why is this Important?

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

### Key Controls

- 4.132 Compliance with the CIPFA Treasury Management Code of Practice and the Authority's Treasury Management policy statement and strategy. This provides assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.

### Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

- 4.133 To prepare a Treasury Management Policy and Annual Report.
- 4.134 To maintain prudential indicators in accordance with the Prudential Code of Capital Finance for Local Authorities.
- 4.135 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in Local Government, which has been adopted by the Authority.
- 4.136 To set an investment strategy in accordance with WAG investment guidance.
- 4.137 To ensure that all investments of money under its control shall be made in the name of the Authority or in the name of nominees approved by the Executive or the Council within their respective responsibilities: bearer securities shall be excepted from this rule.
- 4.138 To hold all securities, the property of, or in the name of the Authority, or its nominees, or otherwise as the City and County Treasurer may specifically direct.
- 4.139 To ensure that all borrowings shall be effected in the name of the Authority.
- 4.140 To be the Authority's Registrar of loan instruments and to maintain records of all borrowings of money by the Authority.
- 4.141 To report in accordance with the Treasury Management practices of the Authority.
- 4.142 To direct the name of all trust funds of which the Authority, or officer of the Authority (acting by virtue of their official position), is a Trustee.
- 4.143 To hold all Trust Fund securities etc, where Members or employees act as Trustees by virtue of their official position, unless the deed otherwise provides; or as otherwise directed by the Chief Executive.

Deleted: Chief Financial Services Officer

- 4.144 To arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain records of all transactions.
- 4.145 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

## SECTION 5 - FINANCIAL SYSTEMS AND PROCEDURES

- General
- [Income](#)
- [Banking](#)
- [Ordering and Payment for Goods, Works and Services](#)
- [Imprest Accounts](#)
- [Payment to Employees and Members](#)
- [Internal Charges](#)
- [Taxation](#)

### GENERAL

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

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

**Deleted:** Chief Financial Services Officer

#### Key Controls

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

#### Responsibilities of the [City and County Treasurer](#)

**Deleted:** Chief Financial Services Officer

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

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

## Responsibilities of Chief Officers

5.5 To consult with and gain the approval of the City and County Treasurer before changing any existing system or introducing new systems.

**Deleted:** Chief Financial Services Officer

5.6 To ensure that accounting records are properly maintained and held securely.

5.7 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

5.8 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

5.9 To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed;
- all processing is carried out in an accurate, complete and timely manner;
- output from the system is complete, accurate and timely;
- data is backed up on a regular basis.

5.10 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

5.11 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

5.12 To ensure that systems are documented and staff adequately trained.

5.13 To establish a scheme of service area authorisations identifying officers to act upon his or her behalf in respect of placing orders, payments and income collection, including variations, and showing the limits of their authority.

5.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

5.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

5.16 To ensure that the Council's information security standards and internet security policy are complied with.

5.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

- 5.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- only software legally acquired and installed by the Authority is used on its computers;
  - staff are aware of legislative provisions;
  - in developing systems, due regard is given to the issue of intellectual property rights.

## INCOME

### Why is this Important?

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

### Key Controls

- 5.20 The key controls for income are:

- all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
- all money received by an officer on behalf of the Authority is properly recorded and promptly banked;
- the responsibility for cash collection should be separated from, that for identifying the amount due, and that for reconciling the amount due to the amount received;
- effective action is taken to pursue non-payment within defined timescales;
- formal approval for debt write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the City and County Treasurer;
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

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### Responsibilities of the City and County Treasurer

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- 5.21 To agree arrangements for the collection of all income due to the Authority, and to approve the procedures, systems and documentation for its collection.
- 5.22 To set and approve the arrangements for the writing off of irrecoverable debts, and to write off such debts for the Authority, in accordance with Executive Delegations.
- 5.23 To use debt recovery procedures to collect any income due to the Authority which has not been paid within specified time limits.
- 5.24 To ensure that appropriate accounting adjustments are made following any write-off action.



- 5.25 To advise the City and County Solicitor of debts that have remained unpaid with a view to the institution of legal proceedings in appropriate cases.
- 5.26 To ensure that any sum due to the Authority shall only be discharged by payment or write off.
- 5.27 To ensure that cash payments totalling €15,000 or more (or equivalent in £), are not accepted in return for the supply of goods by the Council, in accordance with the Money Laundering Regulations.

**Deleted:** Chief Legal Services Officer

### Responsibilities of Chief Officers

- 5.28 To consult with the City and County Treasurer before any proposal to introduce or revise scales of charges for services is submitted to the Executive or the Council as the case may be.
- 5.29 To ensure that all such charges are reviewed not less frequently than once a year in consultation with the City and County Treasurer.
- 5.30 To ensure that new charges are promptly implemented following appropriate approval.
- 5.31 To ensure that whenever possible, income is received in advance of the service being provided.
- 5.32 To ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and promptly banked.
- 5.33 To ensure that income collected and deposited is reconciled to the ledger on a regular basis.
- 5.34 To ensure that there is clear separation of duties within income procedures to ensure that adequate controls are in place.
- 5.35 To ensure that all income is correctly coded to the appropriate financial code.
- 5.36 To supply the City and County Treasurer with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, as may be required by him/her to record correctly all sums due to the Authority and to ensure the prompt rendering of accounts for the recovery of income due.
- 5.37 To notify the City and County Treasurer promptly in writing of all money due to the Authority, and of contracts, leases and other agreements and arrangements entered into, which involve the receipt of money by the Authority.
- 5.38 To designate from time to time employees to receive monies due and to make arrangements to ensure that appropriate records are maintained.
- 5.39 To make arrangements to ensure that all employees responsible for handling cash are issued with written instructions on cash handling and till operation procedures and that such employees have signed to acknowledge that instructions have been received and understood prior to commencing such duties.
- 5.40 To ensure that all employees use official receipts or tickets for all income received on behalf of the Authority and ensure that all chargeable VAT is accounted for.

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

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- 5.55 To authorise an adjustment to the accounts, in consultation with the City and County Treasurer, if a mistake has been made in raising an invoice. Deleted: Chief Financial Services Officer
- 5.56 To consult the City and County Treasurer about any proposal to arrange to accept payments by credit cards, debit cards, switch cards, internet, or similar means. Deleted: Chief Financial Services Officer
- 5.57 To notify the City and County Treasurer of outstanding income (reserved debtors) relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the City and County Treasurer. Deleted: Chief Financial Services Officer
- 5.58 To ensure that cash payments totalling €15,000 or more (or equivalent in £), are not accepted in return for the supply of goods by the Council in accordance with the Money Laundering Regulations. Deleted: Chief Financial Services Officer

## **BANKING**

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

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

### **Key Controls**

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

### **Responsibilities of the City and County Treasurer**

Deleted: Chief Financial Services Officer

- 5.61 To make or approve all arrangements with the Authority's bankers.
- 5.62 To open and operate bank accounts, including National Giro, as are considered necessary.
- 5.63 To ensure that all bank accounts operated by or on behalf of the Authority shall bear an official title and in no circumstances shall an account be opened in the name of an individual.
- 5.64 To approve the use of any direct debit/standing order on the Authority's accounts.
- 5.65 To arrange the reconciliation of the main bank account with the Authority's cash accounts.
- 5.66 To ensure that all cheques, including National Giro payment forms, but excluding cheques drawn on authorised imprest accounts, are ordered only on his/her authority.
- 5.67 To make proper arrangements for the safe custody of cheques.
- 5.68 To ensure that cheques on the Authority's main bank accounts, including National Giro accounts, shall bear the facsimile signature of the City and County Treasurer or be signed by him/her or another officer authorised to do so. Deleted: Chief Financial Services Officer

5.69 Request for payments by alternative methods must first be approved by the City and County Treasurer.

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5.70 Personal cheques of Councillors or employees are not to be cashed.

### Responsibilities of Chief Officers

5.71 To ensure that all income collected is promptly banked.

5.72 To ensure that all income received by an officer, on behalf of the Authority, is paid in direct to the Authority's bank, or transmitted directly to any other body or person entitled thereto. No deduction may be made from any money held, save to the extent that the City and County Treasurer may specifically authorise.

**Deleted:** Chief Financial Services Officer

5.73 To ensure that, in accordance with the relevant Accounts and Audit Regulations, each employee who banks money, enters on the paying in slip, a reference to the related debt (such as the receipt number or the number or the name of the debtor) and indicate its place of origin on the reverse of each cheque.

5.74 To ensure that all income received on behalf of the Authority is properly safeguarded from the time it is received until the time that it is banked (e.g. kept in a safe or locked receptacle).

5.75 To ensure that in the transport of money by any employee for banking, or other purpose, that employee and his or her supervisor have due regard for the safety of employees (including the employee transporting such money), and for the proper security of cash. The Chief Officer shall ensure arrangements are made which incorporate the necessary safeguards.

5.76 To ensure that bank accounts do not become overdrawn.

5.77 To ensure that payments made through the Council's bank account are properly authorised, correctly calculated, valid and in accordance with Council's procurement and payment procedures.

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

#### Why is this Important?

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

#### Key Controls

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

- all orders shall be in a form approved by the City and County Treasurer;

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

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### Responsibilities of the City and County Treasurer - Procurement

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

### Responsibilities of Chief Officers - Procurement

- 5.81 To ensure that all employees comply with the Authority's Contract Procedure Rules.
- 5.82 To ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the City and County Treasurer, which are in line with best value principles and contained in the Authority's Contract Procedure Rules.
- 5.83 To make arrangements to ensure that every employee declares any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance

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with the Officer Code of Conduct. Any employee declaring such an interest or having such an interest will not participate in (or act so as to influence or appear to influence) any decisions relating to the matter in which they have such an interest. All Councillors involved in contractual or purchasing decisions on behalf of the Authority will declare any interests and act in accordance with the Members' Code of Conduct.

5.84 To ensure that officers within their service areas will not make any personal or private use of the benefits of any Authority contracts. For the avoidance of doubt, nothing in this paragraph will preclude an employee from taking advantage of Council wide schemes, which have been approved by the City and County Treasurer.

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5.85 To ensure that all IT purchases conform to a standard identified by the Head of ICT. Exceptional purchases, outside of these standards, shall be agreed in advance with the Head of ICT.

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5.86 To ensure that no financial systems are purchased without the prior agreement of the City and County Treasurer.

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### **Responsibilities of the City and County Treasurer - Ordering**

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5.87 To approve the format of official orders and arrangements for placing orders under Enterprise Buyer Professional (EBP) and SAP R/3.

5.88 To determine order approval levels.

5.89 To approve the format and use of manual order books and to order, control and issue these to service areas.

5.90 To raise or agree arrangements for all limit orders in consultation with the appropriate Chief Officer.

5.91 To arrange for the despatch of all orders that cannot be sent electronically, excluding manual orders.

5.92 To approve all exceptions to the use of official orders.

5.93 To approve any arrangements for the use of credit and procurement cards.

### **Responsibilities of Chief Officers – Ordering**

#### General

5.94 To ensure that official orders are issued for all works, goods and services supplied to the Authority except for internal services, periodical payments (e.g. utility payments), and for petty cash purchases, or such other exceptions as the City and County Treasurer may approve.

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5.95 To ensure that official orders are raised in EBP or SAP R/3, with the exception of exemptions approved by an officer nominated by the City and County Treasurer.

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5.96 In cases of urgency, a verbal order may be issued. An official confirmation order must be issued within three working days.

- 5.97 To ensure that employees do not use official orders to obtain goods or services for their private use.
- 5.98 To ensure that each order conforms to the directions of the Authority with respect to any policy on central purchasing, computer purchasing, standardisation, quality and Environmental Strategy as may from time to time be adopted by the Authority. Chief Officers shall make arrangements to ensure that all purchases comply with any legal or health and safety requirements.
- 5.99 To ensure that credit and procurement cards are only used under arrangements approved by the City and County Treasurer.
- 5.100 To make arrangements to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the City and County Treasurer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

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### EBP and SAP R/3

- 5.101 To ensure that where manual requisitions are used for notification to a central order point, the information is promptly entered onto EBP/ SAP R/3.
- 5.102 After due consideration, to arrange for nominations for officers for the role of requisitioner and approver. EBP will allow a requisitioner to fulfil the approver role, but will prevent an officer approving their own requisition.
- 5.103 All requisitions above £10K must be approved by an Operational Manager (PO grade in exceptional circumstances) and Chief Officers shall authorise all such approvers. An Operational Manager may authorise a requisitioner or approver up to £10K.
- 5.104 To maintain an up to date list on EBP of requisitioners, approvers/substitutes within their service area. No officer shall process or approve an order, or purport to do so, unless he/she is duly authorised for that purpose. To maintain a list of R3 requisitioners and Approvers within the Service Area.
- 5.105 Where a requisition on EBP is forwarded for approval to any other officer, this must be a nominated approver, and for spend above £10K, must be an Operational Manager (or PO grade in exceptional circumstances).
- 5.106 To ensure that the requisitioner enters the following details on the requisition on EBP:-
- a full description of the item required;
  - an accurate price, where appropriate, as quoted by catalogue or supplier;
  - the required quantity;
  - an appropriate product category (which will generate the appropriate financial code);
  - the correct VAT suffix;
  - the delivery address;
  - the invoice address.
- 5.107 To ensure that, prior to approving a requisition on EBP/SAP R/3, the approving officer checks that:-
- all relevant details have been entered and are correct;
  - there is adequate provision in the budget;
  - the items are appropriate for the purpose intended;



## Manual Orders

- 5.108 To make arrangements to ensure the control and safe custody of all manual order books and that they are only used for goods and services provided to the service area.
- 5.109 To ensure that manual order books are only used for cases of emergency or for any exceptions approved by the City and County Treasurer.
- 5.110 To ensure that manual orders are promptly input onto EBP/SAP R/3 by the requisitioner.

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## **Responsibilities of Chief Officers - Goods Received**

- 5.111 To make arrangements to ensure that goods, services and works are checked on receipt to verify that they are in accordance with the order. This check shall, where possible, be carried out by a different officer from the officer who approved the order. The officer carrying out the check shall make appropriate entries in inventories or stores records.
- 5.112 To ensure that goods received details are entered promptly on EBP by the requisitioner or the nominated goods recipient.
- 5.113 To ensure that service entry details are entered promptly on SAP R/3 by the requisitioners or nominated service recipient.
- 5.114 To ensure that service entry details particularly those in respect of evaluated receipt settlement (ERS) vendors are correct as this will result in an automated payment to the vendor.
- 5.115 To ensure that where invoice plans exist the correct amount of service has been received prior to the removal of the billing block which releases an automated payment.

## **Responsibilities of the City and County Treasurer - Payment**

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- 5.116 To make payments on behalf of the Authority with the exception of disbursements from petty cash imprests and from subsidiary bank accounts which have been authorised by the City and County Treasurer. The normal method of payment of money due from the Authority shall be by cheque, BACS or other instrument drawn on the Authority's bank account or National Giro account. The use of direct debit/standing order requires the prior agreement of the City and County Treasurer.
- 5.117 To make safe and efficient arrangements for all payments. All cheques shall be despatched by the City and County Treasurer direct to the recipient and not returned to the originating service. In the exceptional circumstances when cheques do need to be returned to a service area for despatch with associated documents, this must be approved in advance by the relevant Operational Manager, and the cheque must not be passed to the initiating officer.
- 5.118 To ensure that payment is not made to a sub-contractor in the construction industry, who does not possess either an appropriate exemption certificate or a registration card. If the sub-contractor has a registration card, tax will be deducted at the current rate from the labour element of his invoice and the Authority will send the sub contractor a Tax Payment Voucher. If the sub-contractor has a CIS6 exemption certificate, the invoice will be paid gross, and the sub-contractor will provide the Authority with a Sub Contractor's Gross Payment Voucher for the payment received. If the sub-contractor has a CIS5 exemption certificate, the invoice will be paid gross and a Construction Gross Payment

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Voucher will be sent to the sub contractor. The Authority will pay over to the Inland Revenue all tax deducted and will provide Returns of all payments made whether taxed or not. To assist in the Authority's compliance with the Finance Act, employees shall whenever possible identify the invoice as being payable to a sub-contractor for payment.

- 5.119 To make payments to contractors on an approved certificate, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments are to be made to contractors using authenticated receipts raised by service areas.
- 5.120 To provide advice on making payments by the most economical means.
- 5.121 To set tolerance levels for cost and quantity variations.
- 5.122 To agree any exceptions to payment by EBP/SAP R/3.
- 5.123 To approve all arrangements for direct payments. (These relate to payments which do not have an associated order, such as utility payments).
- 5.124 To approve the format of Payment Request forms.
- 5.125 To periodically check that Payment Requests and direct payment invoices have been certified for payment by an authorised signatory.
- 5.126 To consider Payment Requests and direct payment invoices to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may reasonably require from any employee or Councillor exercising Executive Functions.

## Responsibilities of Chief Officers - Payment

### General

- 5.127 To make arrangements for the submission of accounts for payment in accordance with arrangements made by the City and County Treasurer.
- 5.128 To ensure that payment is made only against a supplier's invoice or Payment Request, not on statements of account, or a photocopy or faxed copy invoice. Except where a job card or invoice plan is used.
- 5.129 To notify the City and County Treasurer at 1<sup>st</sup> April, or as required, of all outstanding expenditure relating to the previous financial year, and shall comply with any instruction issued in connection with the year-end accounting arrangements.

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### EBP

- 5.130 To ensure EBP is used for all payments and any exceptions have been agreed by the City and County Treasurer.
- 5.131 To ensure that there is a segregation of duties between the officers requisitioning, approving and inputting invoices for payment. Where limited resources do not allow a full segregation of duties, special arrangements can be put in place to enable a nominated requisitioner to process invoices. These exceptional circumstances require the approval of the Chief Officer and an officer nominated by the Chief Financial Service Officer.

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5.132 To arrange for officers to be nominated as invoice clerks and a list of these maintained on EBP and kept up to date. Operational Managers may nominate invoice clerks.

5.133 To ensure that invoices are input to the system without delay, in the manner specified by the City and County Treasurer.

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5.134 To ensure that invoices that do not meet the set tolerance levels are promptly dealt with. Where there is no match to order and delivery note, any further approval has to be given by a nominated approver/substitute (Operational Manager or PO grade, if above £10K).

5.135 To ensure that invoices are not processed until the inputting officer is satisfied that delivery details have been entered.

5.136 To ensure that all invoices input for payment are filed and stored securely in the manner prescribed by the City and County Treasurer.

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#### Payment Requests/Direct Payments (Non Order Payments)

5.137 To ensure that all Payment Requests are completed on a form approved by the City and County Treasurer. These must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor, and relevant supporting documentation must be attached to support the payment. Payment Requests shall normally only be used where payment is required by a supplier before goods/services are provided.

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5.138 To ensure that before a direct payment invoice (e.g. utility invoice), or a Payment Request is authorised, an employee undertakes the following checks:-

- the payment is properly the liability of the Authority;
- the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);
- the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
- the expenditure has been properly coded;
- expenditure is within the estimates;
- where a payment includes VAT, in accordance with HM Customs and Excise Regulations:-
  - the invoice is a tax invoice;
  - for construction industry payments, an authenticated receipt will be obtained, or;
  - for payments made in advance of services/goods being received, a tax receipt will be obtained.

5.139 To ensure that an authorisation slip is completed in respect of a direct payment invoice. The officer completing the slip must initial that the above checks have been undertaken. The authorisation slip must be certified by a different officer, authorised to do so. Before certifying a direct payment invoice, the authorised signatory must be satisfied that the above checks have been undertaken, as evidenced on the authorisation slip.

5.140 To ensure that a Payment Request is completed by a designated officer and then passed to an authorised signatory for certification (Operational Manager or PO grade if spend is above £10K).

- 5.141 To ensure that their respective service area retains lists with the names of employees authorised to approve Payment Requests and invoice authorisation slips. A copy shall be sent to the Financial Services Payments Team by each Chief Officer together with specimen signatures and shall be amended on the occasion of any changes therein. Authorised signatories shall sign in their own name and not sign in the name of their Chief Officer or use rubber facsimile signature stamps.
- 5.142 To ensure that a relevant Operational Manager approves in advance where a cheque is required to be returned to a service area for despatch with associated documents. This should only happen in exceptional circumstances, and the cheque must not be passed to the initiating officer.
- 5.143 To ensure that payment in advance of the receipt of goods or services is only made where it is essential in order to secure the particular supply required or where a beneficial discount would otherwise be lost.
- 5.144 To ensure that duly certified Payment Requests and direct payment invoices are passed without delay to the City and County Treasurer.

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## IMPREST ACCOUNTS

### Why is this Important?

- 5.145 Imprest Accounts are maintained in separate bank accounts and are used for minor items of expenditure. It is important that such accounts are properly managed, and that all expenditure is valid and correctly incurred.

### Key Controls

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

- all Imprest Accounts should be operated in accordance with guidance issued by the City and County Treasurer;
- regular reconciliations between the imprest sum advanced and imprest records are undertaken.

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### Responsibilities of the City and County Treasurer

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- 5.147 Where he/she considers it appropriate to open an account with the Authority's bankers or National Giro for use by the imprest holder.
- 5.148 To determine the imprest level.
- 5.149 To periodically review the arrangements for the safe custody and control of Imprest accounts.
- 5.150 To reimburse imprest holders as often as necessary to restore the imprests and to keep a record of such advances.
- 5.151 To provide guidance on how imprest accounts are to be operated and how records are to be kept of payments and reimbursements.

## Responsibilities of Chief Officers

5.152 To ensure that all imprest accounts are maintained in accordance with the guidance issued by the Audit and Risk Manager.

5.153 To maintain a list of officers in their service areas who are authorised to hold imprest accounts.

5.154 To notify the City and County Treasurer when an imprest holder leaves the service area and to ensure that the imprest advanced is accounted for to the City and County Treasurer, unless responsibility for the imprest is transferred to a different officer. In which case the City and County Treasurer should be notified of the new account holder.

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5.155 To agree with the City and County Treasurer the procedure for reimbursing expenditure imprest accounts.

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5.156 To ensure that income received on behalf of the Authority is not paid into an imprest account, but is banked or paid to the Authority.

5.157 To ensure that officers:

- do not, under any circumstances, allow personal cheques to be cashed, or personal loans to be made, from monies held in an imprest account;

- obtain and retain a receipt to substantiate each payment from the imprest. Particular care shall be taken by the employee to obtain a VAT invoice when this tax is charged;

- restrict the amount of each separate payment to such limit as may be prescribed from time to time by the City and County Treasurer;

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- maintain records and operate the account in accordance with the City and County Treasurer instructions;

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- maintain the safe custody of imprest cash by keeping it securely locked away preferably in a safe; guidance on this matter can be obtained from the Audit and Risk Manager;

- produce, upon demand, to the City and County Treasurer or his/her representative cash and/or vouchers to the total of the imprest;

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- record transactions promptly;

- when requested, give to the City and County Treasurer a certificate as to the state of his/her imprest advance;

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- where an imprest is operated through a bank account, ensure that the account remains in credit, and that the procedures set out under banking arrangements in the Financial Procedure Rules are followed. It shall be a standing instruction to the Authority's bankers that the amount of any overdrawn balance on an imprest holder's account shall be reported forthwith to the City and County Treasurer;

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- do not make salaries or wages payments to employees from an imprest account; No payment must be made to sub-Contractors for building work unless authorised by the City and County Treasurer;

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- reconcile and balance the account to the total of the sum advanced, at least monthly, with a copy of the reconciliation sheet signed and retained by the imprest holder.

Periodic checks shall be made by a senior officer to ensure that this is being properly carried out;

- on leaving the employment of the Authority, or otherwise ceasing to be entitled to hold an imprest advance, account to the relevant Chief Officer for the amount advanced.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

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

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

### **Key Controls**

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

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

**Deleted:** Chief Financial Services Officer

### **Responsibilities of the City and County Treasurer**

**Deleted:** Chief Financial Services Officer

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

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

5.161 To approve, in consultation with the appropriate Chief Officer, the form of all timesheets, overtime forms, car mileage and travel and subsistence claims, and any other payroll related records.

5.162 To maintain an up to date list of all officers authorised to approve timesheets, overtime forms, car mileage and travel and subsistence claims, and all other payroll related records.

5.163 To check periodically that all officer claims for salaries, wages, overtime, travel, subsistence and other allowances/expenses are correctly certified by an authorised signatory before payment is made.

- 5.164 To maintain all necessary personal records concerning pay, pension, national insurance contributions and income tax and make all relevant payments on behalf of both employees and the Authority to the appropriate Government agencies.
- 5.165 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 5.166 To issue guidance to service areas on the retention of payroll records. All payroll records relating to Income Tax and National Insurance are to be retained for six years plus the current year, to satisfy the requirements of the Taxes Management Act. Records relating to pensions should be retained for six years following the cessation of any liability.
- 5.167 Where Financial Services staff have access to the Authority's computerised payroll system, names of all officers authorised to do so shall be retained and kept up to date. Each officer shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).
- 5.168 To ensure that Financial Services staff do not have update access to the personnel screens on the Authority's personnel and payroll system without approval from the City and County Treasurer. These will only be officers from within the Payroll Control Team and Payroll Super Users.

Deleted: Chief Financial Services Officer

### Responsibilities of the Head of Democratic Services

- 5.169 To make arrangements for paying Members' allowances, travel, and subsistence upon receiving the prescribed form, duly completed and authorised. All claims will be examined and checked for reasonableness with respect to the amounts claimed. A record of authorised signatories shall be retained and kept up to date.
- 5.170 To ensure that Democratic Services staff only have update access to the payroll screens relating to Members on the Authority's computerised personnel and payroll system.

### Responsibilities of the Chief People and Organisational Development Officer

Deleted: Chief Human Resources Officer

- 5.171 To ensure that the appointment of officers are made in accordance with the Procedure Rules of the Council and the approved establishments, grades and rates of pay.
- 5.172 To approve the format of all records relating to the notification of appointments, terminations, sickness, special leave and any other personnel matter.
- 5.173 To maintain all necessary records relating to the appointment, termination and all other personnel matters.
- 5.174 To issue on a quarterly basis to each staffing budget holder, a listing of all employees within the budget holder's area of responsibility for verification.
- 5.175 Where Human Resources staff have access to the Authority's computerised personnel system, names of all officers authorised to do so shall be retained and kept up to date. Each employee shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).
- 5.176 To ensure that Human Resources staff do not have update access to the payroll screens on the Authority's computerised personnel and payroll system without the expressed approval of the City and County Treasurer.

Deleted: Chief Financial Services Officer

## Responsibilities of Chief Officers

- 5.177 To furnish the City and County Treasurer with all documents that are required to arrange payment by the due date and any documentation required for pension, income tax and national insurance purposes. Deleted: Chief Financial Services Officer
- 5.178 To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 5.179 To ensure that time sheets, overtime forms or other payroll related records are in a form prescribed or approved City and County Treasurer. All such records shall be appropriately certified in manuscript, by an authorised signatory. Deleted: Chief Financial Services Officer
- 5.180 To make arrangements to ensure that the Chief People and Organisational Development Officer and the City and County Treasurer, as appropriate, are notified promptly, and in the approved format, of all matters affecting the remuneration of officers within their service area, and in particular:
- appointments, resignations, dismissals, suspensions, secondments and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - information necessary to maintain records of service for pension, income tax, national insurance and the like.
- Deleted: Chief Human Resources Officer
- Deleted: Chief Financial Services Officer
- 5.181 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees;
  - payments are only made where there is a valid entitlement;
  - conditions and contracts of employment are correctly applied;
  - employees' details listed on the payroll are checked at regular intervals to verify accuracy and completeness;
  - the same person does not both complete and authorise a timesheet, overtime form or other claim for payment;
  - persons' involved in the different processes of completing and authorising a timesheet, overtime form or other claim for payment are clearly identifiable on the relevant document;
  - adequate supporting records are maintained to back up summary timesheet entries, completed by an individual on behalf of a group of employees. The supporting records must show the start and finish times of each employee each day, and should be signed by the employee concerned;
  - no employee may certify or authorise a payment or other benefit to himself/herself or any document which would lead to a payment or other benefit to himself/herself.
- 5.182 To ensure that the service area maintains and reviews periodically a list of officers approved to authorise timesheets, overtime forms and other payroll related records together with specimen signatures, and to ensure that only authorised officers authorise payments. A copy of the list should be sent to the City and County Treasurer. Deleted: Chief Financial Services Officer
- 5.183 To ensure that the service area reviews the establishment list issued by Chief Human Resource Officer on a quarterly basis and confirms the accuracy of the report.
- 5.184 To ensure that payroll transactions are processed only through the payroll system. "Cash in hand" and other non PAYE payments are not permitted. Chief Officers shall give careful consideration to the employment status of individuals employed on a self-



employed, consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice shall be sought from the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

5.185 To ensure that all claims for the payment of car mileage, travel and subsistence, and incidental expenses are submitted promptly by officers in the approved format each month.

5.186 To arrange for the correct certification of claims for car mileage, travel and subsistence, and incidental expenses. Certification by the Chief Officer or an officer authorised by him/her shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred in connection with the Authority's business, the most cost effective route and means of transport was used and that the allowances claimed are properly payable by the Authority. The names of officers authorised by Chief Officers to approve such records shall be retained in each service area, together with specimen signatures and this shall be amended on the occasion of any change. The accuracy of the information contained in a claim shall be the responsibility of the employee concerned. Due consideration should be given to tax implications and that the City and County Treasurer is informed where appropriate.

**Deleted:** Chief Financial Services Officer

5.187 To ensure that claims for travel, subsistence and other allowances are paid through the payroll system wherever possible to ensure the correct treatment for Tax and National Insurance purposes. Imprest accounts should not be used to process such payments.

5.188 To ensure that the City and County Treasurer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

**Deleted:** Chief Financial Services Officer

5.189 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with guidance issued by the City and County Treasurer.

**Deleted:** Chief Financial Services Officer

## Responsibilities of Members

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

## INTERNAL CHARGES

### Why is this Important?

5.191 Service Areas often undertake work for other service areas. The charge for such work is recovered either by way of a journal, or via the Internal Trading Solution (internal purchase orders).

5.192 It is important that the basis of charge is agreed between the client and provider, and the financial transaction is accurately recorded in the Council's accounts.

5.193 The use of journals will cover Service Level Agreements, reallocation of costs and charges that are considered appropriate for the Internal Trading Solution. The Internal Trading Solution will be used for those services where it is considered to be cost effective. The Internal Trading Solution can only be considered where it is practical to raise a purchase order.



## Key Controls

5.194 The key controls for internal charges are:

- all income and expenditure arising from an internal recharging relationship is correctly recorded and accounted for in a robust manner;
- each charging activity will have a clear basis on which it will be recharged;
- all providers ensure that all internal customers are provided with the information reasonably required to accompany the journal charge;
- all charges must be challenged within an appropriate timescale (two months from being informed of charge). The provider must ensure all challenges are considered and where appropriate resolution is made by clarifying query or amending the charge made by journal.
- there will be an arbitration process to clear disputes promptly.

## Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

5.195 To issue guidelines and procedures on the administration of the Authority's internal charging systems.

5.196 To ensure internal charging processes are efficient and effective and represent the best interests of the Authority as a whole.

5.197 To arbitrate on outstanding disputed charges where the client and supplier service area fail to reach agreement.

## Responsibilities of Chief Officers

5.198 To comply with guidelines and procedures issued by the City and County Treasurer on the administration of the internal charging systems.

**Deleted:** Chief Financial Services Officer

## TAXATION

### Why is this Important?

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

## Key Controls

5.200 The key controls for taxation are:

- budget managers are provided with relevant information and kept up to date on tax issues;
- budget managers are instructed on required record keeping;
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- records are maintained in accordance with instructions;

- returns are made to the appropriate authorities within the stipulated timescale.

## Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

- 5.201 To complete all Inland Revenue returns regarding Pay As You Earn (PAYE).
- 5.202 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 5.203 To provide details to the Inland Revenue of deductions made under the Construction Industry Tax Deduction Scheme.
- 5.204 To advise Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

## Responsibilities of Chief Officers

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

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## SECTION 6 - EXTERNAL ARRANGEMENTS

- [Partnerships](#)
- [External Funding](#)
- [Work for Third Parties](#)

### PARTNERSHIPS

#### Why is this Important?

- 6.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 6.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### **General**

- 6.3 The main reasons for entering into a partnership are to share risk, to access new resources, to provide new and better ways of delivering services and to forge new relationships.
- 6.4 A partner is defined as either:
- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
  - a body whose nature or status give it a right or obligation to support the project.
- 6.5 Partners have common responsibilities:
- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
  - to act in good faith at all times and in the best interests of the partnership's aims and objectives;
  - to be open about any conflict of interests that might arise;
  - to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
  - to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
  - to act wherever possible as ambassadors for the project.

## Key Controls

- 6.6 The key controls for the Authority's partners are:
- if appropriate, to be aware of their responsibilities under the Authority's Financial and Procurement & Contract Rules;
  - to ensure that risk management processes are in place to identify and assess all known risks;
  - to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
  - to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences;
  - to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### Responsibilities of the City and County Treasurer

**Deleted:** Chief Financial Services Officer

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

### Responsibilities of Chief Officers

- 6.10 To consult with the City and County Treasurer, as necessary, on a scheme's appraisal for financial viability in both the current and future years.
- 6.11 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.
- 6.12 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Authority.
- 6.13 To ensure that all agreements and arrangements are properly documented.
- 6.14 To provide appropriate information to the City and County Treasurer to enable a note to be entered into the Authority's statement of accounts concerning material items.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

## EXTERNAL FUNDING

### Why is this Important?

- 6.15 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of authorities. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

### Key Controls

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

### Responsibilities of the City and County Treasurer

Deleted: Chief Financial Services Officer

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

### Responsibilities of Chief Officers

- 6.21 To maintain adequate supporting documentation to enable claims for funding to be maximised.
- 6.22 To ensure that all claims for funds are made by the due date.
- 6.23 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## WORK FOR THIRD PARTIES

### Why is this Important?

- 6.24 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the Authority's legal powers.

### Key Controls

6.25 The key controls for working with third parties are:

- to ensure that proposals are costed properly in accordance with guidance provided by the City and County Treasurer;
- to ensure that contracts are drawn up using guidance provided by the City and County Treasurer and that the formal approvals process is adhered to;
- to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

**Deleted:** Chief Financial Services Officer

**Deleted:** Chief Financial Services Officer

### Responsibilities of City and County Treasurer

**Deleted:** Chief Financial Services Officer

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

### Responsibilities of Chief Officers

- 6.27 To ensure that appropriate insurance arrangements are made.
- 6.28 To ensure that the Authority is not put at risk from any bad debts.
- 6.29 To ensure that, wherever practicable, payment is received in advance of the delivery of the service.
- 6.30 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 6.31 To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- 6.32 To ensure that all contracts are properly documented.
- 6.33 To provide appropriate information to the City and County Treasurer to enable a note to be entered into the statement of accounts.

**Deleted:** Chief Financial Services Officer

# CONTRACT PROCEDURE RULES

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# 1 INTRODUCTION

1.1 Procurement is the process by which the Council manages the acquisition of all its goods, services and works. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.

1.2 The Councils' Corporate Procurement Strategy defines procurement as:-

*“the process of acquiring goods, works and services, covering both acquisition from third parties and from in-house providers. The process spans the **whole life cycle** from identification of needs, through to the end of a services contract or the end of the useful life of the asset. It involves options appraisal and the critical “make or buy” decision which may result in the provision of services in-house in appropriate circumstances”*

1.3 The Council spends in the region of £240 million per annum on the external procurement of goods, services and works. It is important that the Council strategically manages this spend both to ensure that it maximises value for money through its economies of scale and achieves the vision for Procurement as contained within the Councils' Corporate Procurement Strategy 2006 – 2009 which is:-

*‘To deliver value for money for all procured goods, works and services through smarter, sustainable procurement which is strategically managed and maximises opportunities for sustainability, collaboration, partnering and exploitation of technology to support the aims and objectives of Cardiff Council and wider Welsh Assembly Government agenda’*

1.4 These Contract Procedure Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability.

1.5 Above all, the Rules are designed to ensure that the Council obtains value for money and the required level of quality and performance in all contracts that are let.

1.6 In these Rules the following definitions apply:

**Contract** Means any form of contract, agreement or other arrangement for the supply of goods, services or works.

**Procurement Manager** Means the Operational Manager for Procurement & Supplies or any officers under his/her supervision or management who are given delegated authority to carry out any of the obligations, duties or activities required to be performed by him/her under the Contract Procedure Rules or to act in his/her absence.

**Code of Practice** Means the Council's Code of Practice for Procurement including accompanying guidance.

**Chief Officer** Means Chief Executive, Corporate Director, Head of Service, Head of Function

**Deleted:** , Asst. Chief Executive,

**Goods** Covers all supplies and materials that the Council purchases or obtains.



<b>Services</b>	Includes all services, which the Council purchases or obtains including advice, specialist consultancy work, agency staff, etc.
<b>Works</b>	Construction and repairs in respect of physical assets (buildings, roads, etc.)
<b>Authorised Officer</b>	The individual who has authority for the contract in accordance with the Contract Procedure Rules and Executive Delegations.

1.7 These Rules relate to three categories of procurement based on the estimated value of the contract:-

- a) Up to £10,000
- b) £10,000 to £100,000 (inclusive)
- c) In excess of £100,000

1.8 Orders and payments for goods, services and works shall be undertaken in accordance with the Councils' Financial Procedure Rules.

1.9 All values referred to in these Rules are exclusive of VAT.

1.10 Any dispute regarding interpretation of these Rules shall be referred to the City and County Treasurer for resolution.

**Deleted:** Chief Financial Services Officer

## 2 COMPLIANCE WITH CONTRACT PROCEDURE RULES

2.1 These Contract Procedure Rules will be followed when dealing with all procurements, including for the avoidance of doubt all contracts involving block schemes and grouped individual grant schemes (GIGS) that relate to grants for the repair, improvement and adaptation of privately owned or tenanted properties.

2.2 Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and shall comply with:-

- a) all relevant statutory provisions;
- b) the relevant European procurement rules (the EC Treaty, the general principles of community law and the European Union's public procurement directives implemented by the UK Regulations);
- c) the Council's constitution including these Contract Procedure Rules, the Council's Financial Procedure Rules and scheme of delegation; and
- d) the Council's strategic objectives and policies including the corporate procurement strategy.

2.3 The Procurement Manager may from time to time issue procurement guidance and Codes of Practice in respect of procurement to Service Areas. Chief Officers must ensure that employees in their Service Area comply with such guidance and Codes of Practice in undertaking all procurements.

2.4 Any failure to comply with any of the provisions of these Contract Procedure Rules or the Code of Practice by officers may result in disciplinary action.

## 3 EXCEPTIONS TO CONTRACT PROCEDURE RULES

3.1 The Contract Procedure Rules do not apply to the acquisition or disposal of land.

- 3.2 In the case of contracts for services entered into in pursuance of powers under the National Health Service and Community Care Act 1990 and the Children Act 1989 for the benefit of an individual client, the Chief Adult Services Officer or the Chief Children's Services Officer (as the case may be), insofar as it is consistent with the law, will not be required to seek tenders from more than one supplier.
- 3.3 Nothing contained in the above exceptions exempts officers either from using the Council's internal services where appropriate, or from following established arrangements in section 4 below. Officers should ensure that the best possible balance of value for money and quality is obtained for the Council.
- 3.4 In the case of contracts that fall to be dealt with under the EU Public Sector Procurement Directives and the related regulations, tenders will be invited in accordance with the requirements of the said Directives and regulations for the time being in force. Such Directives and Regulations will take precedence over these Contract Procedure Rules. Advice and guidance on whether a particular procurement is subject to the EU Public Sector Procurement Directives can be obtained from the Procurement Manager.
- 3.5 In the case of professional arrangements between solicitor and Counsel, the Chief Legal & Democratic Services Officer will not be expected to comply with the requirements of this Code when instructing and briefing Counsel. The Chief Legal & Democratic Services Officer will make arrangements to ensure that a record is kept of all such instructions or briefs together with a record of Counsel's fees.
- 3.6 Where goods, services and works are procured by another public body on behalf of the Authority (e.g. contracts awarded via the Welsh Purchasing Consortium etc) or by the Authority through a contract properly let by another such organisation, then those organisations Procurement / Contract Rules will apply subject to compliance with EU and UK procurement law.

#### **4 APPROVED ARRANGEMENTS**

- 4.1 Before any external procurement is considered it is important to ensure that no existing in-house provision exists for the goods, services or works required.
- 4.2 If it is determined necessary to proceed with an external procurement, where available, use **must** be made of existing corporate purchasing arrangements, either directly with external suppliers or via County Supplies, unless agreed otherwise by the Service Area Chief Officer in consultation with the Procurement Manager. Where such agreement is granted, the Service Area must procure their requirements in accordance with Section 6, 7 and 8 below.
- 4.3 The Corporate Procurement Unit maintains a register of the corporate framework arrangements (hereinafter referred to as framework arrangements) for a portfolio of goods, services and works used across the Council including Energy, Mobile Telephony, Stationery etc. These arrangements will have been contractually awarded in accordance with these Contract Procedure Rules. This register is available from the Corporate Procurement Unit and advice and guidance can be obtained from the Procurement & Supplies Sourcing Team.
- 4.4 All computer and information technology goods and materials will be purchased in accordance with specifications as laid down by the ~~Head of ICT~~.
- 4.5 Where the supply is of a significantly higher than normal value for the existing arrangement in rule 4.3, for example for bulk purchases, the authorised officer should consult with the Procurement Manager to determine whether special rates should be sought or alternative procurement procedure may be required.

Deleted: Chief ICT Officer

## 5 ESTIMATING THE CONTRACT VALUE

- 5.1 All procurements (Goods, Services, Works, Consultancy and Capital Projects) above £10,000 will be managed following the guidance of the Procurement Manager and must be referred to him/her to determine in consultation with the relevant Chief Officer the most appropriate procurement process to be followed.
- 5.2 No work or contract may be artificially split to avoid consulting with the Procurement Manager or avoid compliance with EU procurement law.
- 5.3 Where it can be expected or becomes apparent that a series of recurring contracts is to be let over a period of time for works or services or goods or materials of the same or similar type then, regardless of the value of the individual contracts, the total value of the likely annual expenditure on all the contracts will determine whether the Procurement Manager shall be consulted.
- 5.4 For term contracts, or similar, without a known annual expenditure but with duration exceeding one year, the number of years duration will be multiplied by the likely annual expenditure to determine whether the Procurement Manager shall be consulted. The maximum period now permitted under the EU Procurement Rules for Framework Agreements being 4 years.

## 6 CONTRACTS UNDER £10,000 / LOW VALUE PROCUREMENT (QUOTATIONS)

- 6.1 In all instances, goods, services and works **must** be obtained in accordance with the Councils' Financial Procedure Rules and via existing approved arrangements including:-
  - a) In-house service provision
  - b) Established corporate framework agreements (including County Supplies and consortia arrangements)
  - c) Approved list of suppliers maintained by the Council
- 6.2 Where no existing approved arrangements exist, a quotation must be evidenced in accordance with the following limits:-
  - Up to £2,999.99 require only one quotation,
  - Between £3,000 and £9,999.99 require two quotations.
- 6.3 Where the procurement relates to a category classified as approved, quotations should only be sought from suppliers contained on the Councils' Approved Supplier list. Where no suitable supplier is included, the supplier must be assessed prior to commencement of the works or services, unless agreed otherwise by the Service Area Chief Officer in consultation with the Procurement Manager.
- 6.4 Any procurement up to £2,999.99, whilst requiring only one quotation, must be evidenced in writing in order that best value and the integrity of the process can be demonstrated. This information must be retained by the Service Area.
- 6.5 For procurements of £3,000 and above records will be kept detailing which suppliers/contractors were selected, the method of selection and the reasons for so doing. The confidentiality of identity of potential suppliers/contractors will be maintained until the contract has been awarded. This information must be retained by the Service Area.

- 6.6 Where goods or services are regularly required and arrangements illustrated in rule 4.3 do not exist, these should be reported to the Procurement Manager who will assess the need for appropriate arrangements to be put in place.
- 6.7 It is essential that the services, goods or works are procured on Terms and Conditions that have been approved by the Chief Legal & Democratic Services Officer and not those submitted by the supplier/contractor.

## **7 CONTRACTS VALUED £10,000 TO £100,000 INCLUSIVE (TENDERS)**

- 7.1 For procurements valued over £10,000 but at or below £100,000, at least three written tenders must be invited.
- 7.2 All procurements (Goods, Services, Works, Consultancy and Capital Projects) above £10,000 will be managed following the guidance of the Procurement Manager and must be referred to him/her to determine the most appropriate procurement process to be followed. This procedure is contained within the Procurement Code of Practice.
- 7.3 The Corporate Procurement Unit manages and maintains a corporate Contract Management System. All procurements above £10,000 are recorded and managed through this system, which in time will be made accessible to all Service Areas.

## **8 CONTRACTS OVER £100,000 (TENDERS)**

- 8.1 In addition to the conditions set out in Section 6 & 7 above, for procurements valued over £100,000, at least four written tenders must be invited.

## **9 CONTRACTS SUBJECT TO THE EU REGULATIONS (TENDERS)**

- 9.1 Where the estimated value of a contract exceeds the current EU Public Sector Procurement Directive threshold, then the contract shall be tendered in accordance with provisions under the EU Public Sector Procurement Directives and UK Regulations. Brief details of the different procedures available are set out in the Contracts' Procedure Rules -Code of Practice. In all such circumstances appropriate advice must be sought from the Corporate Procurement Unit.
- 9.2 The current thresholds are: -

Services	£144,371.00
Supplies	£144,371.00
Works	£3,611,319.00

The thresholds change every two years and are due to change again on the 1st January 2008.

## **10 PRE-QUALIFICATION**

- 10.1 The Council shall only enter into a contract with a contractor if it is satisfied as to the contractor's competences. The criteria considered can include, but need not be limited to:-
- Technical competence and experience including qualifications;
  - Health and Safety;
  - Quality including ISO registration and scope;
  - Financial standing including appropriate insurance provisions.

- 10.2 The Procurement Manager is responsible for the administration and maintenance of the Supplier/Contractor Assessment System that holds certain key information on suppliers/contractors.
- 10.3 For those procurement categories maintained on the Supplier/Contractor Assessment System designated as Approved all suppliers/contractors irrespective of the level of the procurement spend will be required to have successfully passed the assessment process.

## **11 THE INVITATION TO TENDER**

- 11.1 The Invitation to Tender (or Negotiate) shall include details of the Council's requirements for the particular contract including:-
- a. a specification of the services, supplies or works being procured and instructions on whether any variants are permissible;
  - b. the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
  - c. the Council's terms and conditions of contract;
  - d. the evaluation criteria including any weightings as considered appropriate;
  - e. the Form of Tender;
  - f. pricing mechanism and instructions for completion;
  - g. whether the Council is of the view that TUPE will apply;
  - h. form and content of method statements to be provided;
  - i. rules for submitting of tenders;
  - j. any further information which will inform or assist tenderers in preparing tenders.
- 11.2 Every supplier/contractor submitting a tender will be required to sign a declaration to the effect that:-
- a. they have not and will not inform any other person of the amount of their tender;
  - b. they have not fixed the amount of any tender in accordance with a price fixing arrangement;
  - c. they accept that the Authority 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 Authority to enter in to the contract.

## **12 RECEIPT, CUSTODY AND OPENING OF TENDERS**

- 12.1 Tenders shall be submitted in accordance with requirements set out in the Invitation to Tender and the Procurement Code of Practice.
- 12.2 Tenders below £100,000 (if received by post in the official envelope or using the official tender return label) will be returned to either the Procurement Manager or the Chief Officer of the relevant Service Area at the discretion of the Procurement Manager. Tenders will be opened in the presence of two employees designated by the Procurement Manager or the Chief Officer of the relevant Service Area as the case may be. Both employees must be independent to the letting of the contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated officers present at the time.
- 12.3 Tenders above £100,000 (if received by post in the official envelope or using the official tender return label) will be opened in the presence of three employees designated for the purpose. Two employees will be nominated by the Chief Legal & Democratic Services Officer and the other employee will be nominated by the Procurement Manager. All three 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 returned to the Procurement Manager for evaluation with the Chief Officer of the relevant service area.

### 13 TENDER EVALUATION

- 13.1 Tenders shall be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender. All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents Best Value for Money to the Council. The evaluation criteria shall be predetermined and approved by the Procurement Manager and listed in the Invitation to Tender documentation, in order of importance. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Guidance and assistance on relevant evaluation criteria can be obtained from the Corporate Procurement Unit.

### 14 POST TENDER NEGOTIATION

- 14.1 Where a procurement is conducted pursuant to the EU Public Sector Procurement Directives through either the open, restricted or competitive dialogue procedures, no post tender negotiations are permitted. The Authorised Officer may seek clarification from contractors where appropriate. Negotiations on price are never permissible.
- 14.2 Subject always to the statutory procurement framework and in compliance with the Code of Practice, where procurements are conducted outside the EU Public Sector Procurement Directives, the Authorised Officer may, after consulting with the Procurement Manager, authorise negotiations if he or she considers that it is in the Council's interest to do so. This process will normally be restricted to the two most competitively received tenders, unless the procurement process is for multiple providers, where the number of tenderers selected for negotiation may be increased in line with the number of contracts to be let.
- 14.3 Negotiations shall be conducted on behalf of the Council by at least two officers, one of which will be nominated by the Procurement Manager. The Chief Legal & Democratic Services Officer shall be invited to send a representative to the negotiation meetings. A full written record shall be kept of the results of the negotiations, in accordance with the Councils' Procurement Code of Practice.
- 14.4 At all times during the procurement process the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

### 15 EVALUATION TEAM

- 15.1 For each contract above the £10,000 threshold, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders.
- 15.2 Where the contract exceeds the £100,000 threshold, the Chief Legal & Democratic Services Officer and the City and County Treasurer 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.

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### 16 RISK

- 16.1 For procurements over £100,000, the Evaluation Team shall carry out a risk assessment as part of its pre-qualification assessment and the evaluation process.

## 17 AWARDING CONTRACTS

- 17.1 A contract may only be awarded by an officer with the requisite delegated authority to award contracts, in accordance with the Councils' Scheme of Delegations. The Authorised Officer should ensure, prior to award, that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements valued at above £10,000 per annum, the decision to award a contract shall be made on receipt of a report authorised in accordance with the Councils' Scheme of Delegations.
- 17.2 The Council shall only award a contract where it represents Best Value for Money. A contract shall only be awarded using the pre-determined tender evaluation criteria. Where a tender is to be evaluated on price only the contract must be awarded to the tenderer submitting the lowest price.
- 17.3 Letters of intent shall only be used with the agreement of the City and County Solicitor and only in very exceptional circumstances. Where the terms and conditions of contract are not fully agreed no contractor shall be allowed on site to begin preliminary works until a full risk assessment has been carried out by the Authorised Officer as to the possible implications to the Council by the Contractor being allowed to start on site before the contract terms and conditions have been finalised.
- 17.4 In the event of the withdrawal of tender after official notification (whether conditional or otherwise) to the tenderer of the acceptance or proposed acceptance of the tender, no other tender submitted to the Authority by the person so withdrawing will be considered for two years from the date of withdrawal without approval from Procurement Manager.

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## 18 CONTRACT MANAGEMENT

- 18.1 Once the contract has been awarded it is essential that the Service Area identify and nominate an individual who can manage the day to day aspects of the contract thereby ensuring that the supplier/contractor appointed delivers the outputs as required under the contract.

## 19 NOTIFICATION OF RESULTS AND DEBRIEFING

- 19.1 Once the contract has been let all unsuccessful tenderers (including those where the tender was received late) will receive a standard regret letter containing details of:-
- The award criteria
  - The score that tenderer obtained against those award criteria
  - The score the winning tenderer obtained; and
  - The name of the winning tenderer
- 19.2 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Procurement Manager, taking into account the requirements of any legislation relating to the disclosure of information.
- 19.3 De-briefing supplier/contractors not selected for tender and unsuccessful tenderers is recommended in public purchasing policy guidelines as a means of assisting them improve their competitive performance.
- 19.4 For all procurements over £10,000, de-briefing will be conducted by the Authorised Officer with support/input being provided by the Procurement Manager. De-briefing should never be conducted before the contract is awarded and all unsuccessful tenderers have been formally notified. It should be made clear that the de-briefing



process cannot be used to change the choice of a supplier/contractor or to re-open the selection process. De-briefing will only be conducted at the request of the supplier/contractor.

- 19.5 If the award of a contract is subject to the EU Public Sector Procurement Directive, there must be a standstill period of a minimum of 10 **calendar** days between communicating the award decision to all tenders and conclusion of the contract.

## **20 CONTRACT AWARD NOTICE**

- 20.1 Where a contract has been tendered pursuant to the EU Public Sector Procurement Directive, the Council shall publish a contract award notice in the Official Journal of the European Union no later than 48 days after the date of award of the contract.

## **21 CONTRACT TERMS AND CONDITIONS**

- 21.1 The Authorised Officer shall ensure that Contracts are entered into on the Council's terms and conditions as approved by the Chief Legal & Democratic Services Officers, which shall be included with each purchase order or Invitation to Tender or Negotiate. Where this is not appropriate and a Contractor has been asked to submit their terms and conditions, those terms and conditions must be approved by the Chief Legal & Democratic Services Officers before they can be accepted.
- 21.2 The rules relating to technical specifications mean that any reference to a technical standard, make or type shall be prefaced with the words "or EU equivalent". This requirement applies to all contracts.

## **22 COMPLETION OF CONTRACTS**

- 22.1 With the exception of any contract formed using an electronic procurement system or with a value less than thirty thousand pounds (£30,000), any contract entered into by the Authority must be:-
- I. in writing,
  - II. on terms and conditions approved by the Chief Legal & Democratic Services Officer, and
  - III. be made under the Authority's seal and attested by at least one employee nominated by the Chief Legal & Democratic Services Officer or be signed by at least two employees nominated by the Chief Legal & Democratic Services Officer.
- 22.2 All contracts entered into using an electronic procurement system must be on terms and conditions approved by the Chief Legal & Democratic Services Officer and for the avoidance of any doubt must comply with the provisions of these Contract Procedure Rules and the Financial Procedure Rules.
- 22.3 Contracts not exceeding £30,000 in value must:-
- I. be in writing and comply with the provisions of point 22.1, or
  - II. if entered into using an electronic procurement system comply with the provisions of point 22.2, or
  - III. be on an Official Order form produced by the Council that contains or refers to the terms and conditions of contract approved by the Chief Legal & Democratic Services Officer. Chief Officers must maintain a listing of those officers who have the authority to sign the Authority's Official Order form.



## 23 RECORDS OF TENDERS AND CONTRACTS

- 23.1 For procurements under £10,000, the Authorised Officer shall maintain a list of all quotations received.
- 23.2 A Contracts Register of all contracts awarded above £10,000 per annum shall be maintained by the City and County Treasurer. The Contracts Register will be maintained electronically.
- 23.3 For every individual contract above £10k a contracts file shall be maintained with appropriate documentation.

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## 24 CONTRACT EXTENSION/VARIATIONS

- 24.1 A contract may be extended before the expiry date where it is in accordance with its terms. Approval for such an extension shall be sought from the Corporate Procurement Unit.
- 24.2 Where the terms do not expressly provide for extension or once a contract has expired, it cannot be extended.
- 24.3 Whether or not it is a requirement of the contract, every variation (whether having a financial implication or not) will be authorised in writing by the appropriate person. The appropriate person will keep detailed records of any such payment which shall be open to inspection by the City and County Treasurer. The authorisation will be issued before the work is carried out or, in the case of emergency or other circumstances previously determined by the relevant Chief Officer, as soon as possible thereafter.
- 24.4 The authority to approve variations shall be as follows:-

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Principal Officer/Operational Manager	Individual variations of up to £5,000	Cumulative variations of up to £15,000
Operational Manager	Individual variations of up to £15,000	Cumulative variations of up to £50,000
Chief Officer	Individual variations of up to £50,000	Cumulative variations of up to £100,000
Chief Executive/Corporate Director	Individual variations of up to £100,000	Cumulative variations of up to £250,000
Executive Decision	Individual variations above £100,000	Cumulative variations above £250,000

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- 24.5 For variations approved by a Principal Officer, the Operational Manager shall monitor the overall level of variations approved to gain assurance that they are correct and appropriate.
- 24.6 Chief Officers must maintain a listing of those Officers within their Service Area who has the authority to approve such contract variations.
- 24.7 As soon as it becomes known or apparent that the total cost, excluding fluctuations, will or is likely to exceed the contract sum by more than 5% or £5,000 whichever is greater, the Financial Services Group Accountant must be informed for financial monitoring purposes.

## 25 TERMINATION OF CONTRACT

25.1 For any contract exceeding £100k in value, early termination shall be approved by the appropriate Chief Officer in consultation with the Chief Legal & Democratic Services Officer. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

## 26 PAYMENTS ON ACCOUNT

26.1 Payments on account will be made only upon certification by the person designated under the contract for that purpose or in any other case by an employee appointed for that purpose or a person engaged under a contract for services by the Authority under which contract he/she is duly authorised to issue such certificates (together hereafter referred to as 'the appropriate person'). The appropriate person will keep detailed records of any such payment which shall be open to inspection by the City and County Treasurer. The Chief Officer of the relevant service areas shall make arrangements to retain adequate details relating to all contract payments made to allow for a proper audit of all such payments.

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# PROCEDURE RULES FOR THE ACQUISITION OR DISPOSAL OF LAND

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## 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,  
'Land' shall mean any interest in land (including buildings), or any right in, on, over or under land.  
'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 Executive or an officer exercising Executive Functions in accordance with the Executive Procedure Rules.
- 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 Executive 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 City and County Treasurer 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.

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## 2. INVITATION OF OFFERS - DISPOSALS OF LAND

- 2.1 No offers for the disposal of Land will be invited except with the prior approval of a Designated Body.
- 2.2 Only a Designated Body will determine on the advice of the City and County Treasurer (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.

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2.3 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;

2.4 The City and County Treasurer 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 City and County Treasurer that the nature of the demised land is such that to do so would serve no useful purpose.

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2.5 Offerors will be provided with a Form of Offer based upon a Model prepared by the City and County Treasurer 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 City and County Treasurer.

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2.6 The confidentiality of identity of offerors will be maintained until an offer has been accepted.

2.7 No offeror will be favoured with information that is not made available to the others.

2.8 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.

### 3. RECEIPT, CUSTODY AND OPENING OF OFFERS

3.1 It will be a condition of every invitation that each offer must be sent in the official envelope provided, which must be sealed.

3.2 All offers must be delivered to the address shown on the official envelope.

3.3 Delivery by hand will be acceptable only in exchange for an official receipt. The receipt will clearly record the time and date of receipt.

3.4 All offers will be kept in safe custody until the appointed time of opening when they will be opened consecutively during the same session.

3.5 All offers will be opened by two employees designated for the purpose by the City and County Treasurer, at least one of whom will have had no involvement in the invitation of offers.

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3.6 When opened, all offers will be recorded in a register and initialled and dated by the designated employees present at the time.

- 3.7 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 City and County Treasurer and the Chief Legal & Democratic Services officer.

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#### 4. EXAMINATION OF OFFERS

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.

#### 5. EVALUATION AND ACCEPTANCE OF OFFERS

- 5.1 The offer that represents the best price reasonably obtainable by the Council will be accepted.
- 5.2 Offers may only be accepted by a Designated Body.
- 5.3 There will be no disposal at less than the best price reasonably obtainable without compliance with relevant statutory provisions, on the advice of the Chief Legal & Democratic Services Officer.
- 5.4 Nothing in these Rules binds the Council to accept any offer.

#### 6. NOTIFICATION OF RESULTS

- 6.1 Once an offer has been accepted the unsuccessful offerors will be informed that their offers are no longer being considered.

#### 7. COMPLETION OF CONTRACTS

- 7.1 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.

- 7.2 Only the Designated Body may issue instructions to the Chief Legal & Democratic Services Officer for the preparation and completion of documentation in respect of any transaction in land, except as authorised in advance by the Executive and the Council.
- 7.3 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.

## 8. **RETENTION OF DOCUMENTS**

- 8.1 Deeds, title documents, leases, charges on land, guarantees and documents of a similar nature may only be destroyed with the consent of the Chief Legal & Democratic Services Officer.
- 8.2 Details of all offers will be retained for a period of three years.

## Employment Procedure Rules

### 1. Recruitment and appointment

These rules do not apply to school-based employees, who are subject to separate procedures.

- (a) Declarations
  - (i) With the intention of ensuring that employment processes are fully informed and transparent, the Council requires any candidate for appointment as an officer to state in writing whether they are related to or have any close personal association with any member or senior employee of the Council.
  - (ii) Deliberate omission to make such a disclosure would disqualify the candidate, and if the omission is discovered after appointment, the candidate will be liable to dismissal.
- (b) Seeking support for appointment
  - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or employee for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council. A member or an employee will not try to improperly influence the choice of a candidate for any appointment
  - (iii) The impartiality of employees must be preserved. Accordingly Members must not give written references to support a candidate seeking employment with the Council.

### 2. Recruitment of Chief Executive, **Corporate Directors** and Chief Officers

Deleted: Corporate Managers

- (a) A vacancy for the post of Chief Executive, Corporate Manager or Chief Officer must be reported to the Council or body delegated to do so which will consider whether the post should be filled, and if so, the terms and conditions of employment and method of appointment.
- (b) Where the appointment is not to be made from existing employees, the Council will arrange for the following to be prepared:-
  - A statement of the duties of the officer concerned and the required qualifications or qualities to be sought in the person appointed, which is sent to any person on request;
  - Advertising of the post to bring it to the attention of people who are qualified to apply.
- (c) Following advertisement, the Council will arrange for either all qualified candidates to be interviewed; or a shortlist to be prepared of qualified applicants and those candidates interviewed. If no suitably qualified person has applied, or if the Council decides to re-advertise the appointment, the post will be re-advertised in accordance with paragraph (b) above.



3. **Appointment or Dismissal of Chief Executive, Corporate Directors and Chief Officers**

Deleted: Corporate Managers

- (a) The appointment or dismissal of the Chief Executive, Corporate Directors and Chief Officers will be made by the Council or by a Committee of Members delegated by the Council to make the appointment or dismissal, which Committee must contain at least one executive member, but not more than half of the members of that Committee shall be executive members.
- (b) Where a committee is discharging on behalf of the Council the function of the appointment or dismissal of the Chief Executive, the Council shall approve that appointment before an offer of appointment is made, or as the case may be, must approve that dismissal before notice of dismissal is given.

Deleted: Corporate Managers

4. **Other appointments**

- (a) **Officers below Chief Officer.** The appointment of officers below chief officer (other than assistants to political groups) must be discharged, on behalf of the Council, by the Chief Executive or by an officer nominated by the Chief Executive. All Council employees shall be appointed in accordance with the Councils Recruitment and Selection Policy.
- (b) **Assistants to political groups.** Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

5. **Disciplinary Action**

**Head of Paid Service, Monitoring Officer & Chief Finance Officer**

- (1) No disciplinary action in respect of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (except action described in (2) below), may be taken by the Council or on its behalf, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 9 of the Local Authorities (Rules of Procedure)(Wales) Regulations 2006.
- (2) The action mentioned in the above paragraph is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension will be on full pay and will terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (3) Where it appears that an allegation of misconduct which may lead to disciplinary action has been made against the head of the Council's paid service, its monitoring officer, or its chief finance officer, ("the relevant officer"), as the case may be, the Council shall appoint a committee ("an investigation committee") to consider the alleged misconduct.
- (4) The investigation committee must consist of a minimum of 3 members of the Council, be politically balanced (in accordance with section 15 of the Local Government and Housing Act 1989); and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

Deleted: Standing Orders

- (5) For the purpose of considering the allegation of misconduct, the investigation committee may make such enquiries of the relevant officer or any other person it considers appropriate; may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- (6) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it shall appoint a person ("the designated independent person") for the purposes of these Rules.
- (7) The designated independent person who is appointed shall be such person as may be agreed between the Council and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or where there is no such agreement, shall be such person as is nominated for the purpose by the National Assembly for Wales.
- (8) The designated independent person—
  - (a) may direct--
    - (i) that the Council terminate any suspension of the relevant officer;
    - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph (2) above);
    - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
    - (iv) that no steps by the Council or on its behalf by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
  - (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has power to authorise the designated independent person to inspect;
  - (c) may require any Member or member of staff of the Council to answer questions concerning the conduct of the relevant officer;
  - (d) shall make a report to the Council—
    - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
    - (ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer; and
  - (e) shall no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.
- (9) Subject to paragraph (10), the relevant officer and the Council shall, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

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

### Other Employees

- (a) The Chief Executive, or an officer nominated by the Chief Executive, is responsible to the Council for the discipline and dismissal of other employees (other than assistants for political groups), in accordance with the Council's Discipline Policy and associated procedures.
- (b) Councillors will not be involved in any disciplinary action of any officer other than the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, as set out above, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where a right of appeal to members is allowed in respect of dismissal or demotion.

### 6. Right of Appeal

Any employee who has been dismissed with or without notice or relegated must be informed immediately of the right of appeal, in line with the Council's agreed Disciplinary Policy and Procedures, which may confirm the action taken, withdraw it or substitute another disciplinary penalty.

**Comment [KA4]:** To bring this Rule into line with the Council's Disciplinary Policy and Procedure and current practice; and allow for appropriate appeal arrangements to be put in place without requiring amendment to the Constitution.

**Deleted:** to the Disciplinary Appeals Committee,

## Part 5 – CODES AND PROTOCOLS

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### CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

#### Adoption

This Code was adopted by the Authority on 15 May 2008.

#### PART I

#### Interpretation

##### 1

(1) In this code—

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who—

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

"meeting" ("*cyfarfod*") means any meeting—

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,

- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority;  
and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council, references to an authority's monitoring officer and an authority's standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

## PART II

### General Provisions

#### 2

- (1) Save where paragraph 3(a) applies, you must observe this code of conduct—
- (a) whenever you conduct the business, or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.
- (2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

#### 3

Where you are elected, appointed or nominated by your authority to serve—

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

#### 4

You must—

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

#### 5

You must not—

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

## 6

(1) You must—

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

## 7

You must not—

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority—
  - (i) imprudently;
  - (ii) in breach of your authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
  - (v) improperly for political purposes; or
  - (vi) improperly for private purposes.

## 8

You must—

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by—
  - (i) the authority's head of paid service;

- (ii) the authority's chief finance officer;
  - (iii) the authority's monitoring officer;
  - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**9**

You must—

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.



**PART III**  
**INTERESTS**

**Personal Interests**

**10**

(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if—

- (a) it relates to, or is likely to affect—
  - (i) any employment or business carried on by you;
  - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
  - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
  - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
  - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
  - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
  - (viii) any body to which you have been elected, appointed or nominated by your authority;
  - (ix) any—
    - (aa) public authority or body exercising functions of a public nature;
    - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
    - (cc) body whose principal purposes include the influence of public opinion or policy;
    - (dd) trade union or professional association; or

- (ee) private club, society or association operating within your authority's area,
  - in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting—
  - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
  - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
  - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
  - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
    - to a greater extent than the majority of—
      - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
      - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

## Disclosure of Personal Interests

### 11

(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make—

- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
- (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing—

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### **Prejudicial Interests**

(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

- (a) relates to—
  - (i) another relevant authority of which you are also a member;

- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
  - (iii) a body to which you have been elected, appointed or nominated by your authority;
  - (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
  - (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
- (b) relates to—
- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

### **Overview and Scrutiny Committees**

#### **13**

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee

mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

## Participation in Relation to Disclosed Interests

### 14

(1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee—

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
  - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
  - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

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

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if—

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you—
  - (i) state at the meeting that you are relying on the dispensation; and
  - (ii) before or immediately after the close of the meeting give written notification to your authority containing—
    - (aa) details of the prejudicial interest;
    - (bb) details of the business to which the prejudicial interest relates;
    - (cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

## PART IV

### THE REGISTER OF MEMBERS' INTERESTS

#### Registration of Financial and Other Interests and Memberships and Management Positions

##### 15

- (1) Subject to sub-paragraph (3), you must, within 28 days of—
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
  - (b) your election or appointment to office (if that is later),

register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.

(2) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (1), register that new personal interest or change by providing written notification to your authority's monitoring officer.

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

(4) Sub-paragraph (1) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

#### Sensitive Information

##### 16

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

#### Registration of Gifts and Hospitality

##### 17

You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage.

# CODE OF CONDUCT FOR EMPLOYEES OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

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**Dated: 28 July 2001**

## ***General Principles***

1. The public is entitled to expect the highest standards of conduct from all qualifying employees<sup>2</sup> of Cardiff Council. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

## ***Accountability***

2. Qualifying employees of Cardiff Council work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

## ***Political Neutrality***

3. Qualifying employees of Cardiff Council, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

## ***Relations with members, the public and other employees***

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.

5. Qualifying employees of Cardiff Council should deal with the public, members and other employees sympathetically, efficiently, and without bias.

## ***Equality***

6. Qualifying employees of Cardiff Council must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

## ***Stewardship***

7. Qualifying employees of Cardiff Council must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

## ***Personal Interests***

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<sup>2</sup> At the date of this Code, teachers and fire-fighters are not bound by its provisions.



8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

(1) any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests,

(2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

### ***Whistleblowing***

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

### ***Treatment of Information***

10. Openness in the dissemination of information and decision making should be the norm in Cardiff Council. However, certain information may be confidential or exempt in accordance with the Access to Information Procedure Rules and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, Cardiff Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to disclose information in accordance with the Freedom of Information legislation. Where employees are uncertain about obligations to disclose or withhold information they must seek appropriate advice from Legal or Information Management officers.

### ***Appointment of Staff***

11. Qualifying employees of Cardiff Council involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

### ***Investigations by Monitoring Officers***

12. Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

## Protocol on Member/Officer Relations

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### **Basic Principles**

1. The basic principle of good Member/officer relations in local government is trust, mutual respect and a common understanding of respective roles. Councillors are elected to represent the whole community and officers are appointed by the Council to give creative, robust and impartial advice, which will assist Members in reaching the best decisions for that community.
2. The Council's Code of Conduct for Members says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".
3. The Code of Conduct for Local Government Employees says that "Mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of Cardiff Council should deal with the public, Members and other employees sympathetically, efficiently and without bias."

### **Councillors' Roles**

4. All councillors have a responsibility to fulfil representational and constituency roles in respect of their electoral divisions. They also have responsibilities as members of the full Council to take some of the most important decisions the Council can make, including approval of the budget and policy framework. Many will be involved in taking other more detailed Council decisions, particularly within the planning and licensing areas, and others will have responsibility for maintaining an overview and scrutiny of executive decisions and the efficient performance of Council functions. A relatively small group of councillors will be members of the Executive, which will undertake most of the Council's functions.
5. All of these roles will relate in slightly different ways to the officers of the Council. These are set out in more detail below.

### **Officer Roles and Advice**

6. Council officers are employees of the whole Council and have an obligation to give impartial advice and to carry out the Council's lawful decisions. They have operational responsibilities which are generally set out in the Council's scheme of delegations, or in their job descriptions. These will generally be of a managerial, technical or administrative nature, and are part of the normal day-to-day work of all Council employees.
7. The Member Code of Conduct describes how Members should act when taking decisions and in particular in relation to advice from officers:-  
  
"A member ... must reach decisions having regard to any relevant advice by the authority's officers..."
8. In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make employees feel intimidated or threatened. They should ensure that any challenge of advice given is made to an employee of suitable seniority, generally the Chief Executive, Corporate Manager or Chief Officer. Employees should remember that

councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation. Employees should always seek to meet the Council's objectives when advising, provided that this can be done legally and within financial resources.

9. If Members remain dissatisfied with the advice given, then they may refer the matter to the Leader, the appropriate Executive Member or the relevant Committee Chairperson. Where necessary and appropriate, either by agreement with the Chief Executive, relevant Corporate Manager or Chief Officer, or following a decision of the Council, professional advice can be commissioned by relevant officers (in consultation with relevant Members) from a reputable and suitably qualified source outside the Council. Any subsequent report to the Council will contain the professional advice of the Chief Executive or officer named as author, but will also contain any external professional view, clearly identified as such.
10. This Council operates a system which requires advice on the legality and achievability (including financial matters) of the decision in advance of its consideration, and for that advice to be captured in reports to Members, Executive, Committees or the Council. Officers should be permitted to give their complete advice, including a description of any relevant options and advice as to legal and financial probity. When oral advice is given, it should be recorded in writing by the officer concerned.
11. The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Executive in relation to executive functions, and have a statutory right to advise as they believe appropriate within their statutory duties.

#### **Correspondence with Councillors and others**

12. The Council has a detailed Protocol setting out how officers should deal with correspondence from councillors and other elected representatives. The Protocol may change from time to time to adjust to differing circumstances, but councillors and officers should refer to it for guidance on this issue. Officers should always try to respond to Members within the Council's target timescales for response, and if they cannot, should keep the Member informed as to progress. If correspondence is referred by an officer to a Member for response, the Member should also use best endeavours to reply within Council target response times.

#### **Relationships between Officers and Members**

13. As indicated above, although officers have a duty to serve the Council as a corporate body, their working relationships will be different with different groups of Members. The following paragraphs identify and give guidance on key issues in this area.
14. **All Councillors** – all councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Members to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and within available resources, advice will be given. Officers should not advise councillors on their individual positions or to assist them in personal capacities, but only in relation to Council matters. The Monitoring Officer or his/her nominee may advise individual councillors on the Member Code of Conduct and their responsibilities in relation to declaration of interests.

Individual Members may request that advice given to them is treated in confidence. They should make this clear at the start of any discussion or correspondence with the officer concerned. The officer will then advise the Member as to whether the discussion or correspondence can be treated as confidential within the law and within Council procedures, so that both parties have a clear understanding of the position. Information which indicates that the Council may be in breach of a duty, involves the protection of vulnerable people or alleges misconduct, for example, may not be kept confidential, and may be reported to the proper person or authority.

15. **Chairpersons and Officers** – the chairperson of the Council and/or chairpersons of committees have particular roles in relation to the business of the Council or committees, and officers will support them in those roles. Generally, and subject to the Council's rules of procedure set out in Part 4, the Chairman/chairperson of any Council body will finalise relevant agendas and the officer with responsibility for issuing the agenda will comply with the Chairman/chairperson's wishes in this respect. However, in certain instances, statutory officers have a right to have items included on relevant agendas, and these and any instructions issued by statutory officers in this respect will be followed.
16. **Leader and Executive and Officers** – although employees serve the Council as a whole, senior employees will work closely with the Leader and Executive Members on policy matters. In particular, they may be asked to brief Members on Council powers, the implementation of policies and available options. This is entirely acceptable, whether done individually or collectively. The Leader and Executive Members recognise that all officers are employees of the full Council and may not be asked by Members to advise in a certain way, or to carry out their duties in a way which does not accord with formal decisions or with the officer's own professional judgement. This is, of course, subject to the requirement that officers must carry out the lawful decisions of the Council and the Executive.
17. **Party Groups and Officers** – no officer may be compelled to attend a meeting of the Council's political groups and similarly may not insist on doing so. Officers will not attend party group meetings which include individuals other than Council Members or Council officers acting in that capacity. If an officer gives a briefing to any political group represented on the Council, he/she will offer a similar briefing to the other party groups.
18. **Co-opted Members and Officers** – the Council has several co-opted members who have a statutory right to vote on issues in certain circumstances. Officers will deal with co-opted members in the same way as they deal with all councillors and will be available to advise them as set out in paragraph 10 above, in respect of their particular statutory functions only.

### **Conduct and Effectiveness**

19. If councillors have any concerns about the effectiveness or conduct of particular officers, they will take this up directly and confidentially with the appropriate Corporate Manager with responsibility for the officer's service area, or the Chief Executive if there is no appropriate Corporate Manager or the issue relates to a Corporate Manager, or the Leader if the issue relates to the Chief Executive. The issue will then be handled in accordance with the Council's procedures and the Member and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. Personal criticism (except in pursuance of a legal obligation) by Members of individual officers or identifiable groups of officers will not take place in public forums (including the media) as this could seriously affect the ability of the Council to effectively defend its position as an employer and may in some circumstances render it liable to payment of compensation.

20. Similarly, if any officer has concerns about the conduct of a particular Member, he/she will raise it in the first instance with his/her Chief Officer or Corporate Manager so that attempts can be made to resolve the issue on an amicable basis. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Standards Commissioner for Wales under the Member Code of Conduct. No Council officer will publicly criticise any councillor (except in pursuance of a legal obligation) as this would be a departure from the proper statutory process and may prejudice that process.

#### **Access to Information and Documents**

21. The Council promotes openness and access to information by all its councillors. However, the law prevents the release of confidential or exempt information in certain circumstances, and both officers and members will abide by the Council's Access to Information Procedure Rules set out in Part 4 of this Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.

## THE CARDIFF UNDERTAKING FOR COUNCILLORS

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This undertaking should be considered in conjunction with the Members' Code of Conduct and forms part of the ethical code which binds all Members of the City & County of Cardiff.

As a Councillor elected to the County Council of the City and County of Cardiff, and in accordance with the principles of public life:-

### **I UNDERTAKE TO:-**

#### **Promotion of equality and respect for others**

1. Represent Cardiff and all the people of Cardiff and to hold this duty of representation equally to all the people of Cardiff.

#### **Objectivity and propriety**

2. Consider all issues and cases brought to me on their merits.
3. Balance the interests of my Ward with the interests of the Council and the people of Cardiff as a whole.

#### **Selflessness and stewardship**

4. Give priority to the interests of the Council, Cardiff and of the people of Cardiff.

#### **Integrity**

5. Act according to the highest standards of probity in carrying out my various duties as a Councillor.

#### **Duty to uphold the law**

6. Adhere to and respect the Members' Code of Conduct and have proper regard to the advice and guidance issued by the Standards & Ethics Committee.

#### **Accountability and openness**

7. Not to disclose information given to me in confidence
8. Support and promote the conduct of the Council's business being carried out in an open and transparent manner.

**In order to enable me to carry out my duties I further undertake that I will commit to appropriate training to equip me to carry out my duties as a Councillor.**

Name ..... Date

Signed .....

# **PROTOCOL ON MEMBERS RIGHTS OF ACCESS TO INFORMATION AND DOCUMENTS**

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## **Introduction**

1. Members may ask any Council Service to provide them with information, explanation and advice so that they can carry out their role as councillors. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent.
2. In addition to general information, explanation and advice Members may also seek access to specific documentation held by the Council, its Officers or Executive and have a number of common law, statutory and constitutional rights for that purpose.
3. Any consideration of Member's rights of access to information and documents must take into account the general rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## **The Purpose of the Protocol**

4. The purpose of the protocol in paragraph 10 is to help clarify for members what they are entitled to see, and how to go about seeing it, and to give officers clear guidelines about the members rights particularly in the light of the constitutional arrangements, and the role of scrutiny. Whilst not in any way seeking to limit member's rights, it also seeks to avoid any unnecessary cost and use of Council resources in dealing with every request for information under the Freedom of Information Act.
5. The Council will continue to monitor arrangements to make sure that members get to know information in a timely and appropriate manner.

## **The Legal Position – Statutory Powers**

6. These are set out in the Appendix but briefly mean that:-
  - 6.1 Any member can see documents which contain information relating to the public and private meetings of the Executive, meetings of the Council and its Committees, any decision to be taken by an individual member of the Executive and any key decision made by an Officer. This statutory right does not extend to certain categories of exempt and confidential information.
  - 6.2 All members of a Scrutiny Committee have a right to copies of documents which contain information relating to the public and private meetings of the Executive, any decision to be taken by an individual member of the Executive and any key decision made by an Officer. However, they are only entitled to a copy of a document containing exempt and confidential information where the information is relevant to an action or decision which the member is reviewing or scrutinising or which is relevant to any review contained in a work programme of the Committee or Review Panel.
  - 6.3 Members have rights in relation to the accounts of the Council under section 228 of the Local Government Act 1972
  - 6.4 Members have the same rights to information as any member of the public under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 subject to the exemptions and exceptions in that legislation.

## The Legal Position - The Common Law Position

7. At common law any member has a prima facie right to inspect any Council documents if access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
8. The exercise of this common law right depends upon the member's ability to demonstrate a "need to know". In this respect, a member does not have "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is whether there is a "need to know". More guidance on this principal is contained in a separate guidance note.

## Data Protection

9. Data protection legislation restricts the processing of information relating to individuals. As a result, any such information cannot be shared without the agreement of that individual or unless one of the legal exemptions applies.

## Protocol for Access to Documents

10. Against this background the Council has agreed the following protocol:-
  - 10.1 Where a Member has a clear right of access, as available to any member of the public, to the documents required under Rule 6, Rule 8 or Rule 9.2 of the Access to Information Procedure Rules the documents will be supplied.
  - 10.2 If the documents are not available under paragraph 10.1 the Member shall if appropriate request the material under Rule 18 of the Access to Information Procedure Rules. This rule gives a right to inspect documents relating to business transacted or to be transacted at a meeting of the Council or committee, and to inspect documents relating to business transacted at a decision making meeting of the Executive after that meeting.
  - 10.2 If the documents are not available under paragraph 10.2 the Member shall if appropriate request the material under Rule 17 of the Access to Information Procedure Rules. This rule gives a member of a scrutiny committee a right to inspect documents relevant to the work of that committee.
  - 10.3 If none of the foregoing routes are available a formal request should be made to a relevant Senior Officer and in this the Member should:-
    - 10.3.1 identify what they wish to see;
    - 10.3.2 indicate whether they are asserting a 'need to know' (see paragraphs 0 and 0 above) and if so state the reason(s) that they need to see the material (members should carefully consider the guidance before doing so); and
    - 10.3.3 make it clear whether they have a personal interest in the matter (as defined in the Members' Code of Conduct) and if so what it is.
    - 10.3.4 If asserting a need to know, whether they wish the request to be formally considered under the Freedom of Information Act in the event that the 'need to know' is not accepted. Members are encouraged not to invoke Freedom of

Deleted: Cabinet



Information unnecessarily in circumstances where the material is unlikely to be suitable for general publication e.g. because of commercial confidentiality

- 10.4 The Officer is entitled to ask the member to make this request in writing if he or she is in any doubt about any of these matters, and may at any time seek further clarification.
- 10.5 The Officer receiving the request should make an initial assessment where appropriate as to whether the request should be considered initially under Freedom of Information or the 'need to know'. The Officer may consult the Monitoring Officer or Information Management Services for advice. The purpose of this stage is to ensure that :
  - 10.5.1 Where it is likely that material can be made available under the 'need to know' basis restricted disclosure may be offered to the Member without incurring the cost of a full Freedom of Information assessment
  - 10.5.2 Where it is likely that the material would not be exempt under Freedom of Information full disclosure may be given without incurring the cost of deciding whether 'need to know' has been established
- 10.6 Where the 'need to know' is being considered an officer who is in any reasonable doubt regarding the release of the information will consult the Monitoring Officer for advice.
- 10.7 If, after receiving this advice, it is not considered appropriate to release the information either because:-
  - 10.7.1 the member has not established a need to see it or
  - 10.7.2 because the Officer has other concerns (for example the Councillor has personal interest in the matter, the information is commercially or otherwise sensitive, or the amount of work involved in identifying and producing the information is considered to be excessive) and the member takes a different view, the matter will be referred to the Monitoring Officer, who may consult the relevant Group Leader before making a decision.
- 10.8 Any information provided under the 'need to know' must be only used in connection with the members' duties as a Councillor, e.g. speaking at a relevant Committee or at full Council. Information not already in the public domain should not be divulged by the Member to third parties (including the press) unless and until it enters the public domain e.g. by discussion at a meeting where the public have not been excluded, nor should information be used improperly. Where information has been provided under 'need to know' subject to specific restrictions on its use, officers will use best endeavours to advise the Member if and when the need for those restrictions ceases.
- 10.9 If it is decided that a 'need to know' has not been established the Member will retain the right (notwithstanding paragraph 0 above) to invoke the Freedom of Information Act. The time for answering the request under the Act will start to run from the date of refusal under 'right to know' in cases where the Member has initially agreed not to invoke the Act.
- 10.10 Where Freedom of Information is being considered this will be done in accordance with the Council's normal Freedom of Information procedures since under Freedom of Information Members have no special status

- 10.11 If disclosure under Freedom of Information is refused the Member will retain the right (notwithstanding paragraph 0 above) to invoke the 'need to know'.
- 10.12 Finally, the effect of the Data Protection legislation is that information relating to an individual should not be provided unless either the individual has agreed to its release or one of the legal exemptions applies. As a result, any member wishing to obtain access to personal information should first seek that persons consent. If that consent is not given, or there is a difficulty with requesting it, then legal advice should be sought.

### **Protocol for Access to Other Information**

11. The protocol in the previous section relates to Members' legal rights of access to documents. Many Member enquiries may not require consideration of these rights at all or in part. The enquiry may be for general information, explanation and advice about Council activities. Members need to be aware when making such requests that the legal rights referred to above do not strictly apply to such requests. Nevertheless all parties accept that the effective and efficient governance of the Council requires that such enquiries require appropriate and timely response.
12. The mechanics of responding to requests from Members is dealt with in a separate correspondence protocol.
13. Subject to the following paragraph the appropriate officer will respond to such requests in such a manner that such that the Member has sufficient information to be able to take an informed view and so as to be able to carry out their duties as a Councillor. Technical or professional advice will be given on an impartial basis.
14. Responding to requests for information from Members will be subject to the following limitations :
- 14.1 No information or advice will be given which contains information which would not have been disclosed as part of an existing record under the protocol in paragraph 10 above
- 14.2 Where the amount of work, research or consultation required to provide an answer to a Member would be disproportionate having regard to the nature of the enquiry the appropriate officer may decline to give a full and complete response. In the event of any dispute as to the amount of work which may be reasonable the matter will be referred to the Monitoring Officer for a decision as to whether the work required is disproportionate.

## APPENDIX

### SUMMARY OF STATUTORY PROVISIONS ON ACCESS TO DOCUMENTS

1. There is a right to inspect the accounts of the Council and of any of its Proper Officers under Section 228 of the Local Government Act 1972
2. Section 100F of the Local Government 1972 Act and The Local Government (Access to Information) (Variation) (Wales) Order 2007 provide rights of access to documents for members of the Council. These rights are reflected in the Access to Information Procedure Rules in the Council's constitution. There is a general right of access to documents forming part of the formal business of the Council, including minutes, agendas, reports and background papers, subject to certain restrictions for exempt and confidential information.
3. The Local Government Act 2000 and The Local Authorities (Executive Arrangements) (Decisions Documents and Meetings) (Wales) Regulations 2001 provides similar rights in relation to documents forming part of the formal business of the Executive, and Part III of the same regulations gives an extended right to members of overview and scrutiny committees relating to documents relevant to the work of the committee
4. The Freedom of Information Act 2000 and the Environmental Information Regulations give general rights of access to all recorded information held by the Council subject to certain exemptions and exceptions
5. Guidance on the extent of these rights is available in a separate guidance document.

## **PART 6 – MEMBERS’ ALLOWANCES SCHEME**

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### **CITY AND COUNTY OF CARDIFF SCHEME OF MEMBERS' ALLOWANCES (AS AMENDED 28 MARCH 2002, 21 NOVEMBER 2002, 20 JANUARY 2005 AND 15 MAY 2008)**

**This Scheme is made under the Local Authorities' (Allowances for Members) (Wales) Regulations 2007 ("the 2007 Regulations") and all other relevant statutory enabling powers.**

#### **Basic Allowance**

1. Subject to paragraph 3 below, for each year a basic allowance of £11,065 shall be payable to each councillor.

#### **Special Responsibility Allowance**

2. For each year, a special responsibility allowance shall be payable to those councillors who have the special responsibilities in relation to the Authority that are specified in Schedule 1 to this Scheme. The amount of such allowance will be the amount specified against that special responsibility in Schedule 1 aforesaid, subject to the provisions of paragraph 3 below.

#### **Part Year Entitlements**

3. (1) The provisions of this paragraph shall have effect to regulate entitlements of a councillor to basic and special responsibility allowances where, in the course of the year, this Scheme is amended or that councillor becomes, or ceases to be, a councillor or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.  
  
(2) The relevant provisions of the 2007 Regulations will be applied in order to determine the Councillor's entitlement to allowances in these circumstances.

#### **Care Allowance**

4. All Councillors will be entitled to receive a Care Allowance in respect of such expenses of arranging for the care of children or dependents as are necessarily incurred in the carrying out of that Councillor's duties as a Councillor, as follows:-  
  
(1) The Care Allowance will be paid at the rate of £326 per month to any Councillor eligible to receive it.  
  
(2) If a Councillor ceases to be entitled to the payment of a Care Allowance, the proportionate entitlement will be calculated in line with the proportionate entitlement to Basic Allowances as set out in the relevant provisions of the 2007 Regulations.
5. The entitlement to receive a Care Allowance is restricted in the following circumstances:-  
  
(1) The child or other dependent concerned must either reside with the Councillor or the Councillor must satisfy the Council that he/she is responsible for their care

(2) Where the age of the child or dependent concerned exceeds 15, the Councillor must satisfy the Council that the child or dependent requires supervision which will cause the Councillor to incur expenses necessary in respect of the child or dependent in the carrying out of the Councillor's duties as a Councillor.

(3) No Care Allowance will be paid to more than one Councillor for the care of the same child or dependent.

(4) No more than one Care Allowance will be paid to any Councillor unless they can demonstrate to the reasonable satisfaction of the Council's Section 151 Officer that the Councillor is required to make separate arrangements for the care of different children or dependents.

### **Financial Loss Allowance**

6. A Member of the Council who is not a Councillor but is able to vote at any meeting of the Council or its committees ("Co-opted Member") is entitled to receive a Financial Loss Allowance, which will not exceed the amount of any loss of earnings necessarily suffered or any additional expenses (other than expenses in relation to travel or subsistence) necessarily incurred in the performance of an approved duty as a member of the Council as defined in the 2007 Regulations, or the sum of £200 per day (whichever is the lesser).

### **Travel and Subsistence Allowance**

7. Councillors and co-opted members shall be entitled to receive payments by way of travel or subsistence allowances at rates determined each year by the Council, where such expenditure is necessarily incurred by that Councillor or co-opted member in the performance of an approved duty as a member of the Council.
8. Any claim for payment of such allowances (excluding claims for travel by means of a private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses, subject to any requirement or limitation established by the Section 151 Officer for efficient administration.

### **Payments**

9. Payment of basic and special responsibility allowances may be made in respect of defined monthly payment periods by instalments in accordance with arrangements made by the City and County Treasurer.
10. If a Member ceases to be entitled to basic and/or special responsibility allowance otherwise than at the end of a payment period as set out in 10 above, the City and County Treasurer will make appropriate arrangements for payment of any sum due to the Member or for recovery of any sum overpaid in accordance with the Council's usual procedures.

### **Elections to Forego Allowances**

11. A councillor may, by notice in writing given to the Chief Executive, elect to forego any part of his/[her](#) entitlement to an allowance under this Scheme for whatever period and under any lawful terms specified in the notice.

## SCHEDULE 1

The following are specified as special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances (increased from time to time in accordance with the Scheme):-

### Special Responsibility Allowance (£) as from 15 May 2008

Leader	£40,233
Deputy Leader	£22,117
Other Executive Members	£20,107
Scrutiny Committee Chairs	£12,071
Planning Committee Chair	£12,071
Licensing and Public Protection Committees Chair	£8,048
Deputy Chair – Planning Committee	£8,048
Deputy Chair – Licensing and Public Protection Committees	£4,024
Leader of the Opposition	£12,071
Leader(s) of Opposition Group(s) comprising at least 10% membership of the Authority	£4,024

## PART 7 – MANAGEMENT STRUCTURE

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### Cardiff Council Management Structure

**Deleted:** Cardiff County Council

1. The Chief Executive (Head of Paid Service) is the most senior member of the Council's staff and has responsibility for overall management. He or she is supported by a small team of Corporate Directors who each take responsibility for a group of services and cross-cutting issues. Chief Officers (who report to the Chief Executive or a Corporate Manager) each have operational responsibility for individual service areas, and are supported by a network of Operational Managers, who are responsible for day-to-day management of service provision.
2. An explanation of the detailed allocation of functions and services can be found on the Council's website ([www.cardiff.gov.uk](http://www.cardiff.gov.uk)) or in writing from the Chief People and Organisational Development Officer, County Hall, Cardiff CF10 4UW. As changes in responsibilities may be made from time to time to improve service delivery, the details are not included in this Constitution.
3. The management structure of the Council is as follows:-

**Deleted:** Corporate Managers

**Senior Management Arrangements  
From 21 January 2008**

