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## AGENDA

<b>Committee</b>	CONSTITUTION COMMITTEE
<b>Date and Time of Meeting</b>	THURSDAY, 15 MARCH 2018, 5.00 PM
<b>Venue</b>	COMMITTEE ROOM 2 - COUNTY HALL
<b>Membership</b>	Councillor Goodway (Chair) Councillors Berman, Burke-Davies, Carter, Keith Jones, Goddard, Jones-Pritchard, Lister, Kelloway, McEvoy, Mckerlich and Wong

### 1 **Apologies**

To receive apologies for absence.

### 2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

### 3 **Membership of Committee**

The Council at its meeting on 25 January 2018 appointed Councillor Ashley Lister to replace Cllr Saeed Ebrahim on this Committee.

### 4 **Minutes** (*Pages 1 - 4*)

To approve as a correct record the minutes of the meeting 8 January 2018.

### 5 **Responsibility for Air Quality Management Functions** (*Pages 5 - 8*)

*Report of the Director of Governance & Legal Services.*

### 6 **Contract and Finance Procedure Rules** (*Pages 9 - 124*)

*Report of the Corporate Director Resources and Director of Governance & Legal Services.*

- 7      **Recording of Council Meetings (Audio, Visual or Social Media)** (*Pages 125 - 140*)  
*Report of the Director of Governance & Legal Services*
- 8      **Ward Member Consultation** (*Pages 141 - 144*)  
*Report of the Director of Governance & Legal Services.*
- 9      **All-Party Council Groups** (*Pages 145 - 148*)  
*Report of the Director of Governance & Legal Services.*
- 10     **Scrutiny Committee Size and Membership of Task and Finish Groups**  
(*Pages 149 - 162*)  
*Report of the Director of Governance & Legal Services.*
- 11     **Forward Work Plan** (*Pages 163 - 166*)  
*Report of the Director of Governance & Legal Services.*
- 12     **Frequency of Meetings**

**Davina Fiore**

**Director Governance & Legal Services**

Date: Friday, 9 March 2018

Contact: Gill Nurton, 02920 872434, a.redmond@cardiff.co.uk

***This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg***

CONSTITUTION COMMITTEE

8 JANUARY 2018

Present: Councillor Goodway(Chairperson)  
Councillors Berman, Burke-Davies, Carter, Keith Jones,  
Goddard, Jones-Pritchard, Kelloway, McKerlich and Wong

15 : APOLOGIES

An apology was received from Councillor McEvoy.

16 : DECLARATIONS OF INTEREST

No declarations of interest were received.

17 : MINUTES

The minutes of the meeting 25 October 2017 were approved as a correct record and signed by the Chairperson.

18 : COUNCIL MEETING PROCEDURE RULES

Further to consideration by this Committee at its meetings 31 August and 25 October 2017, and consultation with Group Leaders and Whips, the Director of Governance and Legal Services' report was submitted for approval and recommendation to Full Council on the changes to the procedure rules for meetings of Council.

The proposed changes related to the following matters:

- A rule to limit tributes and eulogies;
- A limit of two Ordinary Motions per meeting;
- To provide that Cabinet Green Papers debated at Council are to be counted as part of the leading group's allocation of Ordinary Motions;
- A rule that amendments to Ordinary Motions must not negate the original motion;
- A right for the Cabinet Member to reply to a motion and (with the agreement of the mover and seconder) to move that the vote be adjourned to the next meeting, in order to give the Cabinet the chance to consider the matter first;
- A requirement that Cabinet Statements to be circulated with the Council agenda;
- To remove Cabinet Members and Assistants to Cabinet Members from the calculation of the leading group's proportional allocation of Oral Questions;
- To remove the provision for a second supplementary question on oral questions;
- To provide for composite answers to oral questions which are closely related or on the same subject matter, whenever appropriate;
- To allow political groups to identify their preferred speakers in advance on particular matters if they wish to (but retaining the discretion of the Lord Mayor); and
- To include the current time limits on agenda items within the Rules, with discretion for the Lord Mayor to extend them.

There was general consensus within the Committee on the proposed changes with the exception of an objection by the Liberal Democrat Group on the removal of the

second supplementary question on Oral questions, as this was seen as a diminishing the ability of backbenchers to ask spontaneous questions.

It was also proposed and agreed that Cabinet and Assistant Cabinet Members be not included in the calculation on the allocation of motions and the minimum number of motions be reduced to one.

It was also agreed that a new time limit for submission of motions be introduced so that Motions are received earlier and should more than two motions be received for one Council meeting the Chair of Council should decide which motions go forward to the meeting, in consultation with Group Whips. Motions should be prioritised having regard to factors such as the urgency of the Motion; any policy or other significance to the Council; and the number of Motions already submitted by that group. Clarification was also sought on composite answers to Oral Questions and it was confirmed that each Oral Questioner will have an opportunity to ask a supplementary questions if a composite answer is given.

Finally it was agreed that the relevant Cabinet Member would have a right to respond to a motion related to their responsibility and could with the agreement of the mover and seconder, move that the vote on the motion be adjourned to the next meeting, in order to give the Cabinet the opportunity to consider the matter first. Any outcome from the Cabinet consideration would be reported in the Cabinet Member Statement to the next Council.

As there was consensus across the Committee it was therefore proposed that a report be submitted to Council 25 January 2018

#### RESOLVED – THAT

1. the proposed changes as set out in Appendices A and B of the report were agreed and to include also: -
  - To change the allocation rules for Ordinary Motions by deducting Cabinet Green Papers from the leading group's allocation; removing Cabinet members and Assistants to Cabinet members from the proportionality calculations; and reducing the minimum number of Motions for any recognised political group to one;
  - To introduce a 'Submission Period' (which brings forward the deadline) for Ordinary Motions in order to allow time for party groups to agree the selection of Motions if there are more than the maximum number (of 2) for a particular Council meeting;
2. the changes be recommended to Full Council on 25 January 2018 for approval with effect from Annual Council 24 May 2018, subject to review after one year.

## 19 : SCRUTINY CALL-IN RULES

The Scrutiny Chairs Liaison meeting in August 2017, proposed that the Scrutiny Procedure Rules be amended in relation to when a matter had been subject to pre-decision scrutiny that a Call-In should *only* be permitted if there had been significant new or additional information, which had not been previously considered by the Scrutiny Committee. This would avoid unnecessary duplication of work and Member and officer time.

Members were content with the Scrutiny Chairs proposal and recommended that the amendment to Rule 12 Call-In Procedure of the Scrutiny Procedures be submitted to Full Council for approval.

RESOLVED – That

1. the proposed amendments to the Scrutiny Procedure Rules, as shown in Appendix B to the report were approved; and
2. the recommendation of the Constitution Committee be submitted for approval at full Council on 25 January 2018.

## 20 : FORWARD WORK PLAN 2017-18

The main work stream for the Committee in 2017/18 is to develop improvements to aspects of the Constitution, in particular in relation to making Council meetings more effective, giving greater transparency to how decisions are made and the way the Council and its officer functions.

RESOLVED – That

1. the Committee approved the items coming forward to the next meeting of the Committee;
2. it was noted that meetings in the next municipal year would be approved by Annual Council in May.

## 21 : DATE OF NEXT MEETING

RESOLVED – That the next meeting be held on Monday 5 March 2018 at 5.00pm (venue to be advised).

The meeting terminated at 5.55 pm

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

**RESPONSIBILITY FOR AIR QUALITY MANAGEMENT FUNCTIONS**

**Reason for this Report**

1. To enable the Committee to consider the recommended transfer of responsibility within the Council for air quality management functions from the Public Protection Committee to the Cabinet, in order to support better integrated policy development; and recommend amendment of the Council's Scheme of Delegations accordingly.

**Background**

2. The Committee's approved terms of reference are to review the Council's constitution and recommend to the Council any changes.
3. The Scheme of Delegations (in Part 3 of the Constitution), sets out the responsibility for discharging the various functions of the Council. The allocation of functions reflects their statutory classification as 'Executive', 'Non-Executive' or 'Local Choice' functions. Local choice functions are functions which, in law, may be, but need not be, the responsibility of the Cabinet, and it is for full Council to decide by whom they shall be exercised. Cardiff Council's allocation of Local Choice Functions is set out in Section 3 of the Scheme of Delegations.
4. 'The discharge of any function relating to the control of pollution or the management of air quality' is a Local Choice Function, which is allocated under Cardiff's current Scheme of Delegations to the Public Protection Committee.

**Issues**

5. Local Air Quality Management (LAQM), a regime established by Part IV of the Environment Act 1995, requires Local Authorities to monitor air quality having regard to the standards and objectives set by the Welsh Government; to identify areas non-compliant with the national air quality objectives; designate those non-compliant areas as Air Quality Management Areas (AQMA's); and develop and implement local air quality action plans for AQMA's designed to ensure compliance with the national objectives (sections 82-84 Environment Act 1995).

6. The Public Protection Committee has received technical monitoring reports, but it is understood that action plans have often not been aligned with other corporate initiatives which highlight the immediate and long-term health benefits to be gained by reducing pollution exposure across the entire population as well as taking action on localised pollution hotspots.
7. In June 2017, the Welsh Government issued new policy guidance to local authorities in Wales in relation to local air quality management. Local authorities must have regard to this guidance when carrying out their local air quality management duties under the 1995 Environment Act.
8. At the heart of the new guidance is a requirement for local authorities to follow the 5 ways of working, set out in the Well-being of Future Generations (Wales) Act 2015, when carrying out local air quality management. This means planning for the long term, integrating policies which can impact on air quality, involving people, collaborating with others and preventing problems from getting worse or from arising in the first place. This means that local air quality management (LAQM) must encompass more than just the Local Authority's statutory functions under Part IV of the 1995 Act. The exercise of those functions must be properly joined up with the management of land use and transport planning, as well as with the carrying out of any other activities, which have a bearing on local air quality.
9. The Cabinet is currently developing a Clean Air Strategy aiming to keep levels of air pollution as low as reasonably practicable across the City, an area wider than individual Air Quality Management Areas AQMAs. Such a strategy cannot operate in isolation from other policy areas, but must be integrated with land use and transport planning, public health, active travel, green infrastructure, road safety and climate change. Responsibility for these other functions rest with the Cabinet.
10. For all these reasons, it is suggested that it makes sense to consider all issues pertaining to Air Quality together. Continuing to report them separately may result in missed opportunities, at worst in the implementation of conflicting policies. Consideration of these matters at one forum, Cabinet, should enable a greater focus on prevention and help bring about better outcomes for people and communities in both the short and the long term.
11. Cabinet Members have been informally consulted and are supportive of the proposed transfer of responsibility to the Cabinet.
12. The Public Protection Committee noted the proposed transfer of responsibility for this function at its meeting on 7th November 2017. Members were concerned that the transfer of the monitoring function from the Public Protection Committee to Cabinet could generate a conflict of interest if air quality metrics worsened and considered that it should remain an independent function. Members suggested that the Public Protection Committee should receive progress reports before submission to Cabinet and also receive feedback after Cabinet.



13. In considering the appropriate allocation of responsibility for air quality management functions, it is important to carefully consider the exact nature of the functions involved. As set out in paragraph 5 above, the Council is required to monitor air quality having regard to the standards and objectives set by Welsh Government and must designate any area which does not comply with those standards and objectives as an Air Quality Management Area (AQMA). In discharging these 'monitoring functions', the Council does not have any significant discretion. However, the development of action plans designed to improve air quality in AQMAs is a strategic function, responsibility for which may properly be allocated to the Cabinet. As the action plans will need to be informed by the assessments made (in discharging the monitoring functions), it is suggested that it is appropriate to allocate responsibility for all air quality management functions to the Cabinet.
14. The Welsh Government's Statutory Guidance on Executive Arrangements (SI 2006/56) confirms that it is appropriate for Councils to allocate responsibility for air quality management functions to the Executive, except for any regulatory (direct regulation of individual persons), consent or enforcement decisions. Currently, there are no such regulatory, consent or enforcement functions in respect of air quality management applicable in Cardiff.

### **Financial Implications**

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

### **Legal Implications**

16. The recommended transfer of responsibility for air quality management functions from the Public Protection Committee to the Cabinet requires an amendment to the Scheme of Delegations, Section 3. The amendment will require the approval of full Council.
17. Other relevant legal implications are set out in the body of the report.

### **RECOMMENDATION**

The Committee is recommended to recommend to Council that the Air Quality Management functions of the Council be allocated as Cabinet functions and that the Scheme of Delegations, Section 3, be amended accordingly.

**Davina Fiore**

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

**20<sup>th</sup> February 2018**

*Background papers*

*Local Air Quality Management in Wales: Policy guidance, June 2017*

Public Protection Committee 'Air Quality in Cardiff – Progress Report', November 2017; and minutes thereof

Welsh Government Statutory Guidance on Executive Arrangements, SI 2006/56

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**CYNGOR CAERDYDD  
CARDIFF COUNCIL****CONSTITUTION COMMITTEE:****15 MARCH 2018**

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**Report of the Corporate Director Resources and Director of  
Governance and Legal Services**

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**Contract Standing Orders & Procurement Rules and Financial Procedure  
Rules****Reason for this Report**

To update the Council's Contract Standing Orders and Procurement Rules ('CPR') and Financial Procedure Rules ('FPR').

**Background**

1. The Council is required to make standing orders with respect to the making of contracts for the supply of goods or materials and execution of works (S135 Local Government Act 1972). This report proposes that the Council's CPR are updated and take the form set out in Appendix A.
2. The Council is required to arrange for the proper administration of its financial affairs. This report proposes that the Council's Financial Procedure Rules are updated and take the form set out in Appendix B.

**Issues**

3. As Members will be aware, Cardiff Council's Constitution sets out how the Authority operates, how decisions are made and the procedures, which are to be followed.
4. The Constitution provides that :-
  - (a) The management of the Authority's financial affairs will be conducted in accordance with the Financial Procedure Rules (the FPR); and
  - (b) Every contract made by the Authority will comply with the Contract Standing Orders and Procurement Rules (the CPR).
5. Both rules are subject to periodic review to ensure that they remain relevant and fit for purpose.

## Issues

### 6. Contract Standing Orders and Procurement Rules (CPR)

- (i) The CPR provide a corporate framework for the procurement of all Goods, Services and Works for the Council, including concession contracts.
- (ii) Procurement is “the process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.”
- (iii) The CPR have been drafted to address each stage of the procurement process.
- (iv) The key changes proposed to the CPR include:
  - (a) the move to electronic tendering, with more self-service by client service areas;
  - (b) increased emphasis on Community Benefits;
  - (c) changes to the advertising and tendering thresholds, and
  - (d) changes to the authority to approve variations.

7. The current advertising and tendering thresholds and the proposed changes are set out in the tables below. Works contracts tend to be of higher value than contracts for goods and services and for this reason, higher thresholds are proposed for works contracts:

Current thresholds
Goods, Services and Works
Up to £3k – one quote
£3k to £10k – two quotes
£10k to £100k – advertise or three written tenders
£100k to OJEU threshold – advertise or four written tenders
OJEU threshold and above – Comply with EU requirements

Proposed thresholds	
Goods and Services	Works
Up to £10k – minimum of one quote *	Up to £10k – minimum of one quote *
£10k to £25k – three quotes	£10k to £75k – three quotes
£25k to OJEU – advertise or four tenders	£75k to OJEU – advertise or four tenders
OJEU - Comply with EU requirements	OJEU - Comply with EU requirements

(\* There is a requirement to ensure that the way forward represents value for money and competition is encouraged)

8. If the amended CPR are approved, then to assist with their implementation, supporting guidance and training sessions (both in a classroom environment and on-line) will be provided.

## **9 Financial Procedure Rules**

9.1 The Financial Procedure Rules ('FPR') document has been reviewed by officers within Internal Audit. It had been identified that the FPRs, as currently extant, do not fully reflect the parameters within which the Council operates and, therefore, they required updating.

9.2. The FPRs have, therefore, been redrafted to ensure that the key risks and controls for the financial control environment of the Council are fully covered.

## **10. Consultation**

10.1 Draft versions of the CPR and FPR were submitted to members of the Audit Committee for comment.

10.2 As regards the CPR, there have been a number of consultation events with officers from different directorates and the feedback from these sessions has been used to guide and shape the changes to the CPR.

## **Legal Implications**

The legal implications are reflected in the body of the report and in the drafting of the CSO.

In considering this matter, regard should be had, amongst other matters, to:

- (a) the Council's duties under the Wellbeing of Future Generations (Wales) Act 2015, (The CSO noting at paragraphs 1.4 and 3.2 the requirement to comply); and
- (b) Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties the Council must in making decisions have due regard to the need to:
  - (a) eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by that Act;
  - (b) advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
  - (c) foster good relations between people who share a protected characteristic and those who do not.

Protected characteristics are:

- (a) Age;
- (b) Gender reassignment;
- (c) Sex;
- (d) Race – including ethnic or national origin, colour or nationality;
- (e) Disability;
- (f) Pregnancy and maternity;
- (g) Marriage and civil partnership;
- (h) Sexual orientation;
- (i) Religion or belief – including lack of belief.

In Wales, public sector bodies listed are required to take certain steps in order to demonstrate that they have due regard to the public sector equality duty. These Welsh specific equality duties include assessing the impact of policies and procedures on equality (often called Equality Impact Assessment).

A Wellbeing and Equality Assessment has been undertaken and is included in Appendix C. Regard should be had to the same in reaching a decision on this matter.

### **Financial Implications**

The financial implications are covered within the main body of the report and the attached annexes for approval, the Contract Standing Orders and Procurement Rules and the Financial Procedure Rules.

### **RECOMMENDATIONS**

The Constitution Committee is recommended to:

- (1) approve the Contract Standing Orders and Procurement Rules ('CPR') and Financial Procedure Rules ('FPR') attached as Annexe A and B to this report; and
- (2) to delegate authority to the Corporate Director Resources to amend the FPR and to the Director of Governance and Legal Services to amend the CPR to accord with any changes to legislation and to make any other amendments that may be required from time to time, which do not serve to materially alter the FPR or CPR.

**Christine Salter**  
**Corporate Director Resources**

**Davina Fiore**  
**Director of Governance and Legal Services**

28 February 2018

*The following Appendix is attached:*

*Appendix A Contract Standing Orders and Procedural Rules*

*Appendix B Financial Procedure Rules*

*Appendix C Well being and Equalities impact Assessment*

*The following Background Documents have been taken into account:*

**PART 4 CONTRACT STANDING ORDERS AND PROCUREMENT RULES ('CPR')**

**Drafting comments:-**

**1- Hyperlinks to be added to access the Council documents referred to.**

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**DRAFT WORK IN PROGRESS – SUBJECT TO CHANGE**

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Draft

## **PART 4      CONTRACT STANDING ORDERS AND PROCUREMENT RULES (‘CPR’)**

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### **Index: CONTRACT STANDING ORDERS AND PROCUREMENT RULES (‘CPR’)**

#### **Part 1 General Arrangements**

- Section 1      Introduction
- Section 2      Definitions and Interpretations
- Section 3      Compliance with the Rules
  - Section 3.5 = Exemptions
- Section 4      Declaration of Interest
- Section 5      Welsh Language Act

#### **Part 2 Procurement Planning**

- Section 6      Procurement Planning
- Section 7      Advice and Risk Assessment

#### **Part 3 Community Benefits, In house arrangements and Frameworks**

- Section 8      Community Benefits
- Section 9      Use of in-house services
- Section 10     Framework Arrangements - Collaborative and Joint working arrangements

#### **Part 4 Carrying out the procurement**

- Section 11     Estimating the Contract Value
- Section 12     Goods (supplies) and Services



Section 13	Works
Section 14	Exceptions – Single or reduced number of tenders
Section 15	Electronic Tendering
Section 16	Pre-Qualification (applies to all)
Section 17	Quotes
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Section 19	Receipt, Custody and Opening of hard Copy Tenders
Section 20	Late Tenders
Section 21	Tender Evaluation
Section 22	Post Tender Clarification
Section 23	Awarding Contracts
Section 24	Completion of Contracts and retention of contract documentation
Section 25	Notification of Results, De-briefing and Standstill Period
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Section 26	Bonds, Security, Liquidated and other damages
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Section 29	Contract Management
Section 30	Contract Variation – basic principles
Section 31	Assignments and Novations
Section 32	Termination of Contract
Section 33	Payments on Account and contract payments
Section 34	Contract End
	Appendix 1 Procurement routes
	Appendix 2 Procurement flowchart

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

### 1. Introduction

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

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<sup>1</sup> Wales Procurement Policy Statement 2015

<http://gov.wales/topics/improvingservices/better/vfm/publications/procurement-policy-statement/?lang=en>

particular procurement processes and subsequently entering into contracts; and

- ix. achieves the organisational outcomes of the **Council's Procurement Strategy (2017-20)**:

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

## 2. Definitions and Interpretations

- 2.1 In these Rules the following definitions apply:

**Community Benefits**

means the delivery of social, economic and environmental benefit, through effective application of Community Benefits clauses in public contracts. Mandatory on all contracts with a value greater than £1m and optional, but encouraged, on contracts below £1m.

**Concession Contracts**

means a contract between the Council and Contractor, where the consideration in the contract consists of the Contractor's right to exploit the work or services, that are the subject of the contract, or that right to exploit together with a payment.

**Contract**

means any form of agreement (including, without limitation, purchase orders produced on the Council's Proactis P2P system or any

replacement of such system) for the supply of Goods, provision of Services or carrying out of Works and or concession contracts.

**Contractor** means any contractor, supplier or provider with whom the Council enters into a Contract for the carrying out of Works, provision of Services or the supply of Goods.

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

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

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

**EU** The European Union.

**EU Thresholds** The thresholds prescribed in section 5 of the Public Contracts Regulations 2015. The current thresholds, net of VAT and as at 1<sup>st</sup> Jan 2018 are: -

Services	£181,302
Light Touch Regime for Services	£615,278
Supplies	£181,302
Works	£4,551,413
Concession contracts	£4,551,413

The thresholds change every two years and are due to change again on 1st January 2020.

**Framework Agreement** An agreement with one or more Contractors, the purpose of which is to establish the terms (in particular with regard to price and quantity) governing a contract or contracts to be awarded

during the period for which the framework agreement applies.

<b>Goods</b>	covers all products, goods, supplies, substances and materials that the Council purchases, hires or otherwise obtains.
<b>Grant(s)</b>	a sum of money paid or to be paid by the Council to a third party, and in respect of which the Council does not require the grantee to provide the Council with any Services, or Goods or carry out any Works for the Council's direct benefit. The Grant(s) may be conditional (i.e. obligation to spend the Grant(s) in a particular manner, to account for that spend and repay the Grant(s) if the Grant(s) conditions are breached).
<b>Legal Requirements</b>	means all European, UK and Welsh law that governs and or relates to the procurement of goods, services and works and the letting of concession contracts.
<b>Monitoring Officer</b>	The officer designated by the Council as its Statutory Monitoring Officer as required under Section 5 of the Local Government and Housing Act 1989.
<b>Most economically advantageous tender (MEAT)</b>	A tender evaluated on the basis of qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
<b>OJEU</b>	The Official Journal of the European Union.
<b>OJEU threshold</b>	The values that are determined by the European Union every two years (see definition above EU Thresholds).
<b>Prior Information Notice (PIN)</b>	A notice placed by the Council on <a href="#">Sell2Wales</a> and/or OJEU alerting the market of upcoming requirements and allowing suppliers to respond, expressing an interest in bidding for the contract. This supplier feedback can be used to inform the development of the specification as well as the selection process prior to the invitation to tender stage.
<b>Procurement</b>	Means, for the purposes of these rules, the process by which the Council manages the acquisition of all its Goods, Services and Works,

in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the Council, but also to society and the economy, whilst minimising damage to the environment. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.

**Procurement Guidance**

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

**Procurement Manager**

means the Operational Manager – Commissioning and Procurement Services or any officers under his/her supervision or management to whom he/she delegates authority to carry out any of the obligations, duties or activities required to be performed by him/her under these Rules or to act in his/her absence.

**Procurement Process**

means the process, which spans the whole life cycle of the procurement, from identification of needs, options appraisal, supplier selection, award, and contract management through to the end of a contract or the end of the useful life of the asset, or disposal of the asset.

**Procurement Routes**

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

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

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

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

<b>Purchase order</b>	means an electronic order raised and authorised via the Council's Proactis P2P system, or such other electronic system in force for the time being.
<b>Purchase-to-Pay (P2P)</b>	means the Council's electronic method of processing payments. The Council uses the Systems Applications and Products (SAP) software or any such software.
<b>Quotation</b>	means a quotation of price and any other relevant detail submitted to the Council upon the Council's request, without the formal issue of an invitation to tender.
<b>Regulations</b>	means The Public Contracts Regulations 2015, as amended from time to time.
<b>Rules</b>	means these Contract Standing Orders and Procurement Rules.
<b>Section 151 Officer</b>	means the officer designated by the Council as its Statutory Section 151 Officer as required under Section 151 of the Local Government Act 1972
<b>Senior Officer</b>	means the holder for the time being of any post named in the <b>Scheme of Delegations</b> or, if such is the case, named in a decision of the Cabinet, Council or one of its committees, as having delegated powers and duties in respect of the procurement concerned.
<b>Services</b>	includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency staff and all those activities constituting Services for the purposes of the Public Contracts Regulations 2015.
<b>Single Tender and Reduced Number of Tenders</b>	means where these Rules allow (and for good reason and subject to a proper business case), the Council limits the minimum number of Tenderers to be invited to tender to one or a lesser number than would otherwise normally be required by these Rules given the estimated value of the Contract concerned.
<b>Request for Quotation (RFQ)</b>	Means a request to provide a price and any other relevant detail, without the formal issue of an invitation to tender.

<b>Tenderer(s)</b>	individual, individuals, partnerships, companies or other bodies invited to submit quotes/tenders/prices for providing the Council with Services, supplying Goods or carrying out Works.
<b>Value for Money</b>	should be considered as the optimum combination of whole-of-life costs in terms of not only generating efficiency savings and good quality outcomes for the organisation, but also benefit to society, the economy, and the environment, both now and in the future.
<b>Variant Bid</b>	means an offer/bid, which contains variants on the requirements specified by the Council in its procurement documentation.
<b>Variation and Variations</b>	means any alteration to a Contract, including additions, omissions, substitutions, alterations, or changes of any other nature.
<b>Works</b>	includes all works of new construction and repairs in respect of physical assets (buildings, roads, etc.) including all those activities constituting Works for the purposes of the Public Contracts Regulations 2015.

- 2.2 All values referred to in these Rules are exclusive of VAT.
- 2.3 Any dispute regarding interpretation of these Rules shall be referred to the Director of Governance and Legal Services for resolution in consultation with the Procurement Manager.
- 2.4 These Rules shall be read in conjunction with the Council's Constitution as a whole and, in particular, in respect of Contract payments, including compliance with the Council's Financial Procedure Rules.
- 2.5 The Director of Governance and Legal Services will amend these Rules from time to time, to ensure that they meet all Legal Requirements.
- 2.6 The Director of Governance and Legal Services and the Procurement Manager shall periodically undertake a formal review of these Rules.

### **3. Compliance with these Rules**

- 3.1 These Rules must be followed when dealing with any Council Procurement except for those Procurements and other matters referred to in Rule 3.5.



3.2 Every Procurement undertaken by the Council or any other party on its behalf

i. must comply with:

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

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

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

and

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

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

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

### 3.5 Exemptions to the Rules

These Rules do not apply to:-

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

(ii) **contracts of employment** which make an individual a direct employee of the Council;

(iii) **use of the Council's in-house services;**

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

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

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

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

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

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

- 5.6 Where relevant to the subject matter of the contract, contracts must contain provision requiring the Contractor to comply with all applicable requirements of:
- i. the Authority's Welsh Language Scheme,
  - ii. the Welsh Language (Wales) Measure 2011, and
  - iii. the Welsh language standards issued to the City of Cardiff Council (Compliance Notice – Section 44 Welsh Language (Wales) Measure).

## **6. Procurement Planning**

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

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

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

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

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

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

7.5 **Personal Data**

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

**8. Community Benefits**

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

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

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

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

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

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

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

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

## **10. Framework Arrangements**

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

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

10.3 It is the responsibility of the service area requiring the procurement to ascertain whether there is a framework or other corporate purchasing agreement in place by checking the Council Supply Directory. If such a framework or corporate purchasing arrangement exists then Service areas must use the same or otherwise obtain the prior agreement of the Procurement Manager or his/her nominated deputy.

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

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

- 11.1 The estimated value of a Contract/procurement exercise shall be the value of the total consideration, net of value added tax, which the Council expects to be payable under the Contract over its full duration (not the annual value).
- 11.2 Where the duration of a contract is indeterminate, the value should be taken to be the estimated value of the contract over a period of four years (the value of the monthly consideration multiplied by 48).
- 11.3 In determining the value of the total consideration, which the Council expects to pay, the Senior Officer shall take account, where relevant, of;
- (i) the term/period of the proposed Contract
  - (ii) any rights to renew the Contract/extend the Contract period
  - (iii) any prize, payment, premium, fees, commission, interest or other form of remuneration payable under the proposed

Contract or in respect of the proposed procurement

- 11.4 If there is uncertainty over calculating the estimated value of the proposed Contract then the advice of Legal and Procurement Services should be sought.
- 11.5 No Works or requirements for Goods or Services may be artificially split to avoid consulting with the Procurement Manager or avoid compliance with EU procurement law or these Rules.
- 11.6 Where the Council has requirements over a period of time for Goods and Services where the contracts have similar characteristics and the Goods and Services are of the same type, and enters into a series of contracts or a contract which is renewable, then the estimated value shall be calculated by the total spend on such matters over the last 12 months or projected estimated spend for next 12 months, whichever is the greater. In estimating this value the advice of the Procurement Manager must be sought.
- 11.7 In considering if the Public Contracts Regulations 2015 apply, the Council must have regard to the 'methods for calculating the estimated value of a procurement' set out in the Public Contracts Regulations 2015 and advice of the Procurement Manager sought.

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

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

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

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

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



11.5 (artificially dividing procurements) and rule 11 (repeat requirements)

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

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

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

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

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

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

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

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

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

### 13. Works

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

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

#### 13.2 Works Value up to £10,000

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

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

- i. For procurements with a value of £10,000 up to £75,000 then:
  - a. where practicable the requirement should be openly advertised on the Council's e-procurement system or on the national procurement website,
- ii. if it is not practicable to comply with Rule 13.3 then:

- a. a minimum of 3 written quotes must be requested from suitable providers; or
  - b. the prior consent of the Procurement Manager must be obtained to the use of an alternative Procurement Procedure or reliance being placed on Rule 14 ('Exceptions').
- iii. The Council's Quotation Record Form must be used to record the procurement actions taken and recorded on the Council's electronic procurement system.

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

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

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

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

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

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

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

- 14.1 In exceptional circumstances and subject to the following requirements the rules set out in sections 12.3 to 12.5 and 13.3 to 13.5 shall not apply and reduced number of tenders or a single tender may be invited.
- i. This provision (Exceptions) does not apply to procurements above the EU Thresholds, in which case compliance with the provisions of the Regulations is mandatory.
  - ii. Before proceeding to let any contract the service area must in the Pre Tender Report and Contract Award Report set out the reasons why a single or reduced number of tenders is proposed, why the proposed way forward (reduced number of tenders or single tender) represents value for money and is in the Council's best interest. The Procurement Manager will issue guidance on potential scenarios where a reduced number of tenders or a single tender may be permissible ('exceptions').
  - iii. Before proceeding with a reduced number of tenders or a single tender, the consent of the Procurement Manager must be obtained. The Procurement Manager reserves the right not to sign and approve any request for a single or reduced number of tenderers, which in his reasonable opinion do not warrant approval, in which case the proposed procurement should not proceed. It must be appreciated that the Procurement Manager cannot authorise any exceptions, (and Council Service Areas should not proceed with any proposed procurement) that would be in breach of the requirements of the Regulations or any other Legal Requirement. The Procurement Manager will set out his justification for not approving requests in the Non-Signature Justification section on the Pre Tender Report and Contract Award Form, in which case the procurement will not have approval to proceed.
- 14.2 The Procurement Manager will maintain a register listing all decisions made pursuant to rule 14.1 (referred to as the 'Exceptions Register').
- 14.3 The following situation should not arise and provision is inserted purely for completeness. If the Procurement Manager is presented with any Pre Tender Report or Contract Award Report, which contains proposals that are in breach of the Regulations or any Legal Requirements and following advice the relevant service area does not withdraw the proposal, then the matter shall be reported by the Procurement Manager to the Director with responsibility for the Service area concerned, the Council's Chief Financial Officer (S151 officer) and Monitoring Officer for consideration and determination as to the way forward (including the presentations of any reports required to Cabinet and or Council). It must be appreciated that Statutory Officers cannot be expected to authorise any proposed procurements which would be in breach of the requirements of the Regulations or any other legal requirements.

## **15. Electronic Tendering**

- 15.1 From October 1<sup>st</sup> 2018 (or such latter date as the Procurement Manager may direct), all procurement with a value of £10,000 or above (including requests for quotations) must be conducted using the Council's approved electronic system. It is the responsibility of the Senior Officer of each service to ensure that their staff comply with this rule.
- 15.2 Any officer required to use the Council's electronic procurement must notify the Council's Sourcing Team ([sourcingteam@cardiff.gov.uk](mailto:sourcingteam@cardiff.gov.uk)) so that they can be registered on the system. Similarly, it is the responsibility of the relevant Senior Officer to notify the Sourcing Team of changes to any officer's eligibility to use the system (e.g. staff leaving or disciplinary measures) at the earliest opportunity so that the user access can be deactivated.
- 15.3 Where rule 15.1 applies, all requests for quotations and invitations to tender, along with all associated procurement documentation, must be issued via the Council's approved electronic procurement system.
- 15.4 Where rule 15.1 applies, all quotes and tender submissions from bidding organisations, including all supporting documentation, must be received via the Council's approved electronic procurement system.
- 15.5 In exceptional circumstances, and only with the prior agreement of the Senior Officer of the service area requiring the procurement and the Procurement Manager, hard copy quotations or tenders may be accepted. In this event the procedures detailed in Rule (19.2) must be followed.

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

- 16.1 The Council shall only enter into a Contract with a Contractor if it is satisfied as to the Contractor's competencies. The criteria for selecting Tenderers may include, but need not be limited to:
- (a) Technical or professional competence and experience including qualifications;
  - (b) Health and Safety;
  - (c) Quality including certification by official quality control institutes or agencies of recognised competence and or attesting conformity to quality assurance standards and or measures;
  - (d) Financial and economic standing including appropriate insurance provisions;
  - (e) Sustainability, including environmental management measures;
  - (f) Evidence as to whether they are unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes; and
  - (g) Data Protection and Cloud Impact Assessment implications.

## **17 The Quotation Process**

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

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

- (i) Wherever practicable the Council's Electronic Procurement system must be used and all quotes submitted by electronic arrangements via the Council's electronic procurement system. If this is not practicable then the following arrangements shall apply.
- (ii) When Quotes are sought these should be requested in writing (including email).
- (iii) Where only one quote is requested, the relevant Senior Officer still has the responsibility to ensure (and be able to demonstrate) that value for money has been obtained.
- (iv) There is no prescribed timescale but a reasonable timescale should be given for parties to submit quotes.
- (v) Quotes should only be accepted, in writing (including email) or via the Council's approved electronic procurement system. If accepted in writing the acceptance should make clear that the Council's standard terms and conditions referred to in the Council's purchase order and available **at \*\*\*** apply. On acceptance of the quotation (written or electronic), a purchase order must be sent via the Purchase-to-Pay (P2P) system, which contains reference to the Council's standard terms and conditions.

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

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

- 17.2.1 At least three quotations must be requested using the Council's electronic procurement system.
- 17.2.2 In the circumstance where not all suppliers respond to the request for quotation with a submission, it is acceptable to evaluate and award the contract based on whatever submissions have been made, even where there is only one submission, provided Value For Money is achieved.
- 17.2.3 Where there are less than three suppliers (but more than one) of the requested goods, services or works on the Council's electronic procurement system, it is acceptable to request quotations from the number (less than three) of the suppliers registered.
- 17.2.4 Where there is only one supplier of the requested goods, services or works on the Council's electronic procurement system, it is a requirement to follow the exception authorisation procedures set out in CPR 14.
- 17.2.5 Any request for quotation (RFQ) shall include as a minimum a technical specification, pricing schedule and terms and conditions.
- 17.2.6 These CPR do not set out minimum timescales that bidders should be given for submitting a response to a request for quotation. Consideration should be given to the complexity of the quote being requested and sufficient time allowed for tenderers to provide suitable quotes.
- 17.2.7 The quotation must be received electronically using the Council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the request for quotation has elapsed.
- 17.2.8 All quotations received will be automatically "unlocked" and available for evaluation in the electronic system after the closing time and date prescribed in the request for quotation. The officer in the Service Area running the quotation will open quotations; the electronic procurement system will automatically record all quotation prices. There is no requirement for legal services officers to be present.
- 17.2.9 Following evaluation of the submissions and acceptance of the quotation on the electronic system, a purchase order must be sent via the Purchase-to-Pay (P2P) system or the provision of CPR 24 complied with.

## **18. The Tender Process**

18.1 The invitation to tender must include details of the Council's requirements for the particular contract including:

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

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

- i. they have not and will not inform any other person of the amount of their tender;
- ii. they have not fixed the amount of any tender in accordance with a price fixing arrangement;
- iii. they accept that the Council is entitled to cancel the contract and to recover from them the amount of any loss resulting from such cancellation if it is discovered that there has been any corrupt or fraudulent act or omission by them which in any way induced the Council to enter into the contract;
- iv. acknowledging that the Council is not bound to accept the lowest or any tender submitted, that the tender exercise may be aborted at any stage during the tender process and that they tender at their own cost and expense.

18.3 In respect of proposed procurements with an estimated value in excess £25,000 for Goods and Services and over £75,000 for Works, the Service Areas must obtain the prior approval of the Procurement



Manager to the invitation to tender documentation, including specification, evaluation criteria and weightings.

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

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

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

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

- i. The ITT should provide that Tenders with an estimated value below £100,000 should be submitted by post (or hand delivered) in the official envelope or using the official tender return label provided and should be addressed to a senior officer (who is not the Senior Officer responsible for the procurement of the relevant service). After the tender submission deadline has passed Tenders will be opened consecutively at the same session in the presence of two employees one designated by the Procurement Manager and one by the Senior Officer of the relevant service area. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated officers present at the time. A copy of such record shall be sent to the Procurement Manager.
- ii. The ITT should provide that Tenders with an estimated value above £100,000 should be submitted by post, addressed to the Director Governance and Legal Services, enclosed in the official envelope or using the official tender return label provided by the Council. The Director Governance and Legal

Services will be responsible for the receipt, custody and opening of such tenders. After the tender submission deadline has passed Tenders for the same procurement will be opened consecutively at the same session in the presence of two employees designated for the purpose. The Director Governance and Legal Services will nominate one employee and the Procurement Manager will nominate the other employee. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated employees present at the time. The opened tenders will then be sent to the evaluation team.

## **20. Late Tenders**

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

## **21. Tender Evaluation**

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

21.2 Where the Contract estimated value exceeds £100,000, the Director of Governance and Legal Services and the Corporate Director, Resources shall be consulted and, where they consider it appropriate, representatives of those officers shall be included on the Evaluation Team. Consideration should also be given to including service users on the Evaluation Team.

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

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

- (i) If the error is not arithmetical the tenderer shall be given details of the error(s) and shall be given the opportunity of confirming without amendment or withdrawing the quote or tender; or
- (ii) If an arithmetical error is found, the responsible officer shall correct the error(s) provided that, apart from these genuine arithmetic error(s), no other adjustment revision or qualification is permitted. An appropriate record shall be kept.

## **22. Post Tender clarification**

- 22.1 Where the Procurement is conducted pursuant to the EU Procurement Directives and UK Regulations that implement them, there are restrictions on the use of post tender clarification and legal advice must be sought before determining whether any clarification would be appropriate.
- 22.2 The Senior Officer, following consultation with the Procurement Manager and in accordance with any requirements set by the Procurement Manager (regarding records to be kept) may seek clarification from Tenderers in respect of their tenders provided this does not involve discrimination. A record of all clarifications needs to be maintained on the Council's electronic procurement system including minutes of any clarification interviews.
- 22.3 At all times during any such negotiation or clarification process the Council shall consider and comply with the EU Treaty based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, principles that shall apply to all the Council's Procurements.

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

- 23.1 A decision to award a Contract may only be made by (i) an officer with the requisite delegated authority to award contracts in accordance with the Council's Scheme of Delegations or (ii) otherwise pursuant to a decision of the Council, one of its Committees or Cabinet.
- 23.2 For all Procurements valued at above £25,000 per annum, the decision to award a Contract shall be made using the Council's pro forma Contract Award report unless the decision is to be made by a Corporate Director or the Cabinet, in which case the Council's standard reporting forms for such decisions shall be used. The Senior Officer must ensure, prior to seeking such a decision, that sufficient funds are in place to meet all contract payments and if any funding is being obtained from third parties that any conditions attaching to such funding have been complied with.
- 23.3 A Contract shall only be awarded using the pre-determined tender evaluation criteria and weightings.

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

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

23.5 Save for exceptional circumstances, no Contractor should be asked to provide any Services, supply any Goods or carry out any Works (including preliminary Works) until the Contract is concluded or the Services, Goods or Works concerned are covered by a letter of intent. Should the Senior Officer for the service area concerned make any decision to the contrary, such decision shall contain a full risk assessment as to the possible implications to the Council of the Contractor being allowed to start before the contract terms and conditions have been finalised or a letter of intent issued.

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

##### **24.1 Frameworks**

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

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

24.3 For Contracts with a value above £25,000 but below £100,000 Service Areas must use the appropriate standard form of contract issued or approved for use by the Director Governance and Legal Services.

24.4 For Contracts with a value in excess of £100,000 Service Areas must take the advice of the Director Governance and Legal Services on the form of contract to be used, though wherever appropriate industry standard forms will be used.

24.5 It is essential that the Goods, Services or Works are procured on the Council's standard terms and conditions and not those submitted by the Contractor.

24.6 Contract documents, along with all associated related documents, must be retained for a minimum of six years from the contract end date and,

if the contract is concluded under seal, for a period of twelve years from the contract end date. Where the contract was funded, or partly funded, through some form of external grant then further grant specific conditions, as regard to retention of documents may apply and must be adhered to.

24.7 As minimum contracts must set out;

- (i) the work, materials, services or supplies to be carried out or provided and standards required;
- (ii) the price to be paid (or, as appropriate, the sums to be received) with a statement of discounts, or other deductions, and where not known, the basis upon which the final contract sum is to be calculated;
- (iii) the time or times within which the contract is to be performed; and
- (iv) the commencement and termination dates of the contract.

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

24.8.1 Subject to Rule 24.8.1 Contracts with a value in excess of £25,000 may only be signed on behalf of the Council by the Director of Governance and Legal Services or his/her nominated officers.

24.8.2 Rule 24.8.1 does not apply to any contract formed by the placing of an order, following compliance with these Rules, using or under:

- i. the Council's electronic Purchase to Pay system;
- ii. a Framework Agreement approved for use; or
- iii. a Dynamic Purchasing System put in place by the Council.

24.8.3 The Council's seal may only be affixed to a contract in the presence of the Director of Governance and Legal Services or his / her nominated officers.

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

25.1 Where the Regulations do not apply, the Senior Officer shall ensure that within 10 days of the date on which the Council receives a request from any supplier who was unsuccessful (at either the selection or tender stage) he/she informs that supplier of the reasons for being unsuccessful and, if the supplier was unsuccessful at the tender stage the responsible officer shall also inform it of the characteristics and relative advantages of the successful tender as well as the name of the bidder awarded the contract.

- 25.2 Where the Regulations apply, Service areas must comply with the requirements of the Regulations (including as to standstill, debrief, contract award notices), and the advice of Procurement and Legal Services must be obtained and followed.
- 25.3 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Procurement Manager, taking into account the requirements of any legislation relating to the disclosure of information.
- 25.4 If the award of a contract is subject to the Regulations, there must be a standstill period between communicating the award decision to all tenders and conclusion of the contract. This standstill period shall be 10 calendar days if sent electronically or 15 days for notices sent by other methods. Where the last day of the standstill period is not a working day, it shall be extended to midnight at the end of the next working day.

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

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

## **27. Parent Company Guarantee**

- 27.1 The Senior Officer (of the service area requiring the procurement) is responsible for seeking a Parent Company Guarantee where a contractor is a subsidiary of a parent company and;
- i. the award is based on evaluation of the parent company;
  - ii. the financial status of the contractor (having regard, inter alia, to the proposed contract) warrants the same and or
  - iii. the S151 Officer recommends.

## **28. Records**

- 28.1 To ensure appropriate records are maintained the Council's e procurement system must be used wherever practicable or specifically required by these Rules.
- 28.2 For all Procurements where the Council's electronic procurement system is not used, Service areas must keep appropriate records. As a minimum the records kept must detail:

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

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

## **29. Contract Management**

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

29.2 The day-to-day management of the Contract shall be undertaken by the Contract Manager and shall include monitoring and reporting (including making use of the Council's reporting tools on the Council's electronic procurement system) in respect of:-

- i. performance
- ii. compliance with specification and contract terms
- iii. cost
- iv. any value for money/best value requirements
- v. user satisfaction and
- vi. risk management
- vii. delivery of agreed Community Benefits

29.3 For all contracts, it is the responsibility of the Contract Manager to raise any incidents of poor performance immediately with the Contractor and seek rectification. In instances of particularly poor performance, or persistent poor performance, the Contract Manager should consider the appropriate course of action to take under the contract, taking advice as appropriate.

29.4 Where the total value of the Contract exceeds £100,000, the Contract Manager must make a written report to the Senior Officer evaluating the extent to which the Contract is meeting the objectives set. This should

be done normally when the Contract is completed but for term contracts, such report should be prepared annually.

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

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

30.2 Depending upon the nature of the variation proposed, the terms of the contract concerned and scope of the original procurement exercise undertaken, contract variations have the potential to amount to a new contract, and thus can constitute a single tender award without advertisement.

30.3 In all cases of contract variation, careful consideration must be made of the impact of the increased value of the contract on the procurement threshold levels, particularly whether the increase in value will move a contract from below EU Threshold to above EU Threshold.

30.4 The advice of the Procurement Manager and Director of Governance and Legal Services should be obtained, if there is any uncertainty as to whether a variation is permissible.

30.5 Contract and framework agreements may be varied without a new procurement procedure where:

- (i) the variations have been provided for in the initial procurement documents in clear, precise and unequivocal terms (i.e. the contract conditions provide for; extension of the contract term, price variation, fluctuation clauses or options, additional works, good and services) and these do not alter the overall nature of the contract;
- (ii) additional goods, services or works which were not included in the original quotation or tender have become necessary, where a change of contractor (a) cannot be made for economic or technical reasons and (b) where it would cause significant inconvenience or substantial duplication of costs, provided that any increase in the price does not exceed 50% of the value of the original contract (advice of the Procurement Manger must be sought before placing reliance on this rule);
- (iii) the circumstances causing the need for variation were unforeseen, the variation does not alter the overall nature of the contract and provided that any increase in the price does not exceed 50 % of the value of the original contract value (advice of the Procurement Manger must be sought before placing reliance on this rule);
- (iv) there is a change in contractor that was provided for in the quotation or tender, or as a result of a merger, acquisition, insolvency or similar of the original contractor, which contractor



fulfils the original criteria for qualitative selection, provided this does not lead to other substantial variations or is aimed at circumventing the Regulations; or

- (v) subject to the above provisions, the variations are not substantial within the meaning of the Regulations (see rule 30.6 and Regulation 72 (8) ).

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

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

30.7 A decision to extend the contract period (term) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original Contract and contemplated by the original procurement exercise.

### 30.8 **Variations**

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

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

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

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

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

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

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

### **32. Termination of Contract**

- 32.1 For any Contract exceeding £25,000 in value early termination shall be approved by the appropriate decision maker, provided always that the advice of the Director of Governance and Legal Services and Procurement Manager is first sought. Contracts of a lesser value may be terminated early (prior to the expiry date) by agreement with the Contractor or in accordance with the termination provisions set out in the Contract. Legal advice should be sought as appropriate. The Senior Officer must inform the Procurement Manager when any Contract is terminated and the reasons for the same.
- 32.2 For any Contract exceeding £5,000,000 in value, early termination shall be approved by Cabinet unless the matter relates to a Council function in which case matters shall be reported to Council.

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

- 33.1 Payments on account should only be made upon certification by the person designated under the Contract for that purpose ('the appropriate person'). The appropriate person will keep detailed records of any such payment, which shall be open to inspection by the Corporate Director, Resources.
- 33.2 The Senior Officer of the relevant service area shall make arrangements to retain adequate details relating to all contract payments made to allow for a proper audit of all such payments. All payments made must comply with the process as set out in Financial Procedure Rules.

### **34. Contract end**

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

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

Means the procurement procedure to be followed in the Procurement.

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

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

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

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

### **Key features**

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

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

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

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

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

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

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

#### **The competitive procedure with negotiation**

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

### **An innovation partnership**

This procedure has been described as a hybrid procedure because, as with the restricted procedure, it allows the contracting authority to award a contract on the basis of an initial tender. However, like the competitive dialogue procedure, it also enables the authority to negotiate with bidders who submitted an initial tender, and any subsequent tenders, until it decides to conclude those negotiations. There is no limit to the number of tender stages.

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

### **The negotiated procedure**

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

### **Appendix 2: Procurement Flowchart**

To follow

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## SECTION 1 – STATUS

- 1.1 The Local Government Act 1972 (Section 151) requires that an employee of the Council is recognised as the responsible financial officer. In Cardiff Council, that officer is the Corporate Director, Resources.
- 1.2 The Accounts and Audit Regulations place a duty on the Responsible Financial Officer to determine the:
  - (a) Appropriate financial records, including the form of accounts and supporting financial records; and
  - (b) Systems of financial control.
- 1.3 The Corporate Director, Resources has developed the following Financial Procedure Rules as part of the system of financial control. These provide the framework for managing the Council's financial affairs, and are part of Cardiff Council's constitution. They apply to every Member and Officer of the Council, and anyone acting on its behalf.
- 1.4 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 Council. The Financial Procedure Rules govern the day to day operation of the Council's financial administration. They are introduced both to protect the interests of the Council, and all those who are involved with financial administration.
- 1.5 The Corporate Director, Resources is responsible for maintaining a continuous review of the Financial Procedure Rules, and for submitting any additions or changes necessary to the Constitution Committee for approval. The Corporate Director, Resources is also responsible for reporting, where appropriate, any breaches of Financial Procedure Rules. In the event of dispute as to the meaning of any of the provisions of the Financial Procedure Rules the matter shall be determined by the Corporate Director, Resources whose decision shall be final.
- 1.6 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 Council.

### **Who do the Financial Procedure Rules apply to?**

- 1.7 Financial Procedure Rules apply to everyone involved in financial transactions on behalf of the Council. Directors are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Procedure Rules, and guidance documents issued by the Corporate Director, Resources, and that they comply with them.
- 1.8 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.
- 1.9 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.
- 1.10 Other related documents approved by the Council include the Constitution, Delegations, Contract Standing Orders & Procurement Rules and Codes of Conduct.
- 1.11 For the purpose of these Financial Procedure Rules, Heads of Service have the same responsibilities as Directors.



### **Why are they important?**

- 1.12 To conduct the Council's business effectively, it needs to be ensured that sound financial management arrangements are in place and that they are complied with in practice. Part of this process is the establishment of Financial Procedure Rules which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial affairs properly in compliance with all necessary requirements.
- 1.13 In order to continually meet the Council's corporate values, it is vital that good, sound financial management is maintained, which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.14 Adherence to these Financial Procedure Rules will help the Council to control spending, ensure due probity of transactions and allow decisions to be informed by accurate accounting information. They also protect colleagues, in that if they are complying with these Rules, they cannot be subject to criticism.
- 1.15 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.
- 1.16 Financial Procedure Rules should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution. They will underpin and complement the directorate procedures.

### **Who is responsible for ensuring that the Financial Procedure Rules are applied?**

- 1.17 The regulations often refer to Directors as being responsible and, whilst Directors are ultimately responsible for ensuring that Financial Procedure Rules are applied and observed by their staff and for reporting to the Corporate Director, Resources any known or suspected breaches of the regulations, it is important that all colleagues involved in financial transactions are aware of their personal responsibility.
- 1.18 The Corporate Director, Resources is responsible for maintaining a continuous review of the Financial Procedure Rules.
- 1.19 The Corporate Director, Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.

## 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 Council, 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 systems of financial control must include measures:
- (a) To ensure that the financial transactions of the Council are recorded as soon as, and as accurately as, reasonably practicable;
  - (b) To enable the prevention and detection of inaccuracies and fraud; and
  - (c) To ensure that risk is appropriately managed.

#### Responsibilities of the Corporate Director, Resources

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

## Responsibilities of Corporate Directors and Directors

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

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

## MANAGING EXPENDITURE

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

#### **Why is this important?**

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

#### **Key Controls**

- 2.29 Key controls for the scheme of virement are:
  - the overall revenue budget is drawn up by the Cabinet and approved by the full Council. Directors 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. Directors 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. Directors must plan to fund such commitments from within their own budgets;
  - the capital programme is drawn up by the Cabinet and approved by the full Council and contains details of approved expenditure on capital schemes.

## Responsibility of the Cabinet

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

## Responsibility of Officers - Capital Expenditure

### Directors

- 2.31 In consultation with the Corporate Director, Resources, to vary within service areas the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £250,000 to or from another project but subject to the Policy and Budgetary Framework.
- 2.32 To refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Director, in consultation with the Corporate Director, Resources.

### Corporate Director, Resources

- 2.33 To consult with the appropriate Director, 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 Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Director, in consultation with the Corporate Director, Resources.
- 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 and to ensure that the appropriate records are kept and maintained.
- 2.36 The Council sets a multi year capital programme, with the latter years indicative only. In order to ensure an effective capital programme, expenditure can be brought forward only with the approval of the Corporate Director, Resources. The possibility of delaying spend into future years may be required in some cases and should be observed following any request from the Corporate Director, Resources.

## Responsibility of Officers - Revenue Expenditure

### Corporate Directors

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

### Directors

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

## Corporate Director, Resources

- 2.41 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 Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A report will be prepared by the appropriate Director, in consultation with the Corporate Director, Resources.
- 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 and to ensure that the appropriate records are kept and maintained.
- 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 Corporate Director, Resources

- 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 Cabinet and Council as part of the budget process on the Council's financial standing.
- 2.49 In consultation with Directors to approve carry forward of surpluses from internal trading units.

## Responsibilities of Directors

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

## ACCOUNTING POLICIES

### Why is this Important?

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

### Key Controls

- 2.52 The key controls for accounting policies are:

- systems of internal control are in place that ensure that financial transactions are lawful;
- suitable accounting policies are selected and applied consistently;
- proper accounting records are maintained;

- financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

### Responsibilities of the Corporate Director, Resources

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

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

### Responsibilities of Directors

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

## ACCOUNTING RECORDS AND RETURNS

### Why is this important?

2.55 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council 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 Council'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 Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- reconciliation procedures are carried out to ensure transactions are correctly recorded;
- prime documents are retained in accordance with legislative and other requirements.

### Responsibilities of the Corporate Director, Resources

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

- 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 Council 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 Council'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 Council 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 Directors**

- 2.64 To consult and obtain the approval of the Corporate Director, Resources before making any changes to accounting records and procedures.
- 2.65 To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the Council 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 Corporate Director, Resources, are complied with. Where retention periods are prescribed by statutory or other external regulations, the Chief Officer should ensure that these are complied with.
- 2.68 To ensure that financial records are not disposed of other than in accordance with prescribed statutory requirements (as advised by the Council's Information Manager) and as approved by the Corporate Director, Resources.
- 2.69 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Corporate Director, Resources.

### **ANNUAL STATEMENT OF ACCOUNTS**

#### **Why is this important?**



2.70 The Council 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 Council 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 Council, that officer is the Corporate Director, Resources;
- the Council's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom.

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

2.72 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 Council 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 Directors**

2.77 To comply with accounting guidance provided by the Corporate Director, Resources, and to supply the Corporate Director, Resources with information in the format, and by the date, requested.

## 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 Council 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 Council has complied with statutory requirements in respect of the preparation and publication of the Programme for Improvement.

#### Key Controls

3.2 The Key controls for performance plans are:

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

#### Responsibilities of the Corporate Director, Resources

- 3.3 To advise and supply, as appropriate and in conjunction with Directors, 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 Directors

- 3.6 To contribute to the development of performance plans in line with statutory requirements.
- 3.7 To contribute to the development of corporate and service targets and objectives and performance information.
- 3.8 To indicate to the Corporate Director, Resources the financial information required and to agree the methodology for calculation.

- 3.9 To ensure that adequate systems are in place to measure activity and collect accurate and timely non-financial information for use as performance indicators.
- 3.10 To advise and supply, as appropriate and in conjunction with the Corporate Director, Resources, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

## **REVENUE BUDGETING AND MONITORING**

### **Budget Format**

#### **Why is this important?**

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

#### **Key Controls**

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

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

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

#### **Responsibilities of Directors**

- 3.14 To comply with accounting guidance provided by the Corporate Director, Resources.

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

#### **Why is this important?**

- 3.15 The Council is a large and complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council'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 Council 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 needs to consider a Medium Term Financial Plan, considering three years plus one.

## Key Controls

3.18 The key controls for budgets and medium-term planning are:

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

## Responsibilities of the Corporate Director, Resources

3.19 To prepare a report annually on a budget strategy for the following financial year for consideration by the Cabinet. This will take account of the Policy Framework, commitments, resource constraints and shall include medium term prospects. It will cover all the services of the Council. The report shall be made in accordance with the Budget and Policy Framework Rules. The Cabinet having considered the report of the Corporate Director, Resources and having consulted upon any proposals in accordance with the Budget and Policy Framework Procedure Rules the Cabinet will then agree a budget strategy.

3.20 To prepare, after the budget strategy has been agreed by the Cabinet, in conjunction with the Corporate Directors and Directors, estimates of the income and expenditure of the various service areas and submit them to the Cabinet. The Cabinet shall consider the aggregate effect of these estimates upon the Council'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 Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

3.24 To advise the full Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

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

## Responsibilities of Directors

3.26 To provide the Corporate Director, Resources with information to complete the medium term plan.

3.27 To prepare, in conjunction with the Corporate Director, Resources, estimates of income and expenditure.

- 3.28 To prepare budgets consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The budget format will be prescribed by the Corporate Director, Resources.
- 3.29 To integrate financial and budget plans into service planning and for them to link in with the Corporate Plan.
- 3.30 When drawing up draft budget requirements, to have regard to:
- (a) spending / income patterns and pressures revealed through the budget monitoring process;
  - (b) legal requirements;
  - (c) policy requirements as defined by the full Council in the approved policy framework;
  - (d) initiatives already under way;
  - (e) areas where savings/efficiencies can be made; and
  - (f) implications of financial performance in the current year.

### **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:
- (a) resources are acquired in accordance with the law and using an approved authorisation process;
  - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
  - (c) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

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

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

#### **Responsibilities of Directors**

- 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 Council 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 Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Council, 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 Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example:
- (a) not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments;
  - (b) include full-year effects of decisions made part way through a year, for which they have not identified future resources;
  - (c) 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:
- (a) there is a nominated budget manager for each budget heading;
  - (b) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
  - (c) budget managers follow an approved certification process for all expenditure;
  - (d) income and expenditure are properly recorded and accounted for;
  - (e) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; and
  - (f) specific budget approval is given for all expenditure.

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

- 3.43 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual cash limits unless the full Council agrees otherwise;
  - (b) all Corporate Directors and Directors 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;
  - (c) in consultation with Corporate Directors and Directors, reports are submitted, as determined by the Corporate Director, Resources, to the Cabinet, monitoring expenditure and comparing anticipated outturn with estimates;

- (d) each profit centre has a single named manager, determined by the relevant Director. As a general principle, budget responsibility will be aligned as closely as possible to the decision making processes that commits expenditure; and
- (e) significant variances from approved budgets are investigated and reported by budget managers regularly.

3.44 To submit reports to the Cabinet and to the full Council, in consultation with the relevant Director, where a Director 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 Directors**

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

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

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

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

3.50 To ensure, after consultation with the Corporate Director, Resources that there is prior approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:

- (a) create financial commitments in future years; or
- (b) change existing policies, initiate new policies or cease existing policies; or
- (c) materially extend or reduce the Council's services.

3.51 To ensure compliance with procedures regarding budgets and 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 Council, 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 Council 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:
- (a) specific approval by the full Council for the programme of capital expenditure;
  - (b) a scheme and estimate, including project plan, options, progress targets and associated revenue expenditure (both one-off and on-going) is prepared for each capital project, for appraising by the Corporate Director, Resources;
  - (c) proposals for improvements and alterations to buildings must be approved by the appropriate Director in accordance with the Asset Management Plan;
  - (d) schedules for individual projects within the overall budget approved by the Council must be approved by the appropriate Director;
  - (e) accountability for each proposal is accepted by a named project manager; and
  - (f) progress and expenditure should be monitored and compared to the approved budget.

## Responsibilities of the Corporate Director, Resources

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

## Responsibilities of Directors

- 3.61 To comply with guidance concerning capital projects and controls issued by the Corporate Director, Resources.
- 3.62 To carry out an option appraisal before bidding / incurring capital expenditure to determine alternative methods of need.



- 3.63 To consider the revenue implications of capital projects over the whole life of projects and notify the Corporate Director, Resources when planning to undertake such schemes which do commit the authority to additional Revenue expenditure.
- 3.64 To submit a prioritised list of bids as part of the Medium Term capital budgeting process representing the schemes required to deliver Service and Corporate strategy.
- 3.65 To ensure that approvals for all capital expenditure proposals are obtained from the Corporate Director, Resources prior to a scheme's commencement.
- 3.66 To prepare returns of projected estimated final costs of schemes, in the approved capital programme profiled annually, for submission to the Corporate Director, Resources.
- 3.67 To ensure that adequate records are maintained for all capital contracts and the preparation of grant claims.
- 3.68 To ensure compliance with the Council's scheme of virement.
- 3.69 To report to the Corporate Director, Resources (where variations are made to approved contracts in excess of the initial contract amount) the reasons for any additional costs, an analysis of options considered to reduce cost to budget and the funding options considered to meet any budget shortfall, together with an indication of how any additional costs will be paid for. This should be done at the point of approving any variation.
- 3.70 To ensure that variations are agreed in accordance with the Council's Contract Standing Orders & Procurement Rules, including seeking financial advice for any decision reports. The Corporate Director, Resources should be made aware as soon as it become apparent that the total cost of a scheme, including variations, will or is likely to exceed £50,000 above the capital budget available.
- 3.71 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Corporate Director, Resources and, if applicable, approval of the scheme through the capital programme.
- 3.72 To consult with the Corporate Director, Resources where the Director proposes to bid for Capital Funding to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme.
- 3.73 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?**

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

### **Key Controls**

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

3.77 The establishment of reserves and incurring of expenditure from reserves should be authorised by the Corporate Director, Resources.

**Responsibilities of the Corporate Director, Resources**

3.78 To advise the Cabinet and/or the full Council on prudent levels of Reserves for the Council.

**Responsibilities of Directors**

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

## SECTION 4 - RISK MANAGEMENT AND CONTROL OF RESOURCES

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

### **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 the process followed to control the level of risk in business and service activities which could impact on the achievement of our objectives and the delivery of our key priorities and opportunities.

#### **Key Controls**

- 4.2 The key controls for risk management are:
- procedures are in place to identify, assess, prevent or contain material known risks throughout the Council
  - each Directorate maintains registers of the key risks that they need to monitor and manage in order to effectively deliver their functions and discharge their responsibilities;
  - a monitoring process reviews the effectiveness of risk reduction strategies and the operation of these controls;
  - risk owners are held responsible for managing relevant risks;
  - 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 Council has business continuity plans for implementation in the event of an incident / disaster; and
  - the Corporate Risk Register of the main risks to the delivery of corporate objectives and priorities is reviewed on a quarterly basis.

## Responsibilities of the Corporate Director, Resources

- 4.3 To raise the profile of Risk Management and promote the accountability and responsibility of all Members and Officers within the Council.

## Responsibilities of Directors

- 4.4 The key responsibilities of each Director are to:
- (a) Work with their risk champion(s) and management team each quarter to identify risks relevant to their functions and areas of responsibility
  - (b) Promptly escalate risks to the Senior Management Team in accordance with the risk escalation requirements.
  - (c) Take ownership for the management of corporate risks within the organisation's risk appetite.
  - (d) Review the content of the Corporate Risk Register at least quarterly and provide assurance to stakeholders that the risks are being effectively mitigated.
  - (e) Allocate sufficient resources to address strategic risks.
  - (f) Create and support an environment and culture where risk management is promoted, facilitated and appropriately undertaken within the Council.
  - (g) Integrate risk management into performance management, business planning, business change projects, partnership and collaborative activities.
- 4.5 To take responsibility for risk management, having regard to advice from the Corporate Director, Resources, and other specialist officers (e.g. risk management champions, crime prevention, fire prevention, health and safety).
- 4.6 To ensure that there are reviews of risk within their service areas on a quarterly basis through the production and reviewing of risk registers.
- 4.7 To ensure that risk management is brought to the attention of relevant staff in their service areas.

## INTERNAL CONTROLS

### Why is this important?

- 4.8 The Council is a large, complex organisation that requires internal controls to manage and monitor progress towards strategic objectives. The Council also needs to consider the impact of regional working and sharing services in order to satisfy itself that a system of internal control exists in order to provide measurable achievement.
- 4.9 The Council has statutory obligations and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 4.10 The Council faces a wide range of financial, administrative, commercial and service delivery risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 4.11 The system of internal controls is established in order to provide measurable achievement of:
- efficient and effective operations;
  - reliable financial information and reporting;
  - regional working and shared services;
  - compliance with laws and regulations;
  - risk management.

## Key Controls

4.12 The key controls are:

- key controls should be reviewed on a regular basis (via the Senior Management Assurance Statement) and the Council 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 has an appropriate scope of audit coverage. It should operate in accordance with the principles contained in the Public Sector Internal Audit Standards (PSIAS) and with any other statutory obligations and regulations;
- an effective Audit Committee which meets on a regular basis to consider internal control and auditing matters.

## Responsibilities of the Corporate Director, Resources

4.13 To assist the Council 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 Directors

4.14 To establish sound arrangements, consistent with guidance given by the Corporate Director, Resources, or the Audit Manager, for planning, appraising, authorising, and controlling their operations, in order to achieve:

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

4.15 To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Audit Manager. Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.

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

## INTERNAL AND EXTERNAL AUDIT

### Internal Audit

#### Why is this important?

- 4.17 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'. The Accounts and Audit Regulations (Wales) 2014 require relevant bodies to ensure that there is a sound system of internal control which facilitates the effective exercise of that body's functions and which includes arrangements for the management of risk and adequate and effective financial management. The body must conduct a review at least once a year of the effectiveness of the system of internal control.
- 4.18 Internal audit is an independent and objective appraisal function established by the Council 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

- 4.19 The key controls for internal audit are that:
- (a) it is independent in its planning and operation;
  - (b) the Audit Manager has direct access to the Chief Executive, all levels of management and directly to elected members;
  - (c) internal auditors comply with the Public Sector Internal Audit Standards; and
  - (d) it reports to an Audit Committee.

#### Responsibilities of the Corporate Director, Resources

- 4.20 To maintain a continuous and independent internal audit of the Council's accounting, financial and other operations of the Council.
- 4.21 To ensure that all employees carrying out auditing duties comply with the current Public Sector Internal Audit Standards.
- 4.22 To make arrangements for there to be undertaken a cyclical review of all financial systems throughout the Council and to determine the appropriate level of audit coverage.
- 4.23 To ensure that internal auditors have the authority to:
- (a) access Council premises at reasonable times, subject to the Audit Manager being satisfied as to any risk to health and safety;
  - (b) access all assets, records, documents, correspondence and control systems;
  - (c) receive any information and explanation considered necessary concerning any matter under consideration;
  - (d) require any employee of the Council to account for cash, stores or any other Council asset under his or her control;
  - (e) access records belonging to third parties, such as contractors and shared services, when required; and
  - (f) review, appraise and report on the adequacy and application of financial and other controls, and on the protection of the Council's property and assets against loss due to fraud or wasteful practices.
- 4.24 To approve the strategic and annual audit plans prepared by the Audit Manager, which take account of the characteristics and relative risks of the activities involved.

- 4.25 To ensure that the Audit Manager has the right to report independently to the Council, the Audit Committee or an appropriate committee, in his/her own name.
- 4.26 To ensure that the Audit Manager provides an annual opinion on the Council's internal control environment as part of his annual report.

**Responsibilities of Directors**

- 4.27 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.
- 4.28 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 4.29 To consider and respond promptly to recommendations in audit reports.
- 4.30 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 4.31 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Audit Manager prior to implementation.

**External Audit**

**Why is this important?**

- 4.32 Under the Public Audit (Wales) Act 2004 (and subsequent legislation), the Auditor General for Wales is responsible for appointing external auditors to each local authority in Wales. The external auditor has rights of access to all documents and information which in his/her opinion are necessary to carry out his/her statutory functions.
- 4.33 The basic duties of the external auditor are defined in the Public Audit (Wales) Act 2004 and the Local Government Act 1999. In particular, section 16 of the 2004 Act requires the Auditor General for Wales to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice sets out the auditor's objectives to review and report upon the audited body's:
  - (a) arrangements to secure economy efficiency and effectiveness in its use of resources;
  - (b) financial statements; and
  - (c) compliance with statutory requirements in respect of the preparation and publication of its Improvement Plan.
- 4.34 The Council's accounts are scrutinised by the external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

**Key Controls**

- 4.35 External auditors are appointed by the Auditor General for Wales, normally for a minimum period of five years. The Auditor General for Wales has prepared a code of audit and inspection practice, which external auditors follow when carrying out their audits.
- 4.36 The external auditor attends all the meetings of the Audit Committee.

## Responsibilities of the Corporate Director, Resources

- 4.37 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.
- 4.38 To ensure there is effective liaison between external and internal audit.
- 4.39 To work with the external auditor and advise the full Council, Cabinet and Directors on their responsibilities in relation to external audit.

## Responsibilities of Directors

- 4.40 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.
- 4.41 To ensure that all records and systems are up to date and available for inspection.
- 4.42 To ensure that all employees have proper regard to the guidance issued by the Corporate Director, Resources in connection with any external audits, and any reports of the external auditor.

## PREVENTING FRAUD AND CORRUPTION

### Why is it this important?

- 4.43 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council will commit to, and promote, a counter fraud and bribery culture within the Council and zero tolerance against fraudulent activity.
- 4.44 The Council'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.
- 4.45 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### Key Controls

- 4.46 The key controls regarding the prevention of financial irregularities are that:
  - (a) the Council has an effective anti-fraud and anti-corruption strategy and maintains a culture that will not tolerate fraud or corruption;
  - (b) all members and staff act with integrity and lead by example;
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt;
  - (d) high standards of conduct are promoted;
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
  - (f) whistle blowing procedures are in place and operate effectively;
  - (g) legislation, including the Public Interest Disclosure Act 1998, is adhered to;
  - (h) Council procedures (such as Contract Standing Orders & Procurement Rules and these Financial Procedure Rules) are adhered to; and
  - (i) matters relating to fraud and corruption are reported to an Audit Committee.



## Responsibilities of the Corporate Director, Resources

- 4.47 To develop and maintain an anti-fraud, anti-corruption & bribery policy and procedure.
- 4.48 To assist the Council 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.
- 4.49 To ensure that all suspected financial irregularities are reported to the Audit Manager. The Audit Manager shall take steps as he/she considers necessary by way of investigation, in liaison with service area management where appropriate, and in line with the Council's Anti-Fraud, Anti-Corruption & Bribery Policy and Procedure. Where sufficient evidence exists to believe that a criminal offence may have been committed by an external party, the matter will be referred in conjunction with the Audit Manager to the Police.

## Responsibilities of Directors

- 4.50 To review existing controls in the light of changes affecting the Council and to establish and maintain new controls where appropriate.
- 4.51 To immediately notify the Audit Manager whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Council (including data), or any suspected irregularity in the exercise of the functions of the Council.
- 4.52 To liaise with the Audit Manager in relation to the investigation of any suspected irregularities within their service area, in line with the Council's Anti-Fraud, Anti-Corruption & Bribery Policy and Procedure.
- 4.53 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.
- 4.54 To instigate the Council's disciplinary and suspension procedures where the outcome of an investigation indicates improper behaviour by a member of staff.
- 4.55 To ensure that a review of processes and procedures is carried out in order to assure that the improper processes are not repeated.
- 4.56 To ensure that employees comply with Council guidance regarding the acceptance of hospitality, gifts and other benefits.

## SECURITY OF ASSETS

### Why is this important?

- 4.57 The Council 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.
- 4.58 Obsolete, non-repairable or unnecessary assets should be disposed of in accordance with the regulations of the Council.

- 4.59 Misuse of computer resources can seriously affect the business interests of the Council.
- 4.60 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 Council may give rise to items that may be patentable, for example, software development.

### Key Controls

- 4.61 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 Council 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 Council so as to maximise benefits;
  - an asset register is maintained for the Council - assets are recorded when they are acquired by the Council 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 Council, 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 Council’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 Council’s assets and information, including the requirements of the Data Protection Act, Freedom of Information Act, General Data Protection Regulations and software copyright legislation;
  - all staff are aware of their responsibilities with regard to safeguarding the security of the Council’s computer systems, including maintaining restricted access to the information held on them and compliance with the Council’s information security and internet security policies;
  - In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with any approved intellectual property procedures.

### Security of Assets – Land and Buildings

#### Responsibilities of the Corporate Director, Resources

- 4.62 To maintain a register of all properties owned by the Council and an asset register for all ‘material’ fixed assets, in accordance with good practice.
- 4.63 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.

- 4.64 To ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom.
- 4.65 To determine arrangements for the acquisition and disposal of land and buildings.
- 4.66 To advise on the financial implications of any purchase, sale or holding of property on the Council's behalf.

**Responsibilities of the Director of Governance and Legal Services – Land and Buildings**

- 4.67 To ensure the safe custody of all title deeds under arrangements agreed with the Corporate Director, Resources.

**Responsibilities of Directors - Land and Buildings**

- 4.68 To make arrangements to ensure the proper security of all the Council's buildings.
- 4.69 To consult with the Audit Manager in any case where security is thought to need improvement or where it is considered that special security arrangements may be needed.
- 4.70 To ensure there are procedures in place to review the condition of physical assets used in delivery of services e.g. undertake regular impairment review.

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

**Responsibilities of the Corporate Director, Resources**

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

**Responsibilities of Directors - Vehicles, Furniture and Equipment**

- 4.74 To ensure the proper security and safe custody of all vehicles, equipment and furniture, belonging to or under the control of the Council, and shall make contingency plans for the continuity of service in the event of disaster or system failure.
- 4.75 To maintain inventories of furniture, equipment, vehicles and plant, including items leased by the Council. This shall be kept up to date and shall be in a form approved by the Corporate Director, Resources and in accordance with the Council's guidance. Directors shall make arrangements to ensure that inventories shall include for each item, information relating to date of purchase, cost, location and any technical features, which might affect its value or usefulness.
- 4.76 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 Council.
- 4.77 To ensure that the Council's property shall not be removed from its ordinary location otherwise than in accordance with the ordinary course of the Council's business except in accordance with specific

directions issued by the Director concerned or used otherwise than for the Council's purposes. A record should be kept of all authorised removals.

- 4.78 To ensure that no Council asset is subject to personal use by an employee without proper authorisation.
- 4.79 To ensure that drivers pay fines and penalties imposed by relevant Enforcement Authorities in respect of offences committed whilst they were driving/responsible for a Council vehicle (e.g. speeding fines/parking fines/fines imposed in respect of other Highway Code offences).
- 4.80 A Council vehicle would include pool cars/ hire vehicles/ lease vehicles etc. (i.e. vehicles that we do not own but are responsible for)
- 4.81 To make arrangements to ensure that any disposal of any vehicle, furniture, fittings, equipment, plant and machinery is in accordance with the Council's procedure for Disposals.
- 4.82 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.
- 4.83 To ensure that income received for the disposal of an asset is properly accounted for.
- 4.84 If an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory.
- 4.85 To notify the Corporate Director, Resources of the purchase or disposal of any material asset, to enable the asset register to be updated.
- 4.86 Any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the Audit Manager.

### **Security of Assets - Stocks and Stores**

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

- 4.87 To issue guidance to service areas on the maintenance of stock and stores, including the method of stock valuation to be used.
- 4.88 To approve the write off of stock and stores in accordance with the Scheme of Delegations.
- 4.89 To ensure that appropriate accounting entries are made in relation to stock balances and write offs.

#### **Responsibilities of Directors**

- 4.90 To make arrangements for the recording of and the care and safe custody of the stocks and stores held by their service area.
- 4.91 To make arrangements to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check, at least annually. Each Director must make arrangements for discrepancies to be investigated and pursued to a satisfactory conclusion.
- 4.92 To ensure that stock items are only issued to persons entitled to receive these items.
- 4.93 To advise the Audit Manager immediately of any significant discrepancy in stocks.
- 4.94 To approve the write off of stock and stores up to the value of £5,000 in accordance with the Scheme of Delegations.

- 4.95 To provide the Corporate Director, Resources with such information as he/she requires in relation to stores for accounting and costing purposes.

### **Security of Assets - Cash**

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

- 4.96 To issue guidance to service areas on cash handling.
- 4.97 To agree, in consultation with the appropriate Director, the maximum limits for cash holdings.
- 4.98 To approve the write off of stolen cash, not covered by insurance.
- 4.99 To authorise the depositing of unofficial funds or valuables in a safe.

#### **Responsibilities of Directors**

- 4.100 To agree with the Corporate Director, Resources, the maximum limits for cash holdings and to ensure that these limits shall not be exceeded without his /her permission.
- 4.101 To ensure that cash holdings are kept to a minimum, and do not exceed the insurance limit for that safe.
- 4.102 To ensure that cash handling is carried out in line with the Council's guidance.
- 4.103 To notify the Audit Manager and the Insurance Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the Corporate Director, Resources.
- 4.104 To ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Council.
- 4.105 To ensure that a schedule is kept of the officers who hold keys to safes and similar receptacles.
- 4.106 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 Council.
- 4.107 To ensure that safe key holders do not accept unofficial funds or valuables for depositing in the safe unless authorised by the Corporate Director, Resources. In such circumstances, it must be made clear by the key holder to the depositor, that the Council is not to be held liable for any loss, and the key holder must obtain an acknowledgment to that effect before accepting the deposit.

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

### **Responsibilities of Head of ICT**

- 4.108 To maintain a central inventory of technology.
- 4.109 The development and integrity of the Council's voice and data network infrastructure.
- 4.110 To approve all additions and alterations to the Council's voice and data network.
- 4.111 To issue detailed guidance, in conjunction with Directors, to all employees who are responsible for and/or use computer equipment on their responsibilities within the Council's IT Security Policy.

### **Responsibilities of Directors**

- 4.112 To ensure that all equipment and services connected to the Council'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.
- 4.113 To ensure that that the provisions of the Council's IT Security Policy are applied to all employees of the Council, as appropriate to their use of information technology.
- 4.114 To make arrangements to implement and monitor the procedures contained in the Council'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 Council policy which may apply to all employees at any time.
- 4.115 To agree, in advance, with the Head of ICT, a requirement to use specialist IT goods and services that might not meet the standards identified by the Head of ICT, but are necessary to perform particular business activities. The Chief Officer will be responsible for ensuring that such acquisitions do not compromise their corporate, financial and legal obligations, as defined by the Council.
- 4.116 To ensure that all employees are aware that misuse of technology and associated systems can seriously affect the business interest of the Council. Such misuse or any breach of security policy will result in disciplinary action being taken.
- 4.117 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 Council in some way.

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

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

- 4.118 To develop and disseminate good practice regarding the treatment of intellectual property.

### **Responsibilities of Corporate Directors and Directors**

- 4.119 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 Council and that employees are aware of an employer's rights with regard to intellectual property.
- 4.120 To ensure that all copyright, design and patent legislation is complied with and, in particular, ensure that only software legally acquired and installed by the Council is used on its computers.

- 4.121 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 Council, 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 Directors**

- 4.122 The Director of Social Services, and any other Director affected, shall take all necessary steps to prevent or mitigate loss or damage of a client's (being a person other than the Council) moveable property, where responsibility lies within the National Assistance Act 1948 and shall arrange for an itemised inventory in each case to be prepared in the presence of two officers, in a form prescribed by the Corporate Director, Resources.
- 4.123 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 Director of Social Services and any other Chief Officer affected, for safe custody. Any loss of property shall be reported to the Corporate Director, Resources, without delay.

### **TREASURY MANAGEMENT AND TRUST FUNDS**

#### **Why is this important?**

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

#### **Key Controls**

- 4.125 Compliance with the CIPFA Treasury Management Code of Practice and the Council's Treasury Management policy statement and strategy. This provides assurances that the Council'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 Council's capital sum.

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

- 4.126 To prepare a Treasury Management Policy and Annual Report.
- 4.127 To maintain prudential indicators in accordance with the Prudential Code of Capital Finance for Local Authorities.
- 4.128 To arrange the borrowing and investments of the Council 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 Council.
- 4.129 To set an investment strategy in accordance with WAG investment guidance.
- 4.130 To ensure that all investments of money under its control shall be made in the name of the Council or in the name of nominees approved by the Cabinet or the Council within their respective responsibilities: bearer securities shall be excepted from this rule.

- 4.131 To hold all securities, the property of, or in the name of the Council, or its nominees, or otherwise as the Corporate Director, Resources may specifically direct.
- 4.132 To ensure that all borrowings shall be effected in the name of the Council.
- 4.133 To be the Council's Registrar of loan instruments and to maintain records of all borrowings of money by the Council.
- 4.134 To report in accordance with the Treasury Management practices of the Council to the Audit Committee and Council.
- 4.135 To hold all Trust Fund securities etc., where Members or employees act as Trustees by virtue of their official position, unless the deed otherwise provides; or as otherwise directed by the Chief Executive.
- 4.136 To arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain records of all transactions.
- 4.137 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

**Responsibilities of Directors**

- 4.138 To notify the Capital Manager of planned monetary receipts or payments in excess of £0.5 million at an early stage.

**INSURANCE**

**Why is this important?**

- 4.139 It is important to effectively manage the insurance risk across the Council as the failure to secure appropriate insurance arrangements may leave the Council lacking cover in the event of a significant loss. It is also important to review risks to ensure that the Council is not over-insured and paying out higher premiums than it needs to.

**Key Controls**

- 4.140 The Corporate Director, Resources is responsible for arranging all insurance for the Council.

**Responsibilities of the Corporate Director, Resources**

- 4.141 To affect insurance cover and to arrange for the negotiation of claims in consultation with other Directors, where necessary.
- 4.142 To hold in safe custody all insurance policies of the Council, arrange for the payment of premiums by the due date and manage the Council's own Insurance Fund.
- 4.143 To prescribe procedures for dealing with claims on the Council's own Insurance Fund.
- 4.144 To make arrangements to ensure that insurance records relating to liability policies and related correspondence are retained indefinitely. Documents relating to other policies and internal funding arrangements must be retained for six years. All employees will adhere to the requirements of the Corporate Director, Resources as to the retention of any documents of the nature referred to in this rule.



## Responsibilities of Directors

- 4.145 To notify the Corporate Director, Resources immediately in writing of any loss, liability or damage, or any event likely to lead to a claim by or against the Council, and inform the Police, where necessary.
- 4.146 To submit claims in such a form as prescribed from time to time by the Corporate Director, Resources.
- 4.147 To arrange for the identification of all appropriate employees of the Council who should be included in a suitable fidelity guarantee insurance, and shall make arrangements through the Corporate Director, Resources for such inclusion.
- 4.148 To notify the Corporate Director, Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 4.149 To notify the Corporate Director, Resources promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase.
- 4.150 On a regular basis, the Corporate Director, Resources will forward to Directors, schedules of assets covered by insurance. Directors 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 Council's corporate insurance arrangements.
- 4.151 To provide the Corporate Director, Resources with any information that he/she needs and in the timescale that he or she sets, to enable him or her to manage the Council's insurances effectively.
- 4.152 To consult with the Corporate Director, Resources and the Director of Governance and Legal Services on the terms of any indemnity that the Council is requested to give.
- 4.153 To ensure that officers, or anyone covered by the Council'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.

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## SECTION 5 - FINANCIAL SYSTEMS AND PROCEDURES

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### **GENERAL**

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

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

#### **Key Controls**

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

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

- 5.4 To make arrangements for the proper administration of the Council's financial affairs, including to:
- issue advice, guidance and procedures for officers and others acting on the Council's behalf;
  - determine the accounting systems, form of accounts and supporting financial records;
  - establish arrangements for audit of the Council'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 Directors**

- 5.5 To consult with and gain the approval of the Corporate Director, Resources before changing any existing system or introducing new systems.
- 5.6 To ensure that accounting records are properly maintained and held securely.

- 5.7 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Corporate Director, Resources.
- 5.8 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 5.9 To incorporate appropriate controls to ensure that, where relevant:
- all input is genuine, complete, accurate, timely and not previously processed;
  - all processing is carried out in an accurate, complete and timely manner;
  - output from the system is complete, accurate and timely;
  - data is backed up on a regular basis.
- 5.10 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 5.11 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 5.12 To ensure that systems are documented and staff adequately trained.
- 5.13 To establish a scheme of service area authorisations identifying officers to act upon his or her behalf in respect of placing orders, payments and income collection, including variations, and showing the limits of their authority.
- 5.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 5.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 5.16 To ensure that the Council's information security standards and internet security policy are complied with.
- 5.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 5.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- only software legally acquired and installed by the Council 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 Council's cash flow and also avoids the time and cost of administering debts.

## Key Controls

5.20 The key controls for income are:

- management of income is undertaken in accordance with the Council's Income Management Policy;
- all income due to the Council 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;
- where income is received over the phone, controls are in place to ensure that card details are appropriately recorded, stored and disposed in order to ensure Payment Card Industry Data Security Standard (PCI DSS) compliance;
- that all systems that recorded income from card payments are PCI DSS compliant;
- all money received by an officer on behalf of the Council 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 in accordance with the Council's Scheme of Delegations;
- appropriate write-off action is taken within defined timescales;
- appropriate and timely accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the Corporate Director, Resources;
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

### Responsibilities of the Corporate Director, Resources

- 5.21 To agree arrangements for the collection of all income due to the Council, and to approve the procedures, systems and documentation for its collection.
- 5.22 To ensure that all electronic monies are properly received, assigned and reconciled.
- 5.23 To set and approve the arrangements for the writing off of irrecoverable debts, and to write off such debts for the Council, in accordance with Cabinet Delegations.
- 5.24 To use debt recovery procedures to collect any income due to the Council which has not been paid within specified time limits.
- 5.25 To ensure that appropriate accounting adjustments are made following any write-off action.
- 5.26 To advise the Director of Governance and Legal Services of debts that have remained unpaid with a view to the institution of legal proceedings in appropriate cases.
- 5.27 To ensure that any sum due to the Council shall only be discharged by payment or write off.
- 5.28 To ensure that cash payments totalling €15,000 or more (or equivalent in £) are not accepted in return for the supply of goods by the Council, in accordance with the Money Laundering Regulations.

## Responsibilities of Directors

- 5.29 To consult with the Corporate Director, Resources before any proposal to introduce or revise scales of charges for services is submitted to the Cabinet or the Council as the case may be.
- 5.30 To ensure that all such charges are reviewed at least once a year in consultation with the Corporate Director, Resources.
- 5.31 To ensure that no agreements are put in place (legal or otherwise) that preclude the Council from reviewing its charges on an annual basis.
- 5.32 To ensure that new charges are promptly implemented following appropriate approval.
- 5.33 To ensure that where possible, income is received in advance of the service being provided.
- 5.34 To ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and promptly banked.
- 5.35 To ensure that a list is kept of devices that process payments and ensure all devices processing payments are certified and checked as required by the Payment Card Industry Data Security Standard (PCI DSS).
- 5.36 To ensure that system access permissions are correctly set in respect of users processing payments received and that inactive accounts are disabled within 90 days as required by the PCI DSS.
- 5.37 To ensure that all staff that process payments received where customer is not present receive annual PCI training and an up to date record of trained users is maintained in order to ensure only trained individuals process card payments as required by the PCI DSS.
- 5.38 To ensure that income collected and deposited is reconciled to the ledger on a regular basis.
- 5.39 To ensure that there is clear separation of duties within income procedures to ensure that adequate controls are in place.
- 5.40 To ensure that all income is correctly coded to the appropriate financial code.
- 5.41 To maintain such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.
- 5.42 To notify the Corporate Director, Resources promptly in writing of all money due to the Council, and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.
- 5.43 To designate employees to receive monies due and to make arrangements to ensure that appropriate records are maintained.
- 5.44 To make arrangements to ensure that employees responsible for receiving income are issued with written instructions on cash handling and till operation procedures and that such employees have signed to acknowledge that instructions have been received and understood prior to commencing such duties.
- 5.45 To ensure that all employees use official receipts or tickets for all income received on behalf of the Council and ensure that all chargeable VAT is accounted for.

- 5.46 To seek approval from the Audit Manager for alternative receipting arrangements, where it is considered inappropriate to issue an official receipt or ticket, in advance of implementing such arrangements.
- 5.47 To ensure that all official receipt forms, books, tickets and other such items are ordered and supplied to service areas by the Audit Manager or under arrangements approved by him/her.
- 5.48 To ensure that all financial stationery is securely held and accounted for at all times.
- 5.49 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 Director will arrange for the Audit Manager to be advised accordingly.
- 5.50 To ensure that upon opening of incoming mail, all income is immediately recorded by the employee concerned either by way of receipt, remittance record or by another means, approved by the Audit Manager.
- 5.51 To ensure that all cheques received in the incoming mail are immediately stamped upon opening by the relevant employee in preparation for banking.
- 5.52 To ensure that keys entrusted to employees are held securely at all times and are kept under their personal control.
- 5.53 To ensure that employees understand their responsibilities as key holders, and of insurance requirements.
- 5.54 To ensure that income held by the Council is not used to cash personal cheques or make personal loans or other payments.
- 5.55 To establish proper and clear accountability wherever money is being handled.
- 5.56 To ensure that every transfer of the Council'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.
- 5.57 To ensure that when income is due to the Council and the payment is not to be made at the time, all amounts due are claimed on official invoices or by arrangements approved by the Audit Manager. Instructions for the cancellation or reduction of invoices for income must be authorised by the appropriate Director or such member of staff specifically designated by him/her for that purpose.
- 5.58 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. Directors must make arrangements in their respective service areas to ensure that correct procedures for writing off debts, as prescribed by the Corporate Director, Resources, have been adhered to and that adequate documentation exists for each case.
- 5.59 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.
- 5.60 To ensure that proper procedures are followed for checking and authorisation for write off, prior to submission to the Corporate Director, Resources for approval.

- 5.61 To seek to achieve payment by direct debit or standing order in situations where regular payments are due to the Council.
- 5.62 To authorise an adjustment to the accounts, in consultation with the Corporate Director, Resources, if a mistake has been made in raising an invoice.
- 5.63 To consult the Corporate Director, Resources about any proposal to arrange to accept payments by credit cards, debit cards, internet, or similar means.
- 5.64 To notify the Corporate Director, Resources of outstanding income (reserved debtors) relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Corporate Director, Resources.
- 5.65 To ensure that cash payments totalling €15,000 or more (or equivalent in £), are not accepted in return for the supply of goods by the Council in accordance with the Money Laundering Regulations.
- 5.66 To notify the Operational Manager – Capital & Treasury of planned monetary receipts in excess of £0.5 million.

## **BANKING**

### **Why is this important?**

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

### **Key Controls**

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

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

- 5.69 To make or approve all arrangements with the Council's bankers.
- 5.70 To open and operate bank accounts as are considered necessary.
- 5.71 To ensure that all bank accounts operated by or on behalf of the Council shall bear an official title and in no circumstances shall an account be opened in the name of an individual.
- 5.72 To approve the use of any direct debit/standing order on the Council's accounts.
- 5.73 To arrange the reconciliation of the main bank account with the Council's cash accounts.
- 5.74 To ensure that all cheques, excluding those drawn on authorised imprest accounts, are ordered only on his/her authority.
- 5.75 To make proper arrangements for the safe custody of cheques.
- 5.76 To ensure that cheques on the Council's main bank accounts shall bear the facsimile signature of the Corporate Director, Resources or be signed by him/her or another officer authorised to do so.
- 5.77 To approve request for payments by alternative methods.
- 5.78 To ensure that personal cheques of Councillors or employees are not cashed.

- 5.79 To ensure that overdraft facilities and other borrowing arrangements are not agreed without the express permission of the Corporate Director, Resources.
- 5.80 To ensure that only methods of payment approved by the Corporate Director, Resources are used.
- 5.81 To ensure that proper procedures are followed for receiving income through touch tone telephone banking systems.

**Responsibilities of Directors**

- 5.82 To ensure that all income collected is promptly banked. This is particularly important where large sums are involved that impact on the Council’s cashflow.
- 5.83 To ensure that all income received by an officer, on behalf of the Council, is paid in direct to the Council's bank, or transmitted directly to any other body or person entitled thereto. No deduction may be made from any money held, save to the extent that the Audit Manager may specifically authorise.
- 5.84 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.
- 5.85 To ensure that all income received on behalf of the Council 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).
- 5.86 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.
- 5.87 To ensure that bank accounts do not become overdrawn.
- 5.88 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 WORKS, GOODS AND SERVICES**

**Why is this important?**

- 5.89 Public money should be spent with demonstrable probity and in accordance with the Council’s policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council’s procedures should help to ensure that services obtain value for money from their purchasing arrangements and that the Council’s Buying Responsibly values are met. These procedures should be read in conjunction with the Council’s Contract Standing Orders and Procurement Rules.

**Key Controls**

- 5.90 The key controls for ordering and paying for works, goods and services are:
  - all orders shall be in a form approved by the Corporate Director, Resources;
  - official orders will be raised for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments, petty cash purchases or other exceptions specified by the Corporate Director, Resources;
  - all goods, works and services are ordered only by appropriate persons and are correctly recorded;
  - all goods and services shall be ordered in accordance with the Council’s Contract Standing Orders and Procurement Rules, unless they are purchased from sources within the Council;



- 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 Council to the authorised price, quantity and quality standards, subject to tolerance levels set by the Corporate Director, Resources;
- all payments are made to the correct person/supplier, for the authorised amount and are properly recorded, regardless of the payment method;
- all officers and members are required to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council;
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with guidance issued by the Corporate Director, Resources;
- all expenditure is accurately recorded against the right budget, any exceptions are corrected and VAT is recorded against the correct VAT code;
- there is a clear rationale for all expenditure so that it does not lead to long term cost implications;
- in addition, the use of e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

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

5.91 To produce Contract Standing Orders and Procurement Rules and provide service areas with guidance relating to contracting and tendering arrangements.

### **Responsibilities of Directors - Procurement**

5.92 To ensure that all employees comply with the Council's Contract Standing Orders and Procurement Rules.

5.93 To ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Corporate Director, Resources, which are in line with best value principles and contained in the Council's Contract Standing Orders and Procurement Rules.

5.94 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 Council, in accordance with the Officer Code of Conduct. Any employee declaring such an interest or having such an interest will not participate in (or act so as to influence or appear to influence) any decisions relating to the matter in which they have such an interest. All Councillors involved in contractual or purchasing decisions on behalf of the Council will declare any interests and act in accordance with the Members' Code of Conduct.

5.95 To ensure that officers within their service areas will not make any personal or private use of the benefits of any Council contracts. For the avoidance of doubt, nothing in this paragraph will preclude an employee from taking advantage of Council wide schemes, which have been approved by the Corporate Director, Resources.

5.96 To ensure that all IT purchases conform to a standard identified by the Head of ICT. Exceptional purchases, outside of these standards, shall be agreed in advance with the Head of ICT.

5.97 To ensure that no financial systems are purchased without the prior agreement of the Corporate Director, Resources.

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

5.98 To approve the format of official orders and arrangements for placing orders within SAP.

- 5.99 To determine order approval levels.
- 5.100 To approve the format and use of emergency order books and to order, control and issue these to service areas.
- 5.101 To agree arrangements for all limit orders in consultation with the appropriate Director.
- 5.102 To arrange for the despatch of all orders that cannot be sent electronically, excluding emergency orders.
- 5.103 To approve all exceptions to the use of official orders.
- 5.104 To approve any arrangements for the use of purchasing cards.

### **Responsibilities of Directors – Ordering**

#### General

- 5.105 To ensure that official orders are raised in SAP *at least at the time of the order* for all works, goods and services supplied to the Council except for internal services, periodical payments (e.g. utility payments), and for petty cash purchases, or such other exceptions as the Corporate Director, Resources may approve.
- 5.106 In cases of urgency, a verbal order may be issued, using an order number from a valid emergency order book. An official order must be raised on SAP within three working days. However, it must be ensured that confirmation orders are kept to a minimum.
- 5.107 To ensure that employees do not use official orders to obtain goods or services for their private use.
- 5.108 To ensure that each order conforms to the directions of the Council with respect to any policy on central purchasing, computer purchasing, standardisation, quality and Environmental Strategy as may from time to time be adopted by the Council. Directors shall make arrangements to ensure that all purchases comply with any legal or health and safety requirements.
- 5.109 To ensure that purchasing cards are only used under arrangements approved by the Corporate Director, Resources.
- 5.110 To make arrangements to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Corporate Director, Resources. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

#### SRM and ECC

- 5.111 To ensure that where manual requisitions are used for notification to a central order point, the information is promptly entered onto SRM and ECC.
- 5.112 After due consideration, to arrange for nominations for officers for the role of requisitioner and approver. SRM will allow a requisitioner to fulfil the approver role, but will prevent an officer approving their own requisition.
- 5.113 All requisitions above £10K must be approved by an Operational Manager (PO grade in exceptional circumstances) and Directors shall authorise all such approvers. An Operational Manager may authorise a requisitioner, or approver up to £10K.

- 5.114 To maintain an up to date list of requisitioners, approvers/substitutes within their service area. No officer shall process or approve an order, or purport to do so, unless he/she is duly authorised for that purpose.
- 5.115 Where a requisition on SRM 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).
- 5.116 To ensure that the requisitioner enters the following details on the shopping cart on SRM:-
- a full description of the item required;
  - an accurate price, where appropriate, as quoted by catalogue or supplier;
  - the required quantity;
  - an appropriate product category (which will generate the appropriate financial code);
  - the correct VAT suffix;
  - the delivery address;
- 5.117 To ensure that, prior to approving a requisition on SSRM or ECC, the approving officer checks that:-
- all relevant details have been entered and are correct;
  - there is adequate provision in the budget;
  - the items are appropriate for the purpose intended;

#### Emergency Orders

- 5.118 To make arrangements to ensure the control and safe custody of all emergency order books and that they are only used for goods and services provided to the service area.
- 5.119 To ensure that emergency order books are only used for cases of emergency or for any exceptions approved by the Corporate Director, Resources.
- 5.120 To ensure that emergency orders are promptly (within 3 days) input onto SRM / ECC by the requisitioner.

#### **Responsibilities of Directors - Goods Received**

- 5.121 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.
- 5.122 To ensure that goods received details are entered promptly on SRM by the requisitioner or the nominated goods recipient.
- 5.123 To ensure that service entry details are entered promptly on ECC by the requisitioner or nominated service recipient.
- 5.124 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.
- 5.125 To ensure that, where invoice plans exist, the correct amount of service has been received prior to the removal of the billing block which releases an automated payment.

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

- 5.126 To make payments on behalf of the Council with the exception of disbursements from petty cash imprest accounts and from subsidiary bank accounts which have been authorised by the Corporate Director, Resources. The normal method of payment of money due from the Council shall be by cheque, BACS or other instrument drawn on the Council's bank account. The use of direct debit/standing order payments requires the prior agreement of the Corporate Director, Resources.
- 5.127 To make safe and efficient arrangements for all payments. All cheques shall be despatched by the Corporate Director, Resources direct to the recipient and not returned to the originating service. In the exceptional circumstances when cheques do need to be returned to a service area for despatch with associated documents, this must be approved in advance by the relevant Operational Manager, and the cheque must not be passed to the initiating officer.
- 5.128 To ensure that payments made to a sub-contractor in the construction industry are made in accordance with the Construction Industry Scheme, and the Council's procedures.
- 5.129 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 must be made to contractors using authenticated receipts raised by service areas.
- 5.130 To provide advice on making payments by the most economical means.
- 5.131 To set tolerance levels for cost and quantity variations.
- 5.132 To agree any exceptions to payment by SRM or ECC.
- 5.133 To approve all arrangements for direct payments (these relate to payments which do not have an associated order, such as utility payments).
- 5.134 To approve the format of Payment Request forms.
- 5.135 To periodically check that Payment Requests and direct payment invoices have been certified for payment by an authorised signatory.
- 5.136 To consider Payment Requests and direct payment invoices to the extent that he/she considers necessary, to make such enquiries and to receive such information and explanation as he/she may reasonably require.

## **Responsibilities of Directors - Payment**

### General

- 5.137 To make arrangements for the submission of accounts for payment in accordance with arrangements made by the Corporate Director, Resources.
- 5.138 To ensure that payment is made only against a supplier's invoice or payment request, not on statements of account, or a photocopy or faxed copy invoice, except where a service order or invoice plan is used.
- 5.139 To notify the Corporate Director, Resources at 1<sup>st</sup> April, or as required, of all outstanding expenditure relating to the previous financial year, and shall comply with any instruction issued in connection with the year-end accounting arrangements.

## SRM

- 5.140 To ensure SRM is used for all payments and any exceptions have been agreed by the Corporate Director, Resources.
- 5.141 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 Director and an officer nominated by the Corporate Director, Resources.
- 5.142 To arrange for officers to be nominated as invoice clerks and a list of these maintained on SRM and kept up to date. Operational Managers may nominate invoice clerks.
- 5.143 To ensure that invoices are input to the system without delay, in the manner specified by the Corporate Director, Resources.
- 5.144 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).
- 5.145 To ensure that invoices are not processed until the inputting officer is satisfied that delivery details have been entered.
- 5.146 To ensure that all invoices input for payment are filed and stored securely in the manner prescribed by the Corporate Director, Resources.

## Payment Requests/Direct Payments (Non Order Payments)

- 5.147 To ensure that all Payment Requests are completed on a form approved by the Corporate Director, Resources. These must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor, and relevant supporting documentation must be attached to support the payment.
- 5.148 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 Council;
  - the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);
  - the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - the expenditure has been properly coded;
  - expenditure is within budget;
  - where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:-
    - the invoice is a tax invoice;
    - for construction industry payments, an authenticated receipt will be obtained, or;
    - for payments made in advance of services/goods being received, a tax receipt will be obtained.

- 5.149 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.
- 5.150 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).
- 5.151 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 Resources Business Support Team by each Director 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 Director or use rubber facsimile signature stamps.
- 5.152 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.
- 5.153 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.
- 5.154 To ensure that duly certified Payment Requests and direct payment invoices are passed without delay to the Corporate Director, Resources.

## **IMPREST ACCOUNTS**

### **Why is this important?**

- 5.155 Imprest accounts are used for minor items of expenditure. It is important that such accounts are properly managed, do not exceed the approved threshold and that all expenditure is valid and correctly incurred.

### **Key Controls**

- 5.156 The key controls for the operation of imprest accounts are:-
- all imprest accounts should be operated in accordance with guidance issued by the Corporate Director, Resources;
  - regular reconciliations between the imprest sum advanced and imprest records are undertaken.

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

- 5.157 Where he/she considers it appropriate, to open an account with the Council's bankers for use by the imprest holder.
- 5.158 To determine the imprest level.
- 5.159 To periodically review the arrangements for the safe custody and control of Imprest accounts.
- 5.160 To reimburse imprest holders as often as necessary to restore the imprests and to keep a record of such advances.
- 5.161 To provide guidance on how imprest accounts are to be operated and how records are to be kept of payments and reimbursements.

## Responsibilities of Directors

- 5.162 To ensure that all imprest accounts are maintained in accordance with the Council's procedures.
- 5.163 To maintain a list of officers in their service areas who are authorised to hold imprest accounts.
- 5.164 To notify the Corporate Director, Resources when an imprest holder leaves the service area and to ensure that the imprest advanced is accounted for to the Corporate Director, Resources, unless responsibility for the imprest is transferred to a different officer, in which case the Corporate Director, Resources should be notified of the new account holder.
- 5.165 To agree with the Corporate Director, Resources the procedure for reimbursing expenditure imprest accounts.
- 5.166 To ensure that officers:
- (a) do not, under any circumstances, allow personal cheques to be cashed, or personal loans to be made, from monies held in an imprest account;
  - (b) do not pay income into an imprest account;
  - (c) obtain and retain a receipt to substantiate each payment from the imprest, which should be attached to a voucher and authorised. Particular care shall be taken by the employee to obtain a VAT invoice when this tax is charged;
  - (d) restrict the amount of each separate payment to such limit as may be prescribed from time to time by the Corporate Director, Resources;
  - (e) maintain records and operate the account in accordance with the instructions issued by the Corporate Director, Resources;
  - (f) maintain the safe custody of imprest cash by keeping it securely locked away preferably in a safe; guidance on this matter can be obtained from the Audit Manager;
  - (g) produce, upon demand, to the Corporate Director, Resources or his/her representative cash and/or vouchers to the total of the imprest;
  - (h) record transactions promptly;
  - (i) when requested, give to the Corporate Director, Resources a certificate as to the state of his/her imprest advance;
  - (j) 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 Council's bankers that the amount of any overdrawn balance on an imprest holder's account shall be reported forthwith to the Corporate Director, Resources;
  - (k) do not make salaries or wages payments to employees from an imprest account;
  - (l) do not make reimbursements of travel or subsistence expenses from an imprest account;
  - (m) no payment must be made to sub-Contractors for building work unless authorised by the Corporate Director, Resources;
  - (n) 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;
  - (o) on leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest advance, account to the relevant Director for the amount advanced.

## PAYMENTS TO EMPLOYEES AND MEMBERS

### Why is this Important?

5.167 Staff costs are the largest item of expenditure for most local Council services. It is, therefore, important that payments are accurate, timely, made only where they are due for services to the Council 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

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

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

### Responsibilities of the Corporate Director, Resources

5.169 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.

5.170 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.

5.171 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.

5.172 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.

5.173 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 Council to the appropriate Government agencies.

5.174 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

5.175 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.



- 5.176 Where officers from Resources have access to the Council'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 Council's IT Security Policy).
- 5.177 To ensure that officers from Resources do not have update access to the personnel screens on the Council's personnel and payroll system without approval from the Corporate Director, Resources. These will only be officers from within the Payroll Control Team and Payroll Super Users.

**Responsibilities of the Director of Governance and Legal Services**

- 5.178 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.
- 5.179 To ensure that officers from Governance and Legal Services only have update access to the payroll screens relating to Members on the Council's computerised personnel and payroll system.

**Responsibilities of the Chief Human Resources Officer**

- 5.180 To ensure that the appointment of officers is made in accordance with the Procedure Rules of the Council and the approved establishments, grades and rates of pay.
- 5.181 To approve the format of all records relating to the notification of appointments, terminations, sickness, special leave and any other personnel matter.
- 5.182 To maintain all necessary records relating to the appointment, termination and all other personnel matters.
- 5.183 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.
- 5.184 Where officers from HR People Services have access to the Council'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 Council's IT Security Policy).
- 5.185 To ensure that officers from HR People Services do not have update access to the payroll screens on the Council's computerised personnel and payroll system without the expressed approval of the Corporate Director, Resources.

**Responsibilities of Directors**

- 5.186 To furnish the Corporate Director, Resources with all documents that are required to arrange payment by the due date and any documentation required for pension, income tax and national insurance purposes.
- 5.187 To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 5.188 To ensure that time sheets, overtime forms or other payroll related records are in a form prescribed or approved by the Corporate Director, Resources. All such records shall be appropriately certified in manuscript, by an authorised signatory.

- 5.189 To make arrangements to ensure that the Chief Human Resources Officer and the Corporate Director, Resources, as appropriate, are notified promptly, and in the approved format, of all matters affecting the remuneration of officers within their service area, and in particular:
- appointments, resignations, dismissals, suspensions, secondments and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - information necessary to maintain records of service for pension, income tax, national insurance and the like.
- 5.190 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.
- 5.191 To ensure that the service area reviews the establishment list issued by Chief Human Resources Officer on a quarterly basis and confirms the accuracy of the report.
- 5.192 To ensure that the service area maintains and reviews periodically a list of officers approved to authorise timesheets, overtime forms and other payroll related records together with specimen signatures, and to ensure that only authorised officers authorise payments. A copy of the list should be sent to the Corporate Director, Resources.
- 5.193 To ensure that payroll transactions are processed only through the payroll system. "Cash in hand" and other non PAYE payments are not permitted. Directors shall give careful consideration to the employment status of individuals employed on a self-employed, consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice shall be sought from the Corporate Director, Resources.
- 5.194 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.
- 5.195 To arrange for the correct certification of claims for car mileage, travel and subsistence, and incidental expenses. Certification by the Director 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 Council's business, the most cost effective route and means of transport was used and that the allowances claimed are properly payable by the Council. The names of officers authorised by Directors to approve such records shall be retained in each service area, together with specimen signatures and this shall be amended on the occasion of any change. The accuracy of the information contained in a claim shall be the responsibility of the employee concerned. Due consideration should be given to tax implications and that the Corporate Director, Resources is informed where appropriate.

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

**Responsibilities of Members**

- 5.199 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?**

- 5.200 Directorates 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).
- 5.201 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.
- 5.202 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**

- 5.203 The key controls for internal charges are:
  - all income and expenditure arising from an internal recharging relationship is correctly recorded and accounted for in a robust manner;
  - each charging activity will have a clear basis on which it will be recharged;
  - each charging activity will include the cost of the provision of the service plus an appropriate level of overhead;
  - no significant surplus should be made by the provider at the expense of the internal customer unless there are contrary policies in place as approved by the Corporate Director, Resources.
  - all providers ensure that all internal customers are provided with the information reasonably required to accompany the journal charge;
  - all charges must be challenged within an appropriate timescale (two months from being informed of charge). The provider must ensure all challenges are considered and where appropriate resolution is made by clarifying query or amending the charge made by journal.
  - there will be an arbitration process to clear disputes promptly.

**Responsibilities of the Corporate Director, Resources**

- 5.204 To issue guidelines and procedures on the administration of the Council’s internal charging systems.
- 5.205 To ensure internal charging processes are efficient and effective and represent the best interests of the Council as a whole.

5.206 To arbitrate on outstanding disputed charges where the client and supplier service area fail to reach agreement.

### **Responsibilities of Directors**

5.207 To comply with guidelines and procedures issued by the Corporate Director, Resources on the administration of the internal charging systems.

## **TAXATION**

### **Why is this important?**

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

### **Key Controls**

5.209 The key controls for taxation are:

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

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

5.210 To complete all HM Revenue and Customs returns regarding Pay As You Earn (PAYE).

5.211 To complete VAT returns and to supply other information as specified by HM Revenue and Customs.

5.212 To provide details to the HM Revenue and Customs of deductions made under the Construction Industry Tax Deduction Scheme.

5.213 To advise Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

### **Responsibilities of Directors**

5.214 To ensure that where VAT is accounted for in respect of a payment, in accordance with HM Revenue and Customs regulations, the following conditions are satisfied:-

- the payment relates to a supply of goods or services to Cardiff Council or to some other body covered by the Council's VAT registration;
- unless otherwise authorised, a VAT invoice (or receipt) is held in respect of the payment;
- where a payment is made to a contractor in the construction industry on the authority of an architect's certificate, an authenticated receipt is obtained as soon as possible;
- the VAT identified on the VAT invoice is identified and coded correctly;
- that VAT invoices are processed expeditiously and are not unduly delayed.

- 5.215 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.
- 5.216 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.
- 5.217 To ensure that all VAT invoices are raised and processed expeditiously.
- 5.218 To ensure that the correct VAT liability is attached on all income due.
- 5.219 To ensure that documents identifying VAT transactions, including proof of payment and banking records, are retained for the period specified by HM Revenue and Customs.
- 5.220 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 5.221 To ensure that all persons employed by the Council are added to the Council'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.
- 5.222 To follow the guidance on taxation issued by the Corporate Director, Resources in the tax guidance manual.
- 5.223 To consult with the Corporate Director, Resources on the nature and extent of any new agreements (or alterations to existing arrangements) where there may be taxation risks or potential taxation liabilities.
- 5.224 To consult with the Corporate Director, Resources on any projects or decisions that may have taxation implications.
- 5.225 To ensure that arrangements are in place for all relevant staff to be informed about the correct VAT treatment of all transactions and of changes to this as notified by the Corporate Director, Resources.

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

## Key Controls

6.6 The key controls for the Council's partners are:

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

### Responsibilities of the Corporate Director, Resources

6.7 To advise on the use of effective and waiving of ineffective controls within the partnership in order to ensure that resources are not wasted.

6.8 To advise, as appropriate, on the key elements of funding a project, including:

- a scheme appraisal for financial viability in both the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues;
- audit, security and control requirements;
- carry-forward arrangements.

6.9 To ensure that the accounting arrangements are satisfactory.

### Responsibilities of Directors

6.10 To consult with the Corporate Director, Resources, as necessary, on a scheme's appraisal for financial viability in both the current and future years.

6.11 To ensure that risk management processes are in place to identify, assess and management processes are in place to identify, assess and mitigate all known risks without affecting the ability of the partnership to effectively function.

6.12 To ensure that such agreements and arrangements do not impact adversely upon the services provided either by the Council or the partnership.

6.13 To ensure that all agreements and arrangements are properly documented.

6.14 To provide appropriate information to the Corporate Director, Resources to enable a note to be entered into the Council's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

### **Why is this important?**

6.15 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of authorities. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Council 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 Council's overall plan.

### **Key Controls**

6.16 The key controls for external funding are:

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

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

6.17 To ensure that all funding notified by external bodies is received and properly recorded in the Council'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 for effective internal control 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 Directors**

6.21 To ensure that project mandates (including risk assessments) are completed and stakeholders consulted before the project commences.

6.22 To consult with the Corporate Director, Resources on prospective funding arrangements prior to entering an agreement.

6.23 To ensure that all checks are carried out to make certain that funding instructions associated in a bid for external funding are taken into account.

6.24 To ensure that all income and expenditure are properly recorded and accounted for and to maintain adequate supporting documentation to enable claims for funding to be maximised.

6.25 To ensure that funding bodies' grant conditions / requirements are met and that all claims for funds are made by the due date.



6.26 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **WORK FOR THIRD PARTIES**

### **Why is this important?**

6.27 Current legislation enables the Council 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 Council's legal powers.

### **Key Controls**

6.28 The key controls for working with third parties are:

- to ensure that proposals are costed properly in accordance with guidance provided by the Corporate Director, Resources so that internal resources are not used to provide external users with a service that has a detrimental effect on the internal service provision;
- to ensure that contracts are drawn up using guidance provided by the Corporate Director, Resources and that the formal approval process is adhered to;
- to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

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

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

### **Responsibilities of Directors**

6.30 To ensure that appropriate insurance arrangements are made.

6.31 To ensure that the Council is not put at risk from any bad debts.

6.32 To ensure that no contracts are subsidised by the Council.

6.33 To ensure that, wherever practicable, payment is received in advance of the delivery of the service.

6.34 To ensure that the department/unit has the appropriate expertise to undertake the contract.

6.35 To ensure that information held, or assets owned by, the Council are not used to the detriment of the Council.

6.36 To ensure that such contracts do not impact adversely upon the services provided for the Council.

6.37 To ensure that all contracts are properly documented.

6.38 To provide appropriate information to the Corporate Director, Resources to enable a note to be entered into the statement of accounts.

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**CARDIFF COUNCIL**  
**Equality Impact Assessment**  
**Corporate Assessment Template**



**Policy/Strategy/Project/Procedure/Service/Function Title: Contract Standing Orders and Procurement Rules**

**New/Existing/Updating/Amending: Updating**

**Who is responsible for developing and implementing the Policy/Strategy/Project/Procedure/Service/Function?**

Name: Liz Weale

Job Title: Solicitor

Service Team: Governance and Legal Services

Service Area: Legal Services

Assessment Date: 20/02/2018

**1. What are the objectives of the Policy/Strategy/Project/ Procedure/ Service/Function?**

Contract Standing Orders and Procurement Rules (CPR) provide a corporate framework for the procurement of all Goods, Services and Works for the Council, including concession contracts. The Council spends in the region of £390 million per annum on the external procurement of Goods, Services and Works. It is therefore important that the Council strategically manages this spend to ensure that it:

- i. obtains value for money and the required level of quality and performance in all contracts let;
- ii. conducts its procurement activity openly, transparently and, where practicable, based on standard approaches and use of common systems that appropriately minimise complexity, cost, timescales and requirements for suppliers;
- iii. complies with all European, UK and Welsh law that governs and/ or relates to the procurement of goods, services and works and the letting of concession contracts;
- iv. meets the principles of the Welsh Government's Wales Procurement Policy Statement (WPPS);
- v. considers all relevant guidance issued by Welsh Government including Procurement Advice Notes and the Code of Practice on Ethical Employment in Supply Chains;
- vi. supports the achievement of the seven well-being goals for Wales as set out in the Well-being of Future Generations (Wales) Act (2015);
- vii. has procurement procedures which, when followed, should protect members and officers of the Council from any allegation of acting unfairly or unlawfully in connection with any procurement by the Council;
- viii. subject to compliance with (iii), has considered, assessed and where practicable mitigated any risks associated with a particular procurement processes and subsequently entering into contracts; and
- ix. achieves the organisational outcomes of the Council's Procurement Strategy (2017-20).

**CARDIFF COUNCIL**  
**Equality Impact Assessment**  
**Corporate Assessment Template**

2. Please provide background information on the Policy/Strategy/Project/Procedure/Service/Function and any research done [e.g. service users data against demographic statistics, similar EIAs done etc.]

The Contract Standing Orders and Procurement Rules (CSOPR) have been updated to reflect:

- EU Procurement Regulations – Public Contract Regulations 2015
- Welsh Language Act
- Welsh Government's - Wales Procurement Policy Statement
- WLGA - Model CSOPR
- Consultation Feedback - Ambassador Working Group and Directorate Workshops

The key changes include:

- **Advertising opportunities:**
  - Above £25,000 for Goods and Services
  - Above £75,000 for Works
- **Changes to Council Thresholds**
  - Tender threshold increased to £25,000 for goods and services and £75,000 for works
  - Below £10,000 service areas need a minimum of 1 quote and be able to demonstrate value for money
- **Welsh Language (Wales) Measure 2011**
  - Clauses added to meet requirements of Standards 76 to 80
- **Community benefits**
  - Mandatory on contracts above £1million
  - Encouraged on contracts below £1million
- **Exceptions to the Rules**
  - Only apply to tenders below EU Thresholds
  - Procurement Manager to issue guidance
- **Contract Management**
  - Improved clarity on role of Contract Manager
- **General Data Protection Regulation - Personal Data**
  - Clarity on obligations
- **E-Procurement**
  - Enhanced use of electronic procurement systems to deliver process efficiencies and increase visibility/transparency in the process.

The Rules will be supported by a range of detailed policies, procedures and guidance that will be issued by the Procurement Manager. Extensive training will be rolled out across all Directorates to support compliance.

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### 3 Assess Impact on the Protected Characteristics

#### 3.1 Age

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative/]** on younger/older people?

	Yes	No	N/A
Up to 18 years	x		
18 - 65 years	x		
Over 65 years	x		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

The CSOPR and the Community Benefits clauses in particular will deliver a differential impact through the following priorities:

**The Local Training & Employment** focuses on employment and training opportunities for local people in order to reduce unemployment and raise the skills level of our local workforce, especially in target groups such as long term unemployed. In delivering this, the Council's Into Work Service will play a central role in working with contractors to meet their requirements and supporting people in any work placements.

As set out in Q2, a range of more detailed policies and guidance will support the CSOPR, including the Council's Socially Responsible Procurement Policy. The Council will now be looking to include Fair Work Practice questions in relevant tender documentation as it seeks to roll out its commitments under the Code of Practice: Ethical employment in supply chains. The Council is also looking to implement a child rights approach in its commissioning processes.

**What action(s) can you take to address the differential impact?**

In line with the CSOPR community benefits clauses a Socially Responsible Procurement Delivery Plan template will be included in all contracts above £1m and its use encouraged in all other contracts. The template includes a list or menu of the community benefits that the Council wants to see delivered through its contracts structured around the six priorities of the Socially Responsible Procurement Policy. Those submitting tenders will make their "offer" and the successful tenderer will have their "offer" built into the contract. They will include:

**Through Local Training and Employment priority we are committed to:**

- Require bidders for contracts worth over £1m to make a commitment to provide employment and training opportunities
- Encourage our contractors to create more opportunities for apprenticeships, work placements and jobs.
- Work in partnership with employers, training providers and employment

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services to promote and co-ordinate access to local employment and training opportunities

- Seek opportunities to work with Primary and Secondary schools through the "Cardiff Commitment" to equip young people of Cardiff with the right skills to match the requirements of the labor market
- Maximise benefit from the City Deal and other major development opportunities to create employment and training.
- In line with Cardiff Commitment encourage suppliers and contractors to work with schools and colleges, offering work experience and business awareness to students and NEETs, especially those from disadvantaged areas or communities.

**Through Partners in Communities priority we are committed to:**

- Make a local impact by improving local facilities and areas and by encouraging our suppliers to operate paid staff volunteering schemes
- Promote volunteering and social action through the Cardiff Volunteer Centre, Volunteering Wales website and the Cardiff Volunteer Portal.
- Make opportunities, both directly from the Council and through our contractors, accessible to a diverse supply base including the third sector, social enterprises and local suppliers and provide mentoring and support to assist these organisations to tender for and deliver these supply opportunities where necessary.
- Help to support the health and wellbeing of communities in which the business operates by for example linking local businesses and residents' groups to help run or sponsor activities / events, which will directly benefit those living there.
- Promote diversity, inclusion, equality and fairness – target effort towards those in greatest disadvantage and tackle deprivation across the city.

**Through Promoting Wellbeing of Young People and Vulnerable Adults priority we are committed to:**

- Help make communities places where all citizens, including the most vulnerable, feel safe, and are able to have their voices heard and their rights promoted through the implementation of a Child Friendly City and Dementia Friendly City approach.
- Provide safeguarding advice and guidance.
- Ensure contractors are able to identify abuse or exploitation and take responsibility for reporting concerns in an appropriate and timely way.
- Ensure that all suppliers of care and support services that the Council purchases for its service users must have the necessary safeguarding policies, procedures and training in place and where required, be registered where appropriate registration body.
- Encourage contractors to promote and sponsor opportunities for children and adults who are in need of care and support i.e. events for carers.

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**Through Ethical employment in supply chain we are committed to:**

- Implement and embed the Code of Practice: Ethical Employment in Supply Chains through tackling modern slavery, human rights abuses, blacklisting, false self-employment, unfair use of umbrella schemes and zero hours contracts
- Encourage our suppliers and contractors to become accredited Living Wage employer through promoting the Cardiff Council 'Real' Living Wage Accreditation Support Scheme.
- Organise employer workshops to promote the Living Wage, initially targeted at the construction sector
- Build a scored Fair Work Practices question into relevant tender documents to include section on Living Wage, unfair use of umbrella schemes, zero hour contracts and False Self-Employment Practices

**3.2 Disability**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on disabled people?

	Yes	No	N/A
Hearing Impairment	x		
Physical Impairment	x		
Visual Impairment	x		
Learning Disability	x		
Long-Standing Illness or Health Condition	x		
Mental Health	x		
Substance Misuse	x		
Other	x		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

As above in 3.1 – the close engagement of the Council's Into Work Service in working with contractors on larger contracts to deliver training and employment opportunities should support positive action.

**What action(s) can you take to address the differential impact?**

As above in 3.1.

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**3.3 Gender Reassignment**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on transgender people?

	Yes	No	N/A
<b>Transgender People</b> (People who are proposing to undergo, are undergoing, or have undergone a process [or part of a process] to reassign their sex by changing physiological or other attributes of sex)	x		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

**Ethical employment in supply chains priority** employs the highest ethical standards in our own operations and those within our supply chain.

**What action(s) can you take to address the differential impact?**

Encourage suppliers and contractors to have flexible working practices, LGTB / Gender reassignment friendly work policies which are inclusive in their equality training.

**3.4. Marriage and Civil Partnership**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on marriage and civil partnership?

	Yes	No	N/A
Marriage			x
Civil Partnership			x

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

No impact on Marital status.

**What action(s) can you take to address the differential impact?**

**3.5 Pregnancy and Maternity**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on pregnancy and maternity?



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	Yes	No	N/A
Pregnancy	x		
Maternity	x		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

**The Local Training & Employment priority** focuses on employment and training opportunities for local people in order to reduce unemployment and raise the skills level of our local workforce, especially in target groups such as long term unemployed and people returning to the employment market

**Ethical employment in supply chains priority** employs the highest ethical standards in our own operations and those within our supply chain.

**What action(s) can you take to address the differential impact?**

As above in 3.1

### 3.6 Race

Will this Policy/Strategy/Project//Procedure/Service/Function have a **differential impact [positive/negative]** on the following groups?

	Yes	No	N/A
White	x		
Mixed / Multiple Ethnic Groups	x		
Asian / Asian British	x		
Black / African / Caribbean / Black British	x		
Other Ethnic Groups	x		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

**The Local Training & Employment priority** focuses on employment and training opportunities for local people in order to reduce unemployment and raise the skills level of our local workforce, especially in target groups such as long term unemployed.

**Ethical employment in supply chains priority** employs the highest ethical standards in our own operations and those within our supply chain.

**What action(s) can you take to address the differential impact?**

As above in 3.1

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**3.7 Religion, Belief or Non-Belief**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on people with different religions, beliefs or non-beliefs?

	Yes	No	N/A
Buddhist			X
Christian			X
Hindu			X
Humanist			X
Jewish			X
Muslim			X
Sikh			X
Other			X

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

No impact on Religious beliefs.

**What action(s) can you take to address the differential impact?**

**3.8 Sex**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on men and/or women?

	Yes	No	N/A
Men	X		
Women	X		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

**The Local Training & Employment priority** focuses on employment and training opportunities for local people in order to reduce unemployment and raise the skills level of our local workforce, especially in target groups such as long term unemployed.

**Ethical employment in supply chains priority** employs the highest ethical standards in our own operations and those within our supply chain.

**What action(s) can you take to address the differential impact?**

As above in 3.1

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**3.9 Sexual Orientation**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on the following groups?

	Yes	No	N/A
Bisexual	X		
Gay Men	X		
Gay Women/Lesbians	X		
Heterosexual/Straight	X		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

**Ethical employment in supply chains priority** employs the highest ethical standards in our own operations and those within our supply chain.

**What action(s) can you take to address the differential impact?**

Encourage suppliers and contractors to have flexible working practices, LGTB / Gender reassignment friendly work policies which are inclusive in their equality training.

**3.10 Welsh Language**

Will this Policy/Strategy/Project/Procedure/Service/Function have a **differential impact [positive/negative]** on Welsh Language?

	Yes	No	N/A
Welsh Language	X		

**Please give details/consequences of the differential impact, and provide supporting evidence, if any.**

The CSOPR includes a range of clauses to ensure compliance with the Welsh Language Act. The Rules state that any invitations to tender may be submitted in Welsh and any tenders submitted in Welsh will be treated no less favourably.

**What action(s) can you take to address the differential impact?**

As above.

**4. Consultation and Engagement**

4.C.400	Issue 1	Nov 11	Process Owner: Rachel Jones	Authorised: Rachel Jones	Page 9
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What arrangements have been made to consult/engage with the various Equalities Groups?

Consulted with:

- Audit Committee
- Directorates
- Ambassador Networking Group

### 5. Summary of Actions [Listed in the Sections above]

Groups	Actions
Age	
Disability	
Gender Reassignment	
Marriage & Civil Partnership	
Pregnancy & Maternity	
Race	
Religion/Belief	
Sex	
Sexual Orientation	
Welsh Language	
Generic Over-Arching [applicable to all the above groups]	

### 6. Further Action

Any recommendations for action that you plan to take as a result of this Equality Impact Assessment (listed in Summary of Actions) should be included as part of your Service Area's Business Plan to be monitored on a regular basis.

### 7. Authorisation

The Template should be completed by the Lead Officer of the identified Policy/Strategy/Project/Function and approved by the appropriate Manager in each Service Area.

Completed By : John Paxton	Date: 21/02/18
Designation: Strategy and Development Officer / Manager	
Approved By: Liz Weale	Date: 22/02/18
Designation: Solicitor	
Service Area: Governance and Legal Services	

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- 7.1 On completion of this Assessment, please ensure that the Form is posted on your Directorate's Page on CIS - *Council Wide/Management Systems/Equality Impact Assessments* - so that there is a record of all assessments undertaken in the Council.

For further information or assistance, please contact the Citizen Focus Team on 029 2087 3059 or email [citizenfocus@cardiff.gov.uk](mailto:citizenfocus@cardiff.gov.uk)

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**CONSTITUTION COMMITTEE:****5 MARCH 2018**

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

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**RECORDING OF COUNCIL MEETINGS (AUDIO, VISUAL OR  
SOCIAL MEDIA)****Reason for this Report**

1. To inform the Committee about current arrangements for the recording of Council and Committee meetings, and seek approval of recommended changes to the Council's rules on this issue.

**Background**

2. The Council has been webcasting full Council meetings since 2008; Planning Committee meetings since October 2016; and Scrutiny Committee meetings (on an ad hoc basis) since November 2017. A webcast is a live or recorded transmission of a video on the internet, enabling the public to watch meetings from any location with internet access in real time. Viewers may click on a particular agenda item or a particular speaker to watch and listen to the part of the meeting which is relevant to them. Councils are encouraged to webcast their meetings in the interests of open and transparent governance and accountability; and to improve public engagement in, and understanding of, local democracy.
3. Currently, aside from the official webcast, any other recording of Council or Committee meetings is prohibited, unless the meeting gives express authorisation, under the Council's procedure rules. At the Committee's meeting in October 2017, the Monitoring Officer advised that this prohibition runs contrary to the openness and transparency now expected of local government and the increasing use of modern digital communication methods. The Committee agreed to receive a report to review the Council's rules in this regard. This is that report.

## Issues

### Webcasting

4. A Webcasting Protocol is recommended in order to clarify the arrangements for webcasting and ensure the Council is compliant with its legal obligations (in particular the Data Protection Act 1998 and the Human Rights Act 1998). The Council has an outdated Protocol (approved in July 2015), which has been reviewed and updated. The updated Webcasting Protocol is attached as **Appendix A**. It is recommended that the updated Protocol should be approved, subject to any agreed amendments, and recommended to full Council for inclusion within the Constitution.

### Other Recording or Reporting of Council meetings

5. Meetings of the Council and its Committees are public meetings; and elected Members and Council officers in public service can reasonably be expected to be held to account for their comments and votes in such meetings.
6. The Welsh Government's statutory Publicity Code (August 2014) urges Councils to look favourably on public recording and broadcasting of Council meetings, provided those attending the meeting are aware of the recording and it creates no disturbance or distraction of the meeting.
7. In the context of modern mobile telephone technology, a prohibition on recording and social media use during Council and Committee meetings is extremely difficult, if not impossible, to enforce. Indeed it is questionable why the Council would wish to prohibit it when meetings are webcast.
8. Members may also wish to note that in England, members of the public have a statutory right to make recordings of public Council and Committee meetings and to report on them, including through social media (pursuant to the Openness of Local Government Bodies Regulations 2014).
9. The Model Constitution for Welsh Councils (2013) commissioned by the Association of Council Secretaries and Solicitors contains the following model rule:  
*'Filming and Use of Social Media During Meetings'*  
  
*Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.'*
10. The Committee is recommended to consider amending the Council's current rules to permit recording and use of social media during all public



meetings of the Council, Cabinet and Committees, subject to appropriate conditions. Proposed conditions include:

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

11. Any elected Members who may wish to record or use social media during Council, Cabinet or Committee meetings should be mindful of their ability to concentrate on the business of the meeting and the public perception likely to be created. Additionally, Members of Regulatory Committees (such as Planning, Licensing and Public Protection), should note that the Council's Guidance for Councillors on Social Media (2016), issued by the Standards and Ethics Committee advises that:

*'Use of social media by members of planning, licensing or other regulatory committees is not permitted during the course of such meetings.'*

This is because on these matters members are obliged by law to take all relevant considerations into account, and it is therefore important they listen to everything and take an informed view before reaching a decision. This is important because these matters are subject to statutory rights of appeal. These issues specifically relating to recording or social media use by Members should be incorporated into the amended rules.

12. The recommended amendments to the Council's procedure rules are shown in **Appendix B**.

## **Legal Implications**

13. For Councils in Wales there is no statutory requirement to allow the recording of public Council and Committee meetings. However, it is recommended by statutory guidance (the Publicity Code issued by Welsh

Government in August 2014), as noted in the body of the report, in the interests of openness, transparency and accountability.

14. Any audio or visual recording which features identifiable individuals will constitute the personal data of these individuals, and must be handled in accordance with data protection laws. The person making the recording will be responsible for complying with their legal obligations in this regard. The Webcasting Protocol sets out arrangements for ensuring the Council's webcasting is compliant with data protection law, by seeking informed consent.
15. With regard to recording by members of the public, Members may wish to note that there is a general 'domestic purposes' exemption under the Data Protection Act 1998 which is available to individuals who process information for the purposes of their personal, family or household affairs. It is noted that the recommended new rules include a requirement that all persons attending a meeting should be given notice to make them aware that they may be recorded, and that by attending the meeting they are deemed to consent to this. Such notice will facilitate compliance with data protection laws by those making recordings, although ultimate responsibility will rest with the person making the recording.
16. The Council Meeting Procedure Rules (Rule 32), Committee Meeting Procedure Rules (Rule 18), Planning Committee Procedure Rules (Rule 18) and the Access to Information Procedure Rules (Rule 4), all contained within Part 4 of the Constitution, currently prohibit the recording of meetings (except for the official webcast), unless the meeting expressly authorises it. The Access to Information Procedure Rules apply to all public meetings of the Council, including Scrutiny Committees and Cabinet meetings. This report recommends the amendment of those procedure rules to permit recording and social media use during meetings, subject to the conditions set out in paragraph 10 of the report.
17. The Constitution Committee is authorised to review the Constitution and recommend any changes to full Council for approval. The recommended changes to the Council's procedure rules will require the approval of full Council.

### **Financial Implications**

18. There are no financial implications arising from the report

## RECOMMENDATIONS

The Committee is recommended to:

1. Note the current arrangements for recording of Council and Committee meetings as set out in the report;
2. Approve the updated Webcasting Protocol attached as **Appendix A**, subject to any agreed amendments, and recommend it to full Council for inclusion within the Constitution, Part 5;
3. Agree to amend the Council Meeting, Committee Meeting, Planning Committee Meeting and Access to Information Procedure Rules, as shown in **Appendix B**, subject to any agreed changes, to permit recording and use of social media during public meetings of the Council, Cabinet and Committees; and
4. Recommend the amended procedure rules (agreed under recommendation 3 above) to full Council for approval.

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

27<sup>th</sup> February 2018

## APPENDICES

Appendix A	Draft Webcasting Protocol (Updated)
Appendix B	Recommended amendments to Procedure Rules (Council Meeting, Committee Meeting, Planning Committee Meeting and Access to Information)

### Background papers

Constitution Committee reports July 2015 'Webcasting of Council and Committee Meetings'; and October 2017 'Review of Constitution'; and minutes thereof

Statutory Publicity Code issued by the Welsh Government, August 2014

Model Constitution for Welsh Councils (2013) commissioned by ACSeS (Association of Council Secretaries and Solicitors)

Welsh Local Government Association 'Guidance for Members: Webcasting', August 2014

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# CYNGOR CAERDYDD CARDIFF COUNCIL

## PROTOCOL FOR WEBCASTING OF COUNCIL AND OTHER COMMITTEE MEETINGS

## Introduction

The Council has agreed that certain Council and Committee meetings will be transmitted live on the Council's website (webcasting). The Council has fixed cameras located within the Council Chambers at City and County Hall and Committee Room 4 at County Hall for this purpose.

The main purpose of webcasting is to aid transparency, governance and accountability by giving members of the public, elected Members, officers and other interested parties the opportunity to view meetings without having to attend in person and for the Council to have an official audio and visual record of its decision-making process.

Webcasting does not replace the formal record of the meeting and the decisions taken, which are published on the Council website in the form of minutes and retained in hard copy in accordance with the Council's retention policy.

This protocol governs the conduct of Council and Committee meetings which are the subject of webcasting and aims to ensure that the Council is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

Accordingly the following principles will apply to all meetings which are to be webcast by the Council:

## Notification of Webcasting

### Agenda Packs

Included with each Council and Committee agenda notification the following notice will be attached for meetings that are being webcast:

### WEBCASTING

**This meeting will be filmed for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for 6 months. A copy of it will also be retained in accordance with the Council's data retention policy.**

***[Members of the public may also film or record this meeting]***

**If you make a representation to the meeting you will be deemed to have consented to being filmed. By entering the body of the Chamber you are also consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If you do not wish to have your image captured you should sit in the public gallery area.**

**Commented [AK1]:** Subject to approval by the Committee of the recommendation (no. 3) regarding recording by members of the public.

**If you have any queries regarding webcasting of meetings, please contact  
Committee Services on 02920 872020 or  
email [Democratic Services](#)**

### **Public Speakers**

In any correspondence notifying public speakers of the meeting date at which permission to speak has been granted, the following advice will be included if the particular meeting is to be webcast:

Please note that this meeting will be filmed for live and/or subsequent broadcast on the Council's website. If you do not wish your public question/statement and subsequent discussion to be filmed/recorded, please contact the Committee Services Team to discuss your concerns.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people.

### **Signage at meetings**

The following signage will be displayed inside and outside of the meeting room:

**WEBCASTING**

**PLEASE NOTE THAT CARDIFF COUNCIL WILL BROADCAST THIS MEETING LIVE ON ITS WEBSITE AND THE RECORD WILL BE ARCHIVED FOR FUTURE VIEWING**

**[MEMBERS OF THE PUBLIC MAY ALSO FILM OR RECORD THIS MEETING]**

**AS YOUR IMAGE MAY BE INCLUDED IN THE BROADCAST, BY ENTERING THE CHAMBER YOU ARE CONSENTING TO BE FILMED AND TO THE POSSIBLE USE OF THOSE IMAGES AND ANY SOUND RECORDINGS**

**Commented [AK2]:** Subject to approval by the Committee of the recommendation (no. 3) regarding recording by members of the public.

### **Conduct of Meetings**

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

The Chairman of the meeting shall have the discretion to terminate or suspend the webcast if:

- (i) The meeting is suspended;
- (ii) A resolution is lawfully passed to exclude the press and public from the meeting;
- (iii) There is a public disturbance;
- (iv) Webcasting may lead to a potential infringement of the rights of any person or other breach of law, subject to legal advice; or

- (v) The Chair considers that continuing to webcast would prejudice the proceedings of the meeting, subject to agreement by the majority of Members attending the meeting.

No exempt or confidential agenda items shall be webcast. The Democratic Services Officer for the meeting will ensure that webcasting of the meeting has ceased and will confirm this to the Chairman of the meeting before any discussion of exempt or confidential matters is commenced.

All archived webcasts will be available to view on the Council's website for a period of twelve months and thereafter will be stored in accordance with the Council's records management procedures.

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information. If the Monitoring Officer has decided to take such action she must notify all Elected Members in writing as soon as possible of the decision and the reasons for such a decision. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

The actual webcasts and archived material, and copyright therein, remain the property of the Council, and the right to copy, issue, rent, perform, communicate or adapt any of the webcast or archived material is restricted as follows:

- (i) Subject to (ii) and (iii) below, any person may copy and use webcast material or part thereof provided that the facility is not used in a way that otherwise breaks the law and that the whole agenda item is displayed.
- (ii) The use of any webcast involving the alteration or editing of the material which results in changing the message or context is not permitted without the prior written approval of the Monitoring Officer.
- (iii) The use of webcast for commercial purposes involving re-use of the material is not permitted, unless the prior written approval of the Monitoring Officer is obtained.

Any Elected Member who is concerned about any webcast should raise their concerns with the Monitoring Officer.

If a technical fault develops, the Chair may agree a short adjournment to see if the problem can be resolved. If after adjourning the problem still persists, the meeting should continue irrespective of it not being transmitted live.

### **Prohibition on Political Publicity**

Please note that the Council is prohibited from producing political publicity. This is defined as any material which in whole or in part, appears to be designed to



affect political support for a political party. This duty is more acute during pre-election periods, which run from publication of the notice of election to the election. While politics can be a normal part of Council meetings, proceedings which are inherently political may have to be removed from any broadcast to avoid breaching the rules on political publicity. During pre-election periods there may be a short delay in broadcasting to ensure that any political publicity is not inadvertently published.

### **Other Filming and Recording of meetings**

This protocol does not affect existing provisions in the Council's Constitution regarding the recording of meetings.

*Members of the public are permitted to film or record Councillors and officers at any Council meetings that are open to the public and press, subject to compliance with the Council's Access to Information Procedure Rules, Rule 4A..*

*The Council also permits photography and social media reporting of all its public meetings.*

**Commented [AK3]:** Subject to approval by the Committee of the recommendation (no. 3) regarding recording by members of the public.

### **Amendment of this Protocol**

The Director of Governance and Legal Services shall be authorised to make any minor amendments to this Protocol to ensure it is kept up to date and fit for purpose.

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**RECOMMENDED AMENDMENTS TO PROCEDURE RULES  
REGARDING FILMING AND RECORDING OF COUNCIL MEETINGS**

COUNCIL MEETING PROCEDURE RULES

**32 RECORDINGS OF MEETINGS OF THE COUNCIL**

- (a) Council meetings shall be webcast, ~~(‘the official recording’)~~ in accordance with the Webcasting Protocol (contained within Part 5 of the Constitution). ~~Other than the official recording, no recording shall be made of the proceedings of meetings of the Council whether audio or visual and by whatever method except with the express authorisation of the meeting.~~
- (b) ~~If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the Chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.~~  
Other filming, recording and use of social media is permitted during Council meetings, provided that:
- (i) The recording or transmission must create no disturbance, disruption or distraction to the good order and conduct of the meeting;
  - (ii) Notice has been given (on the meeting agenda and signage outside the meeting) so that everyone attending the meeting is made aware that they may be recorded and that by attending the meeting they are deemed to consent to this;
  - (iii) Any recording must be overt, not covert;
  - (iv) There is to be no recording or transmission of proceedings dealing with any exempt or confidential information;
  - (v) The Chair shall have discretion, subject to proper consideration of any relevant representations and legal advice, to prohibit a recording or exclude anyone reasonably considered to be in breach of these rules; and
  - (vi) The person making the recording or transmission shall be solely responsible for complying with all applicable legal obligations arising from their actions.

COMMITTEE MEETING PROCEDURE RULES

**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.~~

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

## PLANNING COMMITTEE PROCEDURE RULES

### **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.~~

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

(vi) The person making the recording or transmission shall be solely responsible for complying with all applicable legal obligations arising from their actions.

(c) Use of social media by members of the Committee is not permitted during the meeting.

#### ACCESS TO INFORMATION PROCEDURE RULES

#### **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.

#### **4A Filming, recording and social media**

(a) Meetings which are open to the public under these rules may be webcast by the Council. The Webcasting Protocol (contained within Part 5 of the Constitution) shall apply to all meetings which are webcast.

(b) Other filming, recording and use of social media is also permitted, provided that:

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

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**CYNGOR CAERDYDD  
CARDIFF COUNCIL**



**CONSTITUTION COMMITTEE:**

**15 MARCH 2018**

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

**WARD MEMBER CONSULTATION**

**Reason for this Report**

1. To allow Members to consider constitutional provision for Ward Member consultation requirements.

**Background**

2. In October 2017, the Committee's Constitution Review report noted that arrangements for ward member consultation have been identified as an area for review, arising from complaints received from local Members who had not been consulted on significant issues affecting their ward. The Committee agreed to receive a further report on this matter. This is that report.

**Issues**

3. Local Ward Members must be aware of significant developments within their wards in order to properly discharge their role as Council representatives of their wards. In practice, local Members are routinely consulted on matters affecting their ward, however there have been occasional complaints from Members reporting that they were not consulted.
4. The Scheme of Delegations, Section 4A, Introduction to Officer Delegations, paragraph 1.5 currently states that:

*'This Scheme includes the obligation on officers to keep Members properly informed of activity arising within the scope of these delegations.'*

However, the Constitution contains no further rules, guidelines, or protocols on this issue.

5. It is recommended that requirements for consultation with ward members on significant issues affecting their wards should be enshrined in the officer decision making processes within the Constitution. This may be achieved by inserting into the Scheme of Delegations, after the words in paragraph 1.5, Section 4A (set out in the paragraph above) words to the effect of the

following:

*'(a) When taking, or considering taking, delegated decisions all officers must have regard to the following questions:*

- i. Does the decision involve significant expenditure to the service budget, or wider Council budget?*
- ii. Does the decision affect the reputation of the service and/or Council?*
- iii. Is the decision significant with regard to one or more wards?*
- iv. Does the decision carry a significant risk to the service or wider Council?*
- v. Does the decision impact reputationally or financially on service users, partner organisations or committees outside the Council?*

*(b) Officers must consider the above and, where the answer to any of the above questions is yes, prepare a delegated officer decision using the pro forma, which must be presented to the relevant Cabinet member to consult with them on the decision (this can be done via email).*

*(c) If the matter impacts specifically on one or more wards (i.e. it is a local issue rather than council wide) and it is considered to be significant then the officer should consult ward member(s) (and consider the need to consult with any relevant Community Council).*

*(d) For highly significant or sensitive matters, officers must consider, in consultation with the relevant Cabinet member, whether in fact a Cabinet report should be prepared instead and the matter entered on the Cabinet Forward Plan.*

*(e) Day to day routine management decisions do not need to be subject to formally recorded decision procedures.'*

## **Legal Implications**

6. The Constitution Committee is authorised to review the Constitution and recommend any amendments considered appropriate to full Council for approval (subject to certain amendments which can be approved by the Committee itself). The proposed amendments to the Scheme of Delegations require the approval of full Council.

## **Financial Implications**

7. There are no financial implications arising from the report



## **RECOMMENDATION**

The Constitution Committee is recommended to:

Recommend to full Council the amendment of the Scheme of Delegations, Section 4A, paragraph 1.5 to incorporate the ward Member consultation requirements detailed in paragraph 5 of the report, subject to any agreed amendments.

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

20<sup>th</sup> February 2018

Background papers

Constitution Committee report 'Review of Constitution', October 2017

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**CONSTITUTION COMMITTEE:**

**15 MARCH 2018**

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

**ALL PARTY COUNCIL GROUPS**

**Reason for this Report**

1. To allow the Committee to consider provision for the establishment of All Party Council Groups to discuss and promote specific issues within the Council's corporate and service priorities and increase opportunities for non-Executive Members to contribute towards policy development.

**Background**

2. At the Committee's meeting in October 2017, the Committee noted a suggestion from the Chair regarding the establishment of All Party Council Groups. The Committee agreed to receive a report on this matter. This is that report.
3. An All Party Council Women's Group, has been established to promote and support any elected Member who identifies as a woman, and to provide advice, guidance and networking opportunities for any elected Member who has identified as a woman. This Group had its first meeting in December 2017.

**Issues**

4. The Committee is invited to consider making provision for All Party Council Groups (APCGs) by approving the following draft Protocol:

ALL PARTY COUNCIL GROUPS – PROTOCOL (draft)

Purpose

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

### Subject matter

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

### Powers / Functions

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

### Membership

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

### Procedure

- i. The members proposing to establish an APCG must notify the Monitoring Officer so that the Group is included on a register of APCGs.
  - ii. Each APCG must meet at least three times each year.
  - iii. If the APCG wishes to raise any issues formally, it may do so by writing to the relevant Cabinet portfolio holder or committee chair.
  - iv. Each APCG must produce an annual report to be circulated to all members of the Council (but not to be discussed at full Council).
  - v. In all other respects, the procedure and regulation of meetings shall be a matter for Members.
  - vi. Officer support for APCG meetings shall be limited, due to resource constraints, to booking rooms for meetings, and will not cover clerking or other administrative support (such as agenda planning or minute taking).
5. The Committee is invited to consider and provide comments on the above proposals. Members may wish to note that these proposals have been discussed and broadly agreed with party group whips.

### **Legal Implications**

6. The proposed All Party Council Groups have no formal decision making powers, and there is therefore no legal requirement for their inclusion within the Council's Constitution. However, a Protocol setting out the agreed arrangements for such groups, as set out in the body of the report, would

ensure there is clarity and transparency for all concerned, and may be incorporated within Part 5 of the Constitution, subject to the approval of full Council.

7. As an informal working group, the statutory access to information rules applicable to decision making meetings of the Council (under Part VA of the Local Government Act 1972) do not apply, which means there is no requirement for APCG meetings and documentation to be open to the public.

### **Financial Implications**

8. There are no financial implications arising from the report.

### **RECOMMENDATIONS**

The Committee is recommended to:

1. Consider and approve provision for the establishment of All Party Council Groups as set out in the report, subject to any agreed changes; and
2. Recommend to Council the incorporation of the All Party Council Groups Protocol set out in paragraph 4 of this report, subject to any agreed changes, within Part 5 of the Constitution.

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

26<sup>th</sup> February 2018

Background papers

Constitution Committee report 'Review of Constitution', October 2017

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**CYNGOR CAERDYDD  
CARDIFF COUNCIL**



**CONSTITUTION COMMITTEE:**

**15 MARCH 2018**

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

**SCRUTINY COMMITTEES SIZE AND MEMBERSHIP OF TASK AND FINISH GROUPS**

**Reason for this Report**

1. To allow Members to consider recommended changes to the Constitution in relation to:
  - a) The size of Scrutiny Committees; and
  - b) Membership of Scrutiny Task and Finish Groups.

**Background**

2. Following a Review of Scrutiny in Cardiff carried out in 2016, in March 2017 the Constitution Committee considered and recommended various changes to the scrutiny structure, based on reducing the number of scrutiny committees from five to four. However, at the Annual Council meeting in May 2017, the Council resolved to retain the existing five committee scrutiny structure with its existing terms of reference for the municipal year 2017-18. The Council also agreed that each Scrutiny Committee should comprise of nine Elected Members; and that all non-Executive Elected Members should be encouraged to participate in Scrutiny (as Committee Members and / or as Members of Task and Finish groups), subject to the maximum number of Members on a Task and Finish group being nine. The Scrutiny Committees were established accordingly and Member nominations were invited from party groups, in accordance with the rules on political proportionality, and approved by Council.

**Issues**

Size of Scrutiny Committees

3. The Constitution provides that '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' (Rule 1 of the Scrutiny Procedure Rules). The size of Scrutiny Committees is not specified in the Constitution.

4. As noted in paragraph 2 above, Annual Council in May 2017 agreed there should be five Scrutiny Committees with nine Elected Members each (and four Co-Opted Members on the Children and Young People Scrutiny Committee). However, there are currently vacancies on three out of the five Scrutiny Committees (1 vacancy on each of Community and Adult Services, Economy and Culture and Policy Review and Performance). The vacancies have been discussed at meetings with Party Group Whips and the Scrutiny Chairs Liaison Group meetings, but relevant Party Groups have been unable to put forward sufficient nominations. Seats have been offered to other Party Groups and the Independent Member, but the vacancies remain unfilled to date.
5. Members may wish to note that the matter of vacancies on Scrutiny Committees was raised in the Wales Audit Office Corporate Assessment Follow on Report (issued in February 2016). In response, the Council in July 2016 resolved that the size of Scrutiny Committees be reduced for the remainder of that municipal year from nine to eight Members, pending the outcome of the general review of scrutiny arrangements.
6. In view of the fact that the Council has been unable to fill all current Scrutiny Committee seats, it was suggested at the last meeting of Party Group Whips that the Constitution Committee should be asked to consider reducing the size of the Scrutiny Committees for the next municipal year (2018/19) by reducing the number of Elected Members to either seven or eight Members on each Committee. For the avoidance of any doubt, this report proposes changing the number of Elected Members only, but no changes in respect of provision for Co-Opted Members of the Children and Young People Scrutiny Committee (set out in Rule 3 of the Scrutiny Procedure Rules).
7. The Scrutiny Chairs have been informed of the proposal to reduce the size of Scrutiny Committees and invited to give their views. Feedback received is as follows:
  - *'Is it normally the ruling group which is unable to fill places? If so they could opt to populate the committees with fewer members. Scrutiny does not vote on issues normally. Why should other parties reduce numbers when able to fill places? Participation in scrutiny for opposition members is often the only way they can make a real contribution outside Council speeches.'*
  - *'I understand all the vacancies are with the Labour Group and personally I think discussions should be had with their whip to stress the importance of scrutiny and see if some of their Members can be encouraged to put themselves forward. If that fails, I would reluctantly support reducing the size of the Committees to 8 Members.'*

Any other feedback received from Scrutiny Chairs will be reported at the Committee meeting.



8. The Committee may wish to note that if the size of Scrutiny Committees is reduced to either seven or eight Elected Members, the proportional allocation of seats amongst the Party Groups (calculated in accordance with the rules on political proportionality set by sections 15 to 17 of the Local Government and Housing Act 1989 and regulations made thereunder), would be as shown in Table 1 below:

Table 1 – Allocation of Scrutiny Committee seats

	<b>Total Number of Members</b>	<b>Labour</b>	<b>Conservatives</b>	<b>Lib Dem</b>	<b>Plaid</b>
<b>Chairs of Committees</b>	5	3	1	1	-
<b>Current position: NINE Elected Members on each Scrutiny Committee (x5)</b>	45 Scrutiny seats in total	25 in total 5 seats per committee	13 in total 2 or 3 seats per committee	7 in total 1 or 2 seats per committee	<i>[1 seat allocated but declined]</i>
<b>EIGHT Elected Members on each Scrutiny Committee (x5)</b>	40 Scrutiny seats in total	22 in total 4 or 5 seats per committee	11 in total 2 or 3 seats per committee	6 in total 1 or 2 seats per committee	1 total
<b>SEVEN Elected Members on each Scrutiny Committee (x5)</b>	35 Scrutiny seats in total	20 in total 4 seats per committee	9 in total 1 or 2 seats per committee	5 in total 1 seat on each committee	1 total

9. In the interests of clarity and transparency, it is recommended that the agreed size of the Scrutiny Committees should be set out in the Constitution by amending Rule 1 of the Scrutiny Procedure Rules as shown in **Appendix A** to this report.

10. Members are also invited to consider amending the quorum rules if the size of the Scrutiny Committees is to be reduced. The current quorum requirement (set out in Rule 5 of the Scrutiny Procedure Rules) is one quarter of the number of Committee members (which is rounded up to the nearest whole number if necessary). This means that 3 Members are currently required for a Scrutiny Committee (of 9 Members) to be quorate. If the size of the Scrutiny Committees is reduced to 7 or 8 Members, then the current quorum rule would allow 2 Members to constitute a quorum. It is recommended that the quorum rule should be amended to require a minimum of 3 Members. This recommended amendment is included in the marked up version of the Rules attached as **Appendix A**.

## Membership of Task and Finish Groups

11. The Council has previously agreed that all non-Executive Elected Members should be encouraged to participate in Scrutiny (as Committee members and / or as members of Task and Finish groups), subject to the maximum number of Members on a Task and Finish group being nine (as noted in paragraph 2 above.)
12. Scrutiny Officers have confirmed that non-Executive Elected Members (who are not Scrutiny Committee members) have participated in a number of recent Task and Finish Group inquiries, such as the Joint Children and Young People and Community and Adult Services Task and Finish Inquiry on Drugs; and the Children and Young People Task and Finish Inquiry on Out of County Placements.
13. Scrutiny Officers have also confirmed that, where appropriate, non-Councillors have been invited to participate in certain Task and Finish inquiries on account of their particular expertise. For example, a representative of the Welsh Local Government Association participated in the Policy Review and Performance Task and Finish Inquiry on Sickness Absence; and the Environment Scrutiny Committee Restore our Rivers Task and Finish Inquiry included representatives from the Cardiff Rivers Group; Dŵr Cymru / Welsh Water; Glamorgan Anglers; Keep Wales Tidy; Natural Resources Wales; and the South East Wales Rivers Trust.
14. The Constitution, Scrutiny Procedure Rules currently provide that:  
'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.' (Rule 1). There is no provision regarding the size or membership of Task and Finish groups.
15. In the interests of clarity and transparency it is recommended that the agreed arrangements for membership of Task and Finish groups should be set out in the Constitution by amending Rules 1 and 2 of the Scrutiny Procedure Rules as shown in **Appendix A** to this report.

## **Legal Implications**

16. The Local Government Act 2000 requires authorities to set up overview and scrutiny committees. The legislative provisions for overview and scrutiny committees for Wales have been amended and supplemented by the Local Government (Wales) Measure 2011 and Regulations made thereunder. In addition, other legislation imposes requirements regarding scrutiny of particular issues, for example, crime and disorder matters (the Police and Justice Act 2006); and Public Services Board functions (the

Wellbeing of Future Generations (Wales) Act 2015). Subject to compliance with the relevant statutory provisions, the size of its scrutiny committees is a matter for each Council to determine.

17. Scrutiny Committees are subject to the political balance rules set by sections 15 to 17 of the Local Government and Housing Act 1989 (“the 1989 Act”) and the Local Government (Committees and Political Groups) Regulations 1990 (“the 1990 Regulations”), designed to ensure that there is political balance on Committees. The potential effect of the proposed change in size of the Scrutiny Committees on the proportional allocation of Scrutiny Committee seats to each of the political groups represented on the Council is illustrated in Table 1 in the report.

18. Members will note that the proposed changes to the size of the scrutiny committees require the approval of full Council. If the Constitution Committee agrees the proposed changes, the Committee’s recommendations will be submitted to full Council in March 2018, so that any approved changes can take effect for the 2018/19 municipal year starting at Annual Council in May 2018.

19. Task and Finish groups may be set up by a Scrutiny Committee to carry out a detailed examination of particular topics and report back to the Committee. They are not authorised to exercise any formal scrutiny powers, which remain the responsibility of the Committee. There are no specific legal constraints on the size or membership of Task and Finish groups. However, a workable limit on the number of members and setting out the agreed membership arrangements in the Constitution (Scrutiny Procedure Rules) supports good governance.

20. The Constitution Committee is authorised to review the Constitution and recommend any changes to full Council for approval. The recommended changes to the Scrutiny Procedure Rules will require the approval of full Council.

### **Financial Implications**

21. There are no financial implications arising from the report

### **RECOMMENDATIONS**

The Committee is recommended to:

1. Consider recommending to full Council a reduction in the size of each of the Council’s 5 Scrutiny Committees for the 2018/19 municipal year by

reducing the number of elected Members to either 7 or 8, as the Committee considers appropriate; and

2. Recommend to Council that Rules 1 and 2 of the Scrutiny Procedure Rules be amended, with effect from Annual Council in May 2018, as shown in **Appendix A** to:
  - a) Set out the agreed size of each of the 5 Scrutiny Committees, as agreed under recommendation 1;
  - b) Amend the quorum rules, if the size of Scrutiny Committees is recommended to be reduced under recommendation 1, to require a minimum of 3 Members for a Scrutiny Committee meeting to be quorate;
  - c) Confirm that the membership of Task and Finish groups may include any non-Executive Elected Members, subject to a maximum of nine Members on each Task and Finish group; and
  - d) Confirm that non-Councillors may be invited to participate in Task and Finish inquiries as expert advisors to a Task and Finish group.

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

20<sup>th</sup> February 2018

## **APPENDICES**

Appendix A Scrutiny Procedure Rules – draft showing proposed amendments

### Background papers

Council report 'The Establishment of Scrutiny Committees for 2017/18' May 2017

Constitution Committee report 'Review of Scrutiny Committee Structure', March 2017

Council report 'Variation to the Size of, and Allocation of Seats on, Scrutiny Committees', July 2016

## PART 4 – RULES OF PROCEDURE

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### SCRUTINY PROCEDURE RULES

#### 1 Scrutiny Committees

The Council will have the five Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Scrutiny Committees will have a membership of seven / eight / nine elected Members unless otherwise determined by the Council.

Scrutiny Committees may appoint "Task and Finish" Sub Committees comprised of up to nine elected Members, 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. A Scrutiny Committee may agree to invite one or more advisors with relevant expertise to participate in a Task and Finish group inquiry.

#### 2 Members of Scrutiny Committees

All councillors, except members of the Cabinet, may be members of a Scrutiny Committee or a Task and Finish Sub 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 (rounded up to the nearest whole number), provided that a minimum of three members are required for a meeting to be quorate. During any meeting, if the Chairperson declares that there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairperson. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Scrutiny Committee/Sub Committee.

## 6 **Chairperson**

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

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

Within their terms of reference, Scrutiny Committees:-

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

## 8 **Agenda items**

- (a) Any member of a Scrutiny Committee may give notice to the Operational Manager of Scrutiny Services that he/she wishes an item relevant to the

functions of that committee to be included on the agenda for a future meeting. On receipt of such a request, the Chairperson will ensure that it is included as an item on the next suitable agenda.

- (b) Scrutiny Committees shall respond, as soon as their work programme permits, to requests from the Council or the Cabinet, to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings, and any recommendations, back to the Cabinet and/or Council, as appropriate.

## **9 Reports from Scrutiny Committees**

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

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

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

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

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

## 12 **Call-in Procedure**



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

- (ii) To consider the process by which the decision has been formulated.
- (iii) To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider).
- (iv) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision making body).
- (v) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.
- (g) In calling in a decision it is not sufficient for the Member requesting the call in to state that they wish to test the merits of the decision. A member requesting a call in shall specify precisely which aspects of the decision they wish to question or challenge.
- (h) The Operational Manager of Scrutiny Services may, in consultation with the Monitoring Officer, rule that a call in is not valid if:
  - (i) The call in request has not been made within the seven working days allowed for call in;
  - (ii) It is not clear which Executive Decision is being called in;
  - (iii) The decision is exempt from call in on account of urgency provisions;
  - (iv) The call in request provides too little information to enable Committee members or the decision taker to adequately prepare for the call in meeting.
  - (v) The decision being called in, or broadly the same decision, has been called in during the last six months; or
  - (vi) The matter has already been scrutinised by the relevant Scrutiny Committee and there is no significant new or additional information which has not been previously considered by that Committee.

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

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

taken as a matter of urgency must be reported for information to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

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

- (a) Scrutiny Committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (to be made at the commencement of the agenda item in question);
- (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
- (iv) responses of the Cabinet to reports of the Scrutiny Committee; and
- (v) the business otherwise set out on the agenda for the meeting.

- (b) Where the Scrutiny Committee conducts investigations, the Committee may also invite people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of those invited to give evidence, and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (iv) that members of the council acting in their constituency representative role be permitted to attend and give evidence in connection with ward specific matters provided they have first given notice to the Chair of the Scrutiny Committee.

- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public, except that reports containing confidential or exempt information need not be made public to the extent that such information would be disclosed.

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

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

DRAFT

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

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

1. To receive, consider and approve the Constitution Committee Forward Work Plan for 2017/18 as detailed in **Appendix A** to this report.

**Background**

2. The Constitution Committee is responsible for reviewing the Council's Constitution, recommending any changes to Council and/or Cabinet. It has authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-
  - a) Drafting improvements to enhance clarity and remove minor anomalies.
  - b) Updating to reflect legislative changes and matters of record.
  - c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).
3. The Forward Work Plan gives notice of, and transparency to, matters under review and for decision during the municipal year and reflects the Committees objective to improve and enhance governance of the Council; to have effective outcomes; and to ensure that it complies with legal obligations and identifies potential risks.
4. The Forward Work Plan needs to reflect the time commitment required for Committee Members and the resources available within the Council to meet the Committee's ambitions.

**Issues**

5. The main work stream for the Committee in 2017/18 is to develop improvements to aspects of the Constitution, in particular in relation to making Council meetings more effective, giving greater transparency to how decisions are made and the way the Council and its Officers function.

## **Legal Implications**

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

## **Financial Implications**

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

## **RECOMMENDATION**

The Committee is recommended to approve the Forward Work Plan 2017/18, and the areas considered as priorities as set out in **Appendix A**.

**Davina Fiore**

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

20 February 2018

CC/DF/V1.0

Appendices

**Appendix A** – Constitution Committee Forward Work Plan 2017-2018

Background Papers

**CONSTITUTION COMMITTEE – FORWARD PLAN 2017/18**

**APPENDIX A**

<b>TOPIC</b>	<b>OBJECTIVE/OUTCOME</b>	<b>WHO IS RESPONSIBLE?</b>	<b>PRIORITY</b>	<b>REPORT TO COMMITTEE</b>
(1) Responsibility for Air Quality Management Functions	To review the appropriate allocation of responsibility for this local choice function	Director Governance and Legal Services / Head of Shared Regulatory Service	Medium	On Agenda
(2) Contract and Finance Procedure Rules	To review and update the Contract Procedure Rules and the Finance Procedure Rules to reflect new legislation and to align with WLGA Model Rules and best practice	Section 151 Officer, Finance, Procurement and Legal Officers	Medium	On Agenda
(3) All-Party Council Groups	To consider the establishment of all-party working group/s to consider specific issues within the Councils corporate and service priorities	Director of Governance & Legal Services	Medium	On Agenda
(4) Recording/ Filming in Council Meetings	To review the rules on recording of meetings to ensure they meet legal requirements and best practice	Director of Governance & Legal Services	Medium	On Agenda
(5) Ward Member Consultation	To enshrine ward Member consultation requirements within decision making procedures	Director of Governance and Legal Services	Medium	On Agenda
(6) Scrutiny Committee Size and Membership	To review the size of Scrutiny Committees and membership of Task and Finish groups	Director of Governance and Legal Services	Medium	On Agenda
(7)				

<b>TOPIC</b>	<b>OBJECTIVE/OUTCOME</b>	<b>WHO IS RESPONSIBLE?</b>	<b>PRIORITY</b>	<b>REPORT TO COMMITTEE</b>
(8) Planning Delegations	To note the updated Planning Committee delegations and consider corresponding amendments to the Scheme of Delegations	Director of Governance and Legal Services	Medium	Next meeting (date tbc)
(9) Code of Corporate Governance	To consider a draft Code of Corporate Governance (on recommendation of the Audit Committee)	Director of Governance and Legal Services / Corporate Director Resources	Medium	Next meeting (date tbc)
(10) Council Petition Scheme	To consider the adoption of a Petition Scheme setting out how the Council shall respond to petitions.	Director of Governance & Legal Services	Medium	Next meeting (date tbc)
(11) Council Meeting Procedure Rules	To review and consider suggested changes to the arrangements for meetings of full Council.	Director of Governance & Legal Services	High	Spring 2019