

# PART 1

# SUMMARY AND EXPLANATION

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## **SUMMARY AND EXPLANATION**

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

The Rhondda Cynon Taff County Borough Council has agreed this constitution, which sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles, which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in a series of separate rules and protocols at the end of the document.

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

Article 1 of the Constitution commits the Council to:-

1. provide clear leadership to the community it serves, in active partnership with citizens, local businesses, voluntary and community organisations, and other agencies, in order to improve the quality of life of all those who live in, work in, or visit Rhondda Cynon Taff;
2. support the active involvement of local citizens in the process of democratic decision making;
3. help all Councillors to represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. ensure that those responsible for decision making are clearly identifiable to local people and that the reasons for decisions are clearly explained;
6. create a powerful and effective means of holding decision makers to public account;
7. ensure that no one will review or scrutinise a decision in which they were directly involved; and
8. improve the delivery of services to the community, which are procured or provided by the Council, or by its strategic partners.

Articles 2 –16 explain the rights of local citizens, and how the key parts of the Council operate.

These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).

- The Council Meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of Decisions (Article 6).
- The Executive (Article 7).
- Regulatory Committees (Article 8).
- The Standards Committee (Article 9).
- Area Regeneration Partnerships (Article 10).
- Joint Arrangements (Article 11).
- Officers of the Council (Article 12).
- Decision Making (Article 13).
- Finance, Contracts and Legal Matters (Article 14).
- Review and Revision of the Constitution (Article 15).
- Suspension, Interpretation and Publication of the Constitution (Article 16).

### **How the Council Operates**

The Council is composed of 75 Councillors normally elected every four years. Each Councillor is democratically accountable to the residents of their electoral division, as well as to all those who live in Rhondda Cynon Taff. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

All Councillors have to agree to follow a code of conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising them on the code of conduct.

All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policy framework and set the budget each year. The Council appoints the Leader of the Council on a yearly basis. The Leader then decides the size and membership of the Executive, i.e. the role of individual members of the Executive and arrangements for the exercise and delegation of executive functions.

The Council appoints Overview and Scrutiny Committees responsible for being the principal means of holding the Executive to account, in terms of decision making and the Council's performance, in delivering effective and efficient services, which meet the needs of local people.

Various Non-Executive Committees are appointed by the Council as an efficient and accessible way of making decisions on those matters which

cannot be the responsibility of the Executive, (such as development control, licensing and public rights of way).

Members of the Council may present petitions on behalf of their constituents, ask questions of Executive Councillors or submit motions for debate at a meeting. They may also contribute views during the course of a meeting on a matter being discussed.

### **How Decisions Are Made**

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader appointed by the Council and a Cabinet of 9 Councillors appointed by the Leader. Together, they form the Executive and, except where authority for a particular matter has been delegated, they take collective responsibility for decision making. When decisions are to be discussed or made, these are published in the Executive's forward plan, in so far as they can be identified in advance. If these decisions are to be discussed with Council Officers and decided at a meeting of the Executive, this will generally be open for the public to attend, except where genuinely confidential or exempt matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the agreed budget or policy framework, this must be referred to the Council as a whole to decide.

Decisions can be made also by individual Executive Councillors on matters within their "portfolio" of responsibilities, within prescribed limits such as when matters need to be resolved urgently to protect the interest of the Council, subject to formal advice from appropriate Council officers being taken into account first.

Delegated powers are also given to Officers to make operational or more routine decisions in relation to the delivery of the services they manage for the Council.

### **Overview and Scrutiny**

There are some Overview and Scrutiny Committees which support the work of the Executive and the Council as a whole. There are four Standing Scrutiny Committees which review any aspect of the Council's four Service Areas in depth, namely Corporate, Education, Environmental and Community and there is a Overview and Scrutiny Committee which co-ordinates the work of the subject committees. They allow citizens to have a greater say in Council matters, by holding public inquiries into matters of local concern. These activities lead to reports and recommendations which advise the Executive, and the Council as a whole, on its policies, resource allocation and service delivery. The Overview and Scrutiny Committees also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented, to consider whether the decision is appropriate to meeting the needs and aspirations of local people. The Committees may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming

decisions and the development of policy before these are finalised. The Overview and Scrutiny Committee approves the forward work programmes which will ensure the work of the Task Teams are co-ordinated with one another, and with the Cabinet's forward work programme.

### **The Council's Staff**

The Council directly employs a range of professionally qualified senior staff, (called 'Officers'), to give advice, implement decisions, and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and elected Members of the Council, to ensure that they work together effectively. Council officers may have certain powers to act delegated to them by the Council, by its committees, or by the Executive, as set out in the Council's Scheme of Delegation.

### **Citizens' Rights**

Local citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on legal rights.

Where members of the public use specific Council services, for example as a parent of a pupil attending a local school they have additional rights. These are not covered in this Constitution, but information on them is available elsewhere.

Citizens have the right to:

- vote at local elections, if they are registered to do so;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Council's Constitution;
- attend meetings of the Executive, and of the Council and its Committees, except where confidential or exempt matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- contribute to reviews and investigations by the Overview and Scrutiny Committee and its Scrutiny Task Teams;
- find out, from the forward work programmes, what business is to be considered by the Executive, the Overview and Scrutiny Committee, or the Council as a whole;

- see reports and background papers considered by the Council and any of its Committees, and the record of any decisions made by the Council, by its Committees, and by the Executive, except where they contain confidential or exempt information;
- complain to the Council about the delivery of Council Services, (through use of the Council's complaints procedure);
- complain to the Ombudsman, if they think they have suffered injustice because the Council has not followed its procedures properly. (However, they are encouraged only to do this only after using the Council's own complaints process);
- complain to the Ombudsman if they have evidence which they think shows that a Councillor or a co-opted Member of the Council has not followed the Members' Code of Conduct; and
- during a specified period inspect the Council's accounts and make their views known to the Council's external auditor.

The Council welcomes interest and participation by local citizens in its work. For further information on your rights as a citizen, please contact the Legal & Democratic Services Division, Rhondda Cynon Taff County Borough Council, County Borough Council Offices, The Pavilions, Cambrian Park, Clydach Vale (Tel. No. 01443 424105).

A written summary of the rights of local citizens to inspect the agenda and reports considered at meetings of the Council, its committees, and the Executive, and to attend such meetings, is available free of charge at the same contact point.

# PART 3

# RESPONSIBILITY FOR FUNCTIONS

# ***RESPONSIBILITY FOR FUNCTIONS***

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## RESPONSIBILITY FOR FUNCTIONS

### Section 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Responsibility for the following functions which may be exercised by the Executive (Cabinet) or the Council are allocated as set out below.

Function	Decision Making Body	Member-ship	Delegation Of Functions
1. Any function under a local Act other than a function specified in Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007.	Council	75	Appropriate Chief Officer.
2. The determination of an appeal against any decision made by or on behalf of the Authority.	Council		Appeals/Employee Appeals/Grievance Procedure Committee
3. Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under Section 68 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000.	Council		Group Director, Corporate Services
4. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (appeals against exclusion of pupils).	Council		Group Director, Education & Children's Services

<b>Function</b>	<b>Decision Making Body</b>	<b>Member-ship</b>	<b>Delegation Of Functions</b>
<b>5.</b> The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).	Council		Group Director, Education & Children's Services
<b>6.</b> The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Council		Group Director, Education & Children's Services
<b>7.</b> The making of arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority.	Council		Group Director, Corporate Services
<b>8.</b> The making of appointments under paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule 2 (Police Authorities established under section 3) to the Police Act 1996.	Council	75	None.
<b>9.</b> The conducting of Best Value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Cabinet	10	The Executive will take overall responsibility and set the framework for the Council's Improvement Plan and the programme of Best Value

Function	Decision Making Body	Member-ship	Delegation Of Functions
			<p>reviews, and that overview and scrutiny will also have a key role in the process. The Overview and Scrutiny Committee will be invited to take the lead in conducting each review, and the scoping of the review will be done in consultation with that Committee. Members of the Executive will join Members of the Overview and Scrutiny Committee to form the review team. Once the review is completed and has been considered by the Executive, the Committee will be able to comment on the final report and its recommendations. The Committee also will be able to hold the Executive to account for the conduct of all aspects of the review process itself.</p>
<p>10. Any function relating to contaminated land.</p>	<p>Council</p>		<p>Group Director, Environmental Services</p>

<b>Function</b>	<b>Decision Making Body</b>	<b>Member-ship</b>	<b>Delegation Of Functions</b>
<b>11.</b> The discharge of any function relating to the control of pollution or the management of air quality.	Council		Group Director, Environmental Services
<b>12.</b> The service of an abatement notice in respect of a statutory nuisance.	Council		Group Director, Environmental Services
<b>13.</b> The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Council		Group Director, Environmental Services
<b>14.</b> The inspection of the Authority's area to detect any statutory nuisance.	Council		Group Director, Environmental Services
<b>15.</b> The investigation of any complaint as to the existence of a statutory nuisance.	Council		Group Director, Environmental Services
<b>16.</b> The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council		Director of Regeneration and Planning
<b>17.</b> The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council		All Chief Officers as appropriate.
<b>18.</b> The appointment of any individual:  (a) to any office other than an office in which he is employed by the Authority.	Cabinet		

Function	Decision Making Body	Member-ship	Delegation Of Functions
<p>(b) to any body other than -</p> <p>(i) the Authority;</p> <p>(ii) a Joint Committee of two or more Authorities; or</p> <p>(c) to any Committee or Sub-Committee of such a body</p> <p>and the revocation of any such appointment.</p>	<p>Council</p> <p>Leader/ Council depending on functions.</p>		
<p><b>19.</b> Power to make payments or provide other benefits in cases of maladministration, etc.</p>	<p>Council</p>		<p>Group Director, Corporate Services in consultation with the Monitoring Officer</p>
<p><b>20.</b> The discharge of any function by an Authority acting as harbour Authority.</p>	<p>Council</p>		<p>None. This Authority is not a harbour Authority</p>
<p><b>21.</b> Any of the following functions in respect of highways:</p> <p>(a) the making of agreements for the execution of highways works;</p> <p>(b) the functions contained in the following provisions of Part III of the Highways Act 1980 (creation of highways)</p> <p>(i) Section 25 – creation of footpath, bridleway or restricted byway by agreement;</p> <p>(ii) Section 26 – compulsory powers for creation of footpaths, bridleways or restricted byways;</p>	<p>Cabinet</p>	<p>10</p>	<p>Group Director, Environmental Services</p>

Function	Decision Making Body	Membership	Delegation Of Functions
<p>(c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc)</p> <p>(i) Section 116 – power of magistrates’ court to authorise stopping up or diversion of highway;</p> <p>(ii) Section 117 – application for order under Section 116 on behalf of another person;</p> <p>(iii) Section 118 – stopping up of footpaths, bridleways and restricted byways;</p> <p>(iv) Section 118ZA – application for a public path extinguishment order;</p> <p>(v) Section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;</p> <p>(vi) Section 118B – stopping up of certain highways for purposes of crime prevention etc;</p> <p>(vii) Section 118C – application by proprietor of school for special extinguishment order;</p> <p>(viii) Section 119 – diversion of footpaths, bridleways and restricted byways;</p> <p>(ix) Section 119ZA – application for a public path diversion order;</p> <p>(x) Section 119A – diversion of footpaths, bridleways and restricted byways crossing railways;</p> <p>(xi) Section 119B – diversion of certain highways for purposes of crime prevention etc;</p>	Cabinet	10	Group Director, Environmental Services

Function	Decision Making Body	Membership	Delegation Of Functions
<p>(xii) Section 119C – application by proprietor of school for special diversion order;</p> <p>(xiii) Section 119D – diversion of certain highways for protection of sites of special scientific interests;</p> <p>(xiv) Section 120 – exercise of powers of making public path extinguishment and diversion orders;</p> <p>(xv) Section 121B – register of applications;</p> <p>(d) the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets)</p> <p>(i) Section 130 – protection of public rights;</p> <p>(ii) Section 139 – control of builders’ skips;</p> <p>(iii) Section 140 – removal of builders’ skips;</p> <p>(iv) Section 140A – builders’ skips: charges for occupation of the highway;</p> <p>(v) Section 142 – licence to plant trees, shrubs etc in a highway;</p> <p>(vi) Section 147 – power to authorise erection of stiles etc on footpath or bridleway;</p> <p>(vii) Section 147ZA – agreements relating to improvements for benefit of persons with mobility problems;</p> <p>(viii) Section 149 – removal of things so deposited on highways as to be a nuisance etc;</p>	Cabinet	10	Group Director, Environmental Services

Function	Decision Making Body	Member-ship	Delegation Of Functions
<p>(ix) Section 169 – control of scaffolding on highways;  (x) Section 171 – control of deposit of building materials and making of excavations in streets;  (xi) Section 171A and regulations made under that section – works under s169 or s171: charge for occupation of the highway;  (xii) Section 172 – hoardings to be set up during building etc;  (xiii) Section 173 – hoardings to be securely erected;  (xiv) Section 178 – restriction on placing of trails, beams etc over highways;  (xv) Section 179 – control of construction of cellars etc under street;  (xvi) Section 180 – control of openings into cellars etc under streets, and pavement lights and ventilators.</p>			
<p><b>22.</b> Functions in respect of the calculation of council tax base in accordance with any of the following:  (a) the determination of an amount for item T in section 33(1) and 44(1) of the Local Government finance Act 1992;  (b) the determination of an amount for item TP in sections 34(3), 45(3), 48(3) and 48(4) of the Local Government Finance Act 1992;</p>	Cabinet	10	None.



<b>Function</b>	<b>Decision Making Body</b>	<b>Member-ship</b>	<b>Delegation Of Functions</b>
(c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b).			
<b>23.</b> Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.	Council	75	Licensing Committee and Sub-Committees
<b>24.</b> A resolution not to issue casino licenses in accordance with Section 166 of the Gambling Act 2005 (c.19).	Council	75	
<b>25.</b> Prescribing of fees in accordance with Section 212 of the Gambling Act 2005.	Cabinet	10	Group Director, Environmental Services
<b>26.</b> Making an order disapplying Section 279 or Section 282(1) of the Gambling Act 2005 in accordance with Section 284 of the Gambling Act 2005.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>27.</b> Authorised persons in accordance with Section 304 of the Gambling Act 2005.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>28.</b> Prosecutions by a licensing authority in accordance with Section 346 of the Gambling Act 2005.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services

<b>Function</b>	<b>Decision Making Body</b>	<b>Member-ship</b>	<b>Delegation Of Functions</b>
<b>29.</b> Three year licensing policy in accordance with Section 349 of the Gambling Act 2005	Council	75	
<b>30.</b> Section 29 Gambling Act 2005 – licensing authority information.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>31.</b> Section 30 Gambling Act 2005 – other exchange of information.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>32.</b> Section 350 Gambling Act 2005 – exchange of information.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>33.</b> Part 5 of Schedule 11 Gambling Act 2005 – registration with local authority.	Licensing Committee (established under the Licensing Act 2003)	15	Group Director, Environmental Services
<b>34.</b> Exercising functions under Section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders); and	Cabinet	10	Group Director, Environmental Services
<b>35.</b> Exercising functions under Section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review).	Cabinet	10	Group Director, Environmental Services

## SECTION 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

The following functions can only be exercised by the Council and not the Executive (Cabinet).

Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
Development Control	75 Members of the Authority	<p><b>Planning and conservation</b></p> <ol style="list-style-type: none"> <li>1. Power to determine applications for planning permission.</li> <li>2. Power to determine applications to develop land without compliance with conditions previously attached.</li> <li>3. Power to grant planning permission for development already carried out.</li> <li>4. Power to decline to determine applications for planning permission.</li> <li>5. Duties relating to the making of determinations of planning applications.</li> </ol>	See Section 4 of this part for Terms of Reference and delegation of Functions to Development Control Committee and officers

Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
		<p><b>6.</b> Power to determine applications for planning permission made by a local authority, alone or jointly with another person.</p> <p><b>7.</b> Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.</p> <p><b>8.</b> Power to enter into planning obligations regulating development or use of land.</p> <p><b>9.</b> Power to issue a certificate of existing or proposed lawful use or development.</p> <p><b>10.</b> Power to serve a completion notice.</p> <p><b>11.</b> Power to grant consent for the display of advertisements.</p> <p><b>12.</b> Power to authorise entry onto land.</p> <p><b>13.</b> Power to require the discontinuance of a use of land.</p>	

Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
		<p><b>14.</b> Power to serve a planning contravention notice, breach of condition notice or stop notice.</p> <p><b>15.</b> Power to issue an enforcement notice.</p> <p><b>16.</b> Power to apply for an injunction restraining a breach of planning control.</p> <p><b>17.</b> Power to determine applications for hazardous substances consent, and related powers.</p> <p><b>18.</b> Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.</p> <p><b>19.</b> Power to require proper maintenance of land.</p> <p><b>20.</b> Power to determine applications for listed building consent, and related powers.</p> <p><b>21.</b> Power to determine applications for conservation area consent.</p>	

Council Or	Membership	Non-Executive Functions	Delegation Of
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Name Of Committee			Functions
		<p><b>22.</b> Duties relating to applications for listed building consent and conservation area consent.</p> <p><b>23.</b> Power to serve a building preservation notice, and related powers.</p> <p><b>24.</b> Power to issue a listed building enforcement notice.</p> <p><b>25.</b> Powers to acquire a listed building in need of repair and to serve a repairs notice.</p> <p><b>26.</b> Power to apply for an injunction in relation to a listed building.</p> <p><b>27.</b> Power to execute urgent works.</p> <p><b>28.</b> Power related to mineral working.</p> <p><b>29.</b> Power related to footpaths and bridleways.</p> <p><b>30.</b> Power as to certification of appropriate alternative development.</p> <p><b>31.</b> Duties in relation to purchase notices.</p> <p><b>32.</b> Powers related to blight notices.</p>	

Council Or Name Of	Membership	Non-Executive Functions	Delegation Of Functions
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Committee			
		<p>33. Powers relating to the preservation of trees.</p> <p>34. Powers relating to the protection of important hedgerows.</p>	
		<p>1. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or</p> <p>(b) an order under section 147 of the Enclosure Act 1845 (c.8 &amp; 9 Vict.c. 188).</p> <p>2. Power to register variation of rights to common.</p>	<p>Director of Legal and Democratic Services.</p> <p>Director of Legal and Democratic Services</p>
Licensing Committee	15 Members of the Authority	<p>1. Power to issue licences authorising the use of land as a caravan site ("site licences").</p> <p>2. Power to licence the use of moveable dwellings and camping sites.</p>	See Section 4 of this part for Terms of Reference and delegation of Functions.
Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions

		<p><b>3.</b> Power to licence hackney carriages and private hire vehicles.</p> <p><b>4.</b> Power to licence drivers of hackney carriages and private hire vehicles.</p> <p><b>5.</b> Power to licence operators of hackney carriages and private hire vehicles.</p> <p><b>6.</b> Power to licence sex shops and sex cinemas.</p> <p><b>7.</b> Power to licence performances of hypnotism.</p> <p><b>8.</b> Power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis.</p> <p><b>9.</b> Power to licence pleasure boats and pleasure vessels.</p> <p><b>10.</b> Power to licence market and street trading.</p> <p><b>11.</b> Duty to keep list of persons entitled to sell non-medicinal poisons.</p> <p><b>12.</b> Power to licence dealers in game and the killing and selling of game.</p>	
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<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
		<b>13.</b> Power to licence scrap yards.	



		<p><b>14.</b> Power to licence premises for the breeding of dogs.</p> <p><b>15.</b> Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</p> <p><b>16.</b> Power to register animal trainers and exhibitors.</p> <p><b>17.</b> Power to licence zoos.</p> <p><b>18.</b> Power to licence dangerous wild animals.</p>	
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<b>Appointment of Staff and Terms and Conditions</b>			
1. Council	75 Members	<b>1.</b> Appointment and Dismissal of staff including: (a) Appointment of Proper Officers (b) Duty to designate and officer as a head of the Authority's paid service and to provide staff etc. (c) Duty to designate an officer as the monitoring officer and provide staff etc.	See Section 4 of this part for Terms of Reference and delegation of Functions.  See Officer Employment Procedure Rules in Part 4.
2. Appointments Committee	5 Members		
3. Appeals/ Employee Appeals Committee	5 Members		
4. Chief Officers Appeals Committee	5 Members		
5. Chief Officers			
<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
<b>Licensing and Registration Functions</b>			
Council	75 Members of the Authority	1. Functions in respect of establishing a Licensing Committee.	None
Council		2. Power to licence knackers' yards.	Group Director, Environmental Services
		3. Power to enforce regulations in relation to animal by products.	Group Director, Environmental Services
		4. Power to licence the employment of children.	Director of Education and Lifelong Learning

		<p><b>5.</b> Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.</p> <p><b>6.</b> Power to issue a permit to conduct charitable collections.</p> <p><b>7.</b> Power to grant consent for the operation of a loudspeaker.</p> <p><b>8.</b> Power to grant a street works licence.</p> <p><b>9.</b> Duty to register the movement of pigs.</p> <p><b>10.</b> Power to enforce regulations in relation to the movement of pigs.</p>	<p>The Proper Officer appointed for that purpose.</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p>
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<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
		<p><b>11.</b> Power to issue a licence to move cattle from a market.</p> <p><b>12.</b> Duty to enforce executive regulations (EC) No. 852/2004 and 853/2004 in relation to food business operations as further specified in regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.</p>	<p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p>

		<p><b>13.</b> Power to sanction use of parts of buildings for storage of celluloid.</p> <p><b>14.</b> Power to approve factory vessels and fishery product establishments.</p> <p><b>15.</b> Power to register auction and wholesale markets.</p> <p><b>16.</b> Duty to keep register of food business premises.</p> <p><b>17.</b> Power to register food business premises.</p> <p><b>18.</b> Power to register and licence premises for the preparation of food.</p>	<p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p>
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<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
		<p><b>19.</b> Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</p> <p><b>20.</b> Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</p> <p><b>21.</b> Duty to promote Fire Safety.</p>	<p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p> <p>Group Director, Environmental Services</p>

		<b>22.</b> Powers in respect of registration of Motor Salvage operators.	Group Director, Environmental Services
<b>Functions Relating to Health and Safety at Work</b>			
		<b>1.</b> Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Authority’s capacity as an employer.	Group Director, Environmental Services

<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
<b>Functions Relating to Elections</b>			
Council		<b>1.</b> Duty to appoint an electoral registration Officer.	Chief Executive
Council		<b>2.</b> Power to assign Officers in relation to requisitions of the registration Officer.	Group Director, Corporate Services
Council		<b>3.</b> Power to dissolve Community Councils.	None
Council		<b>4.</b> Power to make orders for grouping communities.	None

Council		5. Power to make orders for dissolving groups and separating Community Councils from groups.	None
Council		6. Duty to appoint returning Officer for local government elections.	Chief Executive
Council		7. Duty to provide assistance at European Parliamentary elections.	Chief Executive
Council		8. Duty to divide constituency into polling districts.	Chief Executive
Council		9. Power to divide electoral divisions into polling district at local government elections.	Chief Executive

<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
Council		10. Powers in respect of holding of elections.	Chief Executive
Council		11. Power to pay expenses properly incurred by electoral registration Officers.	Chief Executive
Council		12. Power to fill vacancies in the event of insufficient nominations.	Chief Executive
Council		13. Duty to declare vacancy in office in certain cases.	Chief Executive

Council		<b>14.</b> Duty to give public notice of a casual vacancy.	Chief Executive
Council		<b>15.</b> Power to make temporary appointments to Community Councils.	Chief Executive
Council		<b>16.</b> Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Chief Executive
Council		<b>17.</b> Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Chief Executive

<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
Council		<b>18.</b> Miscellaneous electoral functions under Part II, SI 2003/284.	Chief Executive
<b>Functions Relating to Pensions</b>			
Council		<b>1.</b> Functions relating to local government pensions, etc.	Group Director, Corporate Services
		<b>2.</b> Functions relating to pensions, allowances and gratuities.	Group Director, Corporate Services

		3. Functions under existing pension schemes respects persons employed by the Fire & Rescue Authorities pursuant to Section 1 of the Fire & Rescue Services Act 2004.	Group Director, Corporate Services
<b>Miscellaneous Functions</b>			
Council		1. Functions relating to sea fisheries.	Group Director, Corporate Services
Council		2. Power to make standing orders and standing orders relating to contracts.	None
		3. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	None
<b>Council Or Name Of Committee</b>	<b>Membership</b>	<b>Non-Executive Functions</b>	<b>Delegation Of Functions</b>
Council		4. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Group Director, Environmental Services
Council		5. Duty to determine affordable borrowing limit.	None
Council		6. Approval of Annual Investment Strategy in accordance with Guidance.	None



Council		7. Duty to make arrangements for proper administration of Financial affairs.	Group Director, Corporate Services
Council		8. Power to consider Section 19 Reports from the Public Services Ombudsman for Wales	None
<b>Power to Promote or Oppose Local Bills</b>			
Council		1. Power to promote or oppose local or personal Bills.	None
<b>Power to Make, Amend, Revoke or Re-enact Byelaws</b>			
Council		1. Power to make, amend, revoke or re-enact byelaws.	None

Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
<b>Functions Relating to Name and Status of Areas and Individuals</b>			
Council		1. Power to change the name of the County Borough.	None
Council		2. Power to change the name of a community.	None
Council		3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	None

Council		4. Power to petition for a charter to confer County Borough status.	None
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**Functions Relating to Commons and Town or Village Greens**

Council		<p>1. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to</p> <p>(a) an exchange of lands effected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or</p> <p>(b) an order under Section 147 of the Inclosure Act 1845 (c. 8 &amp; 9 Vict. C. 118)</p>	Director of Legal and Democratic Services
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Council		2. Power to register variation of rights of common.	Director of Legal and Democratic Services
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**Circumstances in which Functions are not to be the Responsibility of an Authority's Executive**

Council		1. The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy for the control of the authority's borrowing or capital expenditure or referred to in Article 4.	The authority determines that the decision whether the plan or strategy should be adopted or approved should be taken by them.
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Council		<p><b>2.</b> The determination of any matter in the discharge of a function which</p> <p>(a) is the responsibility of the executive; and</p> <p>(b) is concerned with the authority's budget, or their borrowing or capital expenditure.</p>	<p>The individual or body by whom, by virtue of any of Sections 14 to 17 of the Local Government Act 2000 or provision made under Section 18 or 20 of that Act, the determination is to be made</p> <p>(a) is minded to determine the matter contrary to, or not wholly in accordance with</p> <p>(i) the authority's budget; or</p>
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Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
		<p>3. The determination of any matter in the discharge of a function</p> <p>(a) which is the responsibility of the executive; and</p>	<p>(ii) the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure; and</p> <p>(b) is not authorised by the authority's executive arrangements financial regulations, standing orders or other rules or procedures to make a determination in those terms.</p> <p>(c) The individual or body by whom, by virtue of any of Sections 14 to 17 of the Local Government Act 2000 or provision made under Section 18 or 20 of that Act, the determination is to be made, is minded to determine the</p>

Council Or Name Of Committee	Membership	Non-Executive Functions	Delegation Of Functions
Council		(b) in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority.	matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the authority.

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### **SECTION 3 – RESPONSIBILITY FOR EXECUTIVE (CABINET) FUNCTIONS**

The Cabinet comprises of the Leader and 9 other Members.

“Executive functions” are all the functions of the Council except:-

- (a) Those which the law says are functions of the Council alone (Section 2 above);
- (b) Functions which may be allocated to the Council rather than the Executive (Section 1 above);
- (c) Functions which are not the sole responsibility of the Executive (e.g. approval of statutory plans);
- (d) Potential decisions which:-
  - (i) conflict with the Council’s Budget or borrowing plans;
  - (ii) conflict with financial regulations or the financial standing orders;
  - (iii) conflict with the Council’s overall strategy or policy frameworkand in such cases, the Executive must pass the decision to the Council for final determination;
- (e) The Executive (i.e. Cabinet) functions may be discharged in one or more of the following ways:-
  - (i) by the Cabinet as a whole;
  - (ii) by a Committee of the Cabinet;
  - (iii) by an individual Member of the Cabinet;
  - (iv) by an Officer;
  - (v) by an Area Committee;
  - (vi) joint arrangements with other local authorities;
  - (vii) another local authority.

**NOTE:**

It is at the discretion and a decision of the Leader of the Council as to how Executive functions are discharged. At the Annual Meeting of the Council, the Leader will present a document for inclusion in the Scheme of Delegation containing the following information about Executive functions for the ensuing municipal year:

- the terms of reference of the Cabinet;
- the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader and their portfolios;
- the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- the nature and extent of any delegation of executive functions to Area Committees, any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any Joint Committee for the coming year; and
- the nature and extent of any delegation to Officers, with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

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## **SECTION 3A – LEADER’S SCHEME OF DELEGATION OF EXECUTIVE FUNCTIONS**

### **1. Cabinet Terms of Reference**

- 1.1 To act as the main focus of day-to-day political leadership and decision making, as well as of democratic accountability, at corporate level.
- 1.2 To carry out all the local authority’s functions which are not the responsibility of any other part of the local Authority, whether by law or under the Constitution.
- 1.3 To propose to the Council:
  - 1.3.1 the Council’s Guiding Principles;
  - 1.3.2 the key policies, and associated resource strategies, which comprise the Council’s policy framework, as well as changes to that framework, including:
    - The Community Plan and Performance Improvement Plan;
    - The Council’s Annual Revenue and Capital Budgets, and levels of Council Tax;taking advice from the Overview and Scrutiny Committee, interested agencies or groups, the local community, and others, as appropriate;
  - 1.3.3 or upon any matter relating to any of the Council’s powers and functions.
- 1.4 To guide Executive Councillors and Chief Officers on:
  - 1.4.1 policy development, co-ordination, and implementation;
  - 1.4.2 determination of relative priorities for action; and
  - 1.4.3 the effective and efficient operation of the Council, and of its various services.
- 1.5 To ensure effective implementation of the Council’s strategies and plans, including monitoring and reviewing performance, and considering the need for major changes in delivery or new developments to improve service standards and quality.
- 1.6 To receive reports from appropriate Officers of the Council, and/or Executive Councillors, on significant matters requiring consideration/decision, and/on proposals for new or amended policy and its



implementation.

- 1.7 To have discretion to seek the advice or comments of the Overview and Scrutiny Committee, and other relevant bodies, in relation to significant matters before making a decision.
- 1.8 To establish Standing Cabinet Committees, where appropriate, as a means of transacting more efficiently discrete aspects of the work of the Cabinet.
- 1.9 To appoint (on a task and finish basis) Ad Hoc Panels to assist in a key aspect of policy development, (working with the relevant Executive Councillors).
- 1.10 To establish topic forums to promote dialogue with, and partnership working on, matters of significance to the Council, the community, and other key local organisations which work closely with the Council.
- 1.11 To fully engage with the Wales Programme for Improvement initiative, by receiving and validating regular reports, including updates on performance, targets, and actions.
- 1.12 To fully engage with the “Making the Connections” initiative including its drive for more effective and efficient Local Government Services.

## **2. Names and Electoral Divisions of Nine Cabinet Members Appointed by the Leader and their Portfolios**

- 2.1 The Cabinet will take decisions collectively as a group, (although individual Cabinet Members may take decisions individually in an emergency, as set out in paragraph 3 below), and may express dissent from Cabinet decisions which expressions may be formally recorded, if the Cabinet Members so indicates.
- 2.2 The individual Cabinet Members listed below are allocated personal portfolios of responsibility, to act as corporate “champions” in pursuing major cross-cutting development themes across all Council services and areas of activity. (These individual portfolios may be changed by the Leader at any time). The individual Cabinet Members will each work closely with, and take professional advice from, a range of Senior Officers within the Authority, as appropriate to their particular responsibilities as a Corporate/Community Champion, with the ability to convene meetings of such staff as needed. Each portfolio holder also will liaise with, consult and inform other Cabinet Members on individual matters likely to affect their portfolios.
- 2.3 Arrangements will be made to provide dedicated administrative

support to Cabinet Members in the execution of their responsibilities.

- 2.4 Lead Cabinet Members will also act as the known point of reference and response for issues or complaints (relevant to their responsibilities) received from elected Members, local Assembly Members, local Members of Parliament, and other political bodies or representatives at regional and national levels. (When dealing with formal complaints involving the delivery of Council Services, the Lead Cabinet Member will first ensure that the benefit of the Council's Complaints Policy has been fully utilised. In their role as "ombudsman" or arbitrator, the Lead Cabinet Member may choose to intervene in complaints against local service providers external to the Council).

- 2.4.1 Name of Leader: **County Borough Councillor Anthony Christopher**  
Portfolio: **Leader of the Council & Chair of the Cabinet**

**Responsible for**

- Strategy & Key Priorities
- Finance & Budgetary Control
- Programme for Delivery
- Community Plan
- Corporate Estates

- 2.4.2 Name of Deputy Leader: **County Borough Councillor Paul Cannon**  
Portfolio: **Deputy Leader & Cabinet Member for Economic Development & Community Safety**

**Main Functional Areas of Accountability and Responsibility**

- Economic Development
- European Structural Funds
- Urban Renewal
- Forward Planning
- Business Support
- Town Centre Regeneration
- Heads of the Valleys
- Community Safety and Crime Reduction
- Trading Standards

- Youth Offending
- Licensing

2.4.3 Name: **County Borough Councillor Andrew Morgan**  
Portfolio: **Cabinet Member for Frontline Services**

**Main Functional Areas of Accountability and Responsibility**

- Street Care
- Litter
- Waste & Recycling
- Highways & Transportation
- Transport Planning & Improvement Schemes
- Major Highway projects/special engineering projects
- Traffic management
- Highways maintenance & Street lighting
- Fleet
- Land Drainage
- Home to School Transport
- Public Rights of Way
- Emergency Planning Functions & Arrangements

2.4.4 Name: **County Borough Councillor Maureen Webber**  
Portfolio: **Cabinet Member for Council Business & Public Relations**

**Main Functional Areas of Accountability and Responsibility**

- Council Business & Open Government
- Members' Services Champion
- Members' Charter
- Electoral Registration
- Legal Services
- Communications & Marketing
- Town Centre & Strategic Events

- Consultation & Community Engagement
- Design & Corporate Branding
- Council Website
- Community Regeneration
- Communities First Programme

2.4.5 Name: **County Borough Councillor Clayton Willis**  
 Portfolio: **Cabinet Member for Human Resources & Service Improvement**

**Main Functional Areas of Accountability and Responsibility**

- Service Improvement
- Wales Programme for Improvement
- Internal Audit
- Procurement
- Workforce planning
- Trade Union & Employee Relations
- Health & Safety at work
- Occupational Health
- Graduate Programme
- Apprentice Scheme
- Employee Equal Opportunity Policies
- Learning & Development of Officers
- Planning
- Land Reclamation

2.4.6 Name: **County Borough Councillor Eudine Hanagan**  
 Portfolio: **Cabinet Member for Education, Skills & Lifelong Learning**

**Main Functional Areas of Accountability and Responsibility**

- School Effectiveness & Curriculum Support
- School Management & Governor Support
- Transformation Programme & School Modernisation

- Secondary, Primary, Welsh Medium, Bilingual & Special Needs Education
- Liaison with Further & Higher Education
- Education other than at school
- Post 16 Education & Skills Development
- Adult Learning
- Education & Business Partnerships
- Community Training Partnerships
- Pupil, Student & Parental Services
- Early Years Education, including Flying Start
- Catering Direct
- ICT in Schools
- E3 & Services for Young People
- Young People's Citizenship
- Town Twinning
- The Welsh Language

2.4.7 Name: **County Borough Councillor Mike Forey**  
 Portfolio: **Cabinet Member for Partnerships & Adults' Social Services**

**Main Functional Areas of Accountability and Responsibility**

- Champion for Older People
- Partnerships and Joint Working arrangements
- Liaison with the Health Service and its Partnerships Arrangements
- Health Education
- Well-being services
- Care Strategies
- Older People
- Community Health Care

- Community Day Centres
- Residential Care
- Home Care
- Physical Disability Services
- Mental Health
- Environmental Health

2.4.8 Name: **County Borough Councillor Craig Middle**  
Portfolio: **Cabinet Member for Social Justice**

**Main Functional Areas of Accountability and Responsibility**

- Social Justice Champion
- Voluntary Sector Funding & Support
- Credit Unions
- Relationships with Social Housing Providers
- Housing Policy
- Sheltered Housing
- Social Justice Unit
- Equality Issues & Equal Opportunities
- Disabilities
- Domestic Abuse & Victim Support
- Cemeteries & Crematoria
- Registration Services
- Customer Care Arrangements & e-government
- ICT & Information Management
- Library Services
- Armed Forces Covenant

2.4.9 Name: **County Borough Councillor Robert Bevan**  
Portfolio: **Cabinet Member for Sustainable Development, Leisure & Tourism**

**Main Functional Areas of Accountability and Responsibility**

- Leisure Services
- Active Lifestyles

- Sustainable Development
- Energy
- Recreation Services
- Parks & Recreation Grounds
- Sports Development
- Cultural Services
- Museums & Theatres
- Arts Development
- Children's Recreation Facilities & Play Grounds
- Tourism Services
- Biodiversity
- Conservation
- Countryside Services
- Affordable Warmth

2.4.10 Name: **County Borough Councillor Annette Davies**  
 Portfolio: **Cabinet Member for Children's Social Services**

**Main Functional Areas of Accountability and Responsibility**

- Children's Champion
- Foster Champion
- Fostering & Adoption
- Child Protection
- Looked After Children
- Services for Women & Families
- The Children's Strategy
- Residential Care for Children
- Families Strategy

### 3. **Delegations of Executive Functions to Cabinet Members**

Normally, decisions will be taken collectively by the Cabinet, but individual Cabinet Members can take decisions within their portfolios which they consider to be urgent to protect the interest of the Council, subject to prior consultation with the appropriate Chief Officer(s) and, where necessary, other Cabinet Members. If there is uncertainty as to whether a matter falls within a particular portfolio, the Leader will make a determination as to which is the relevant Cabinet Member. The Leader can take urgent decisions in the absence of the appropriate portfolio holder.

### 4. **Cabinet Committees Appointed by the Leader, their Membership and Terms of Reference**

The five under-mentioned Cabinet Committees will be constituted at the present time. Council will be informed promptly of any additional Cabinet Committees that may be appointed by the Cabinet in the future.

#### 4.1 Name: **Ynysangharad War Memorial Park Cabinet Committee**

Membership: 3

Names of Members: County Borough Councillors:

R.Bevan, M.Webber, C.Willis

Terms of Reference: (a) To act on behalf of the Executive as a Corporate Trustee of the Ynysangharad War Memorial Park and, in that capacity, to consider all matters in connection with the future use and development of the Park and the preservation of the objectives of the Trust so instituted.

(b) To consider all proposals and representations from and on behalf of the Council or any third party, in connection with the use and ownership of the facility.

(c) To secure all necessary advice and assistance, including, where necessary, external advice and assistance, to ensure that the Trustees' interests are preserved.

(No Member of this Committee may take part in any other Cabinet or Council or Committee discussion or decision on any policy or development or any issue which



may affect the park and must declare an interest and leave when any such matter is raised).

4.2 Name: **Cabinet Performance and Resources Committee**

Membership: All 10 Cabinet Members

- Terms of Reference:
- To advise the Council on the level of capital resources likely to be available to fund the Authority's three year rolling capital programme.
  - To advise the Council on capital spending priorities and on individual projects or developments requiring funding.
  - To receive regular performance monitoring information in respect of each of the capital schemes/projects in the Authority's three year rolling capital programme.
  - To monitor overall progress being made with the delivery of the three-year rolling capital programme, and to report to the Council on any remedial action required, where necessary.
  - To agree any re-phasing of the agreed three year rolling capital programme, as a result of scheme slippage and or any other urgent matter.
  - To monitor overall progress being made with the delivery of the annual revenue budget strategy, and to report to the Council on any remedial action required, where necessary.
  - To advise the Council on the level of revenue resources likely to be available to support its revenue budget in the current and forthcoming financial years. And to produce and maintain a three-year revenue budget forecast.
  - To advise the Council on revenue spending

priorities and on the allocation of resources to each Service Group.

- To receive information in respect of any virements enacted in accordance with the Council's "Financial Procedure Rules".
- To receive regular performance monitoring information and to monitor progress made upon all services provided by the Council.
- To receive regular information and to monitor progress made in respect of the Wales Programme for Improvement Plans
- To agree formal responses to all matters on which the Authority is consulted in respect of capital and revenue finance or performance management.
- To deal with any other matters of a financial or performance management nature

4.3 Name: **Corporate Parenting Cabinet Committee**

Membership: 4 plus Leader

Names of Members: County Borough Councillors:  
A Davies, E Hanagan, M Forey, M.Webber

- Terms of Reference:
- To take the lead in ensuring that the Council fulfils its responsibilities as corporate parent to looked after children and formulate Council policy in respect of looked after children and children in need.
  - To ensure that all Groups and divisions within the Council work together in order to promote best outcomes for looked after children and children in need.
  - To promote effective relationships with key partner agencies in the best interests of looked after children and children in need.
  - To promote the Council's responsibilities as a corporate parent via the Members' Corporate Parenting Board.

- To monitor the implementation of the Action Plan arising from the Best Value Review of Services to looked after children, in addition to monitoring outcomes for looked after children and children in need.
  - To consider the impact of relevant other systems/agencies (e.g. health, courts, schools) and see how these could be improved.
  - To seek the views of looked after children - the advocacy service will be asked to facilitate.
  - To invite representatives from other agencies to attend as appropriate.
  - To report directly to Cabinet on a regular basis (frequency to be agreed).
- A cross party Corporate Parenting Board has been established comprising 7 Members: Cabinet Member for Children's Social Services (Chair), Cabinet Member for Education, Skills and Lifelong Learning (Vice-Chair), Chairman of the Overview and Scrutiny Committee, Chairman of the Education and Lifelong Learning Scrutiny Committee, Chairman of the Community and Children's Scrutiny Committee, Member of the majority opposition group and a Member of the Independent Group. The Board will be a reference group for the Cabinet Committee.

4.4 Name: **Development Board**

Membership: 3 plus Leader

Names of Members: County Borough Councillors  
P Cannon, E Hanagan, A Morgan

Terms of Reference

- To advise the Council and Economic Regeneration Partnership on potential new opportunities for significant Public and Private sector development projects, including infrastructure improvement and the packaging of land and other disposable assets.
- To consider all proposals for significant development, and to advise the Council

on relative priorities, on potential joint ventures or partnership agreements with developers, on the support to be offered to developers, and on potential “planning gain”.

- To ensure that appropriate arrangements are put in place to develop detailed project briefs for approval by the Council (and its partners, where appropriate), including the identification of sources of funding, and undertake feasibility studies.
- To ensure that appropriate arrangements are put in place for co-ordinating the delivery of agreed projects across Council services including the allocation of accountability for project co-ordination and management, in discussion with the Corporate Management Team.
- To receive regular monitoring reports on progress with delivery of agreed projects against agreed targets and deadlines, reporting to the Council on any remedial action required, where necessary.

4.5 Name: **International Links Cabinet Committee**

Membership: 6 plus - The Mayor and Deputy Mayor as ex officio Members and Co-opted members

Names of Members: County Borough Councillors:  
E. Hanagan (Chair), R. Bevan (Vice-Chair) C. Willis, P. Cannon, M. Forey, M. Webber

Terms of Reference

- To promote and maintain international and town twinning links.
- To promote opportunities for personal development through cultural exchange.
- To assist financially or otherwise schools, local organisations and individuals in forming new links with the

schools, organisations and individuals in towns which have twinned with this authority to maintain existing links and to establish new links.

- To formulate a policy on the criteria and level of financial assistance to be awarded.
- To monitor the activities of new and established twinning links.
- To delegate to a Steering Group, chaired by the Cabinet Member with lead responsibility, the overseeing of international links and twinning activities and the appointment of a Twinning Co-ordinator and Vice Co-ordinator to work with the Steering Group and the relevant Council Officers, with operational responsibilities retained by the Proper Officer
- To appoint members from the community to the Steering Group

The committee shall have power to co-opt non voting members to represent schools, local organisations and individuals and to delegate any of its functions to Cabinet members and officers.

4.6 **Name: Rhondda Cynon Taf Charity for the Visually Impaired Cabinet Committee**

Membership: 3

Names of Members: County Borough Councillors:  
M.Forey, A.Davies, M.Webber

Terms of Reference

- To oversee the administration of the charity

5. **Joint Arrangements**

5.1 In respect of the eight under-mentioned joint arrangements, I propose:

- The Council enters into each joint arrangement on the terms currently in place, and pursuant to Section 20 of the Local Government Act 2000 and all other enabling powers, and delegates to the Joint Committee those functions of the Executive as are set out in those agreements.
- That the joint agreements be reconstituted to provide that each constituent Council may be represented by an Executive or Non-Executive Member(s). Where one Member only is nominated to represent a Council that Member can exercise the Council's vote which shall be the same number as that previously exercised by the Council.
- It is noted that Merthyr Tydfil County Borough Council has established an Executive Board and that their representatives on the Llwydcoed Crematorium Joint Committee may or may not be Board Members.
- That every Joint Committee be authorised to establish, if it deems it appropriate, an advisory panel, which may comprise both Executive and Non Executive Members of the constituent Authorities who have sat on the Joint Committees, so that their expertise and commitment is not lost to the work of the Joint Committee. (This will be a matter for each Joint Committee to determine).

<b>Joint Committee</b>	<b>Function</b>	<b>Name of Cabinet or Non Executive Member(s) Allocated</b>
<i>Capita</i>	Provision of Engineering Services with Bridgend and Merthyr Tydfil County Borough Councils.	G Smith A Morgan G Holmes S. Lloyd S. Bradwick R. Lewis
Welsh Purchasing Consortium Joint Committee	Provision of bulk purchasing agreements with fifteen other Authorities.	C Willis
Glamorgan Archives Joint Committee	Provision of Archive Services with five other Authorities.	R. Bevan W. J. David M.E. Davies J. Ward

Catalogue Supplies Joint Committee	Provision of Catalogue Supplies with Bridgend, Caerphilly and Merthyr Tydfil County Borough Councils.	C Middle C Willis
Llwydcoed Crematorium Joint Committee	Provision of Crematorium Services with Merthyr Tydfil County Borough Council.	H Boggis A Crimmings A Fox J Ward K Morgan
Mid Glamorgan Crematorium Joint Committee	Provision of Crematorium Service with Bridgend and Vale of Glamorgan County Councils.	B Stephens R Turner
Central South Consortium Joint Education Committee	Provision of Curriculum Advice, Inspection and Support to Schools and LEAs jointly with Bridgend, Caerphilly and Merthyr Tydfil County Borough Councils.	<b><i>E Hanagan (JES)</i></b> <b><i>M Forey</i></b>
South East Wales Transport Joint Committee	The South East Wales Transport Alliance (SEWTA) considers regional transport policy matters and replaces the former SEWTB and prior to that SWIFT arrangements	A.Morgan M Webber

## 6. Delegation of Executive Functions to Officers

- 6.1 There are delegated to Chief Officers, under Section 15 of the Local Government Act 2000, functions within their responsibility, in the terms set out in Section 5 of Part 3 of this part of the Constitution.

- Recording of Officer Decisions

Decisions taken by Officers under delegated authority will be open to scrutiny, and a sufficient record will be made of such decisions, in order that they may be available for consultation if required and for ensuring that all those who need to know are informed promptly of the decision.

## 7. **Appointments to Bodies undertaking or advising upon Executive Functions**

Members will be appointed to the following bodies:-

### **Education & Lifelong Learning Group**

- ***Pupil Referral Unit – Management Committee (2 representatives).***

County Borough Councillors E Hanagan and D.H.Williams

- ***School Budget Forum – (5 representatives)***

County Borough Councillors A Christopher, P Cannon, E.Hanagan, C Willis and A Morgan

Terms of reference (20 representatives - at least 5 elected members and 15 school members)

Section 47A of the School Standards and Framework Act 1999, as inserted by the Education Act 2002, requires every local authority in Wales to establish, in accordance with regulations, a body to be known as schools forum. The schools forum must represent governing bodies and Headteachers of schools maintained by the authority. If the authority so determines the schools forum can also include non-school members.

Schools Budget Forums are the key to developing informed and confident dialogue between local authorities and their schools and budgetary issues including schools' funding levels for the coming year, pressures on future years' budgets, changes to local funding formula and reviewing contracts/service level agreements for services to schools.



The terms of reference have been compiled in accordance with the Schools Forums (Wales) Regulations 2003 which came into force on 13th November 2003.

▪ ***Standing Advisory Council for Religious Education***

County Borough Councillors M.Adam, C.Middle,  
G.Hopkins, J.Elliott, J.Ward

**Chief Executive's Group**

• ***Health and Safety Committee (3 representatives)***

County Borough Councillors Clayton Willis, Andrew  
Morgan and M.Webber

Terms of Reference:

To act as an advisory body to the Executive on matters relating to health, safety and welfare within the Council, specifically:-

- (1) study of accidents or dangerous occurrences and disease statistics and trends;
  - (2) examine safety audits and other inspection reports;
  - (3) consider reports and factual information provided by the enforcing Authorities;
  - (4) consider reports which Safety Representatives may wish to submit;
  - (5) develop safety procedures and safe systems of work;
  - (6) assess the effectiveness of the safety content of employee training;
  - (7) consider adequacy of safety and health communication and publicity in the workplace; and
  - (8) provide a link with appropriate Inspectorates of the enforcing Authority.
- ***Voluntary Sector Liaison Committee (Local Authority/Voluntary Sector Compact) (6 representatives - not politically balanced).***

County Borough Councillors A.Davies, E.Hanagan,  
A.Morgan, M.Webber, D.H.Williams and C.J.Willis

Terms of Reference: To establish a Local Authority/

**Community and Children's Services Group**

- ***.Adoption Panel (2 representatives – at least one Member must be from the Cabinet or the Overview and Scrutiny Committee)***

County Borough Councillors (Mrs.) A Davies and (Mrs) S. Rees

Terms of Reference:

To make recommendations in respect of the following to the Group Director for Community and Children's Services:-

- (1) whether adoption is in the best interests of a child;
- (2) whether applications are suitable to be approved as adoptive parents; and
- (3) whether approved adopters are suitable to be adopters for a child.

- ***Foster Care Panel (1 representative)***

County Borough Councillor A. Davies

Terms of Reference:

To make recommendations in respect of the following to the Group Director for Community and Children's Services:-

- (1) to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent;
- (2) where it recommends approval of an application to recommend the terms on which the approval is given, for example, as to the numbers and ages of children, or whether the approval relates to any particular named child, or to any particular type of placement;
- (3) to recommend whether or not a person remains suitable to act as a foster parent, and whether or not the terms of his approval remains appropriate;
  - (i) on the first review
  - (ii) on the occasion of any other review when requested to do so by the fostering service

provider

- **Secure Accommodation – Review Panel (2 representatives)**

County Borough Councillors C Leyshon and R Turner

Terms of Reference: To review the situation of young people in secure accommodation.

- **Children and Young People Strategic Planning Group.**

County Borough Councillor E Hanagan & A Davies

Terms of Reference: To develop a strategy in the provision of services for all children and young people up to the age of 25 years in Rhondda Cynon Taff.

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## SECTION 4 - TERMS OF REFERENCE OF COUNCIL, STANDING COMMITTEES AND OTHER QUASI JUDICIAL BODIES AND AD HOC COMMITTEES

Council and Committees are as follows:

<b>Council and Standing Committees</b>	<b>Number of Members</b>
1. Council	75
2. Development Control Committee	75
3. Licensing Committee	15
4. Licensing Committee Sub Committees (5)	3
5. Audit Committee	15 members plus 1 lay member. No more than 1 member may be a member of the executive (excluding the leader). Political balance requirements apply.
6. Appointments Committee	5 plus substitutes at least 1 but no more than half must be members of the Executive
7(a). Appeals/Employee Appeals/Chief Officer Appeals Committee	5 plus substitutes at least 1 but no more than half must be members of the Executive
8. Overview and Scrutiny Committee	17
9. Community and Children's Services Scrutiny Committee	17
10. Environmental Services Scrutiny Committee	17

Council and Committees are as follows: (continued)

<b>Council and Standing Committees</b>	<b>Number of Members</b>
11. Corporate Services Scrutiny Committee	17
12. Education and Lifelong Learning Scrutiny Committee	17 (plus statutory co-optees)
13. Standards Committee	6 Members (3 Independent/ 2 Council/1 Community Council)
14. Democratic Services Committee	15 Members (Political balance applies)
15. Corporate Governance and Constitution Committee	7 Members (Political balance applies)

<b>Other</b>	<b>Number of Members</b>
1. VER Panel	5 plus substitutes
2. Joint Consultative Committee	4
3. Local Education Authority Governors (Appointments) Committee	5

## 1. Council

### Membership

- 1.1 The Council consists of 75 Councillors elected to Rhondda Cynon Taff County Borough Council.

### Terms of Reference

- 1.2 To be the principal debating forum for major policy issues of significance to the Council and the people of Rhondda Cynon Taff.
- 1.3 To carry out the following functions:-
- (a) Adopting and changing the Constitution.
  - (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer.

- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget.
- (d) Appointing the Leader.
- (e) Agreeing and/or amending the terms of reference for Council Committees, deciding on their composition and making appointments (Councillors and non-Councillors) to them unless delegated by the Council.
- (f) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council.
- (g) Adopting a members allowances scheme.
- (h) Changing the name of the area or a Community.
- (i) To confer the title of Honorary Alderman or to admit to be an Honorary Freeman of the County Borough.
- (j) Confirming the appointment of the head of paid service.
- (k) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- (l) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive.
- (m) The decision whether or not to accept a delegation of an Executive or non-executive function from another local authority.
- (n) The adoption of Member and Officer codes of conduct and protocols recommended by the Standards Committee.
- (o) Receiving and considering reports from the Executive or Committees as appropriate.
- (p) The reviewing or scrutinising of a decision or proposed decision of the Executive, individual Executive Councillor or Area Committee, or a decision of a Committee discharging non-executive functions.
- (q) Receiving and considering reports from statutory Officers (arising from their statutory roles) and other Officers (in relation

to any Council functions not delegated to a Committee).

- (r) Receiving an annual report from the Standards Committee.
  - (s) Adopting arrangements for the appointment of Chief Officers.
  - (t) All other matters which, by law, must be reserved to Council.
- 1.4 To appoint the Chairmen and Vice Chairmen of Council Committees.
- 1.5 To provide all Councillors with the opportunity to:
- (a) Raise issues through formal questions to the Leader of the Council or Executive Councillors.
  - (b) Put motions to the Council and seek debates on issues of major or local significance.
  - (c) Present petitions.

and to refer issues raised, if appropriate, to the Executive or relevant Executive Councillor, a Committee (non-executive functions), Overview and Scrutiny Committee or Area Committee for consideration.

### **Powers Delegated to Chief Officers**

- 1.6 All operational and management requirements arising from the Council's Terms of Reference.

## **2. Development Control Committee**

### **Terms of Reference**

- 2.1 To discharge the functions of Rhondda Cynon Taff County Borough Council in relation to all the aspects of the following Development Control matters:-
- (a) Power to determine applications for planning permission;
  - (b) Power to determine applications to develop land without compliance with conditions previously attached;
  - (c) Power to grant planning permission for development already carried out;
  - (d) Power to decline to determine applications for planning permission;
  - (e) Duties relating to the making of determinations of planning applications.
  - (f) Power to determine applications for planning permission

made by a local authority, alone or jointly with another person.

- (g) Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
- (h) Power to enter into agreements regulating development or use of land.
- (i) Power to issue a certificate of existing or proposed lawful use or development.
- (j) Power to serve a completion notice.
- (k) Power to grant consent for the display of advertisements.
- (l) Power to authorise entry onto land.
- (m) Power to require the discontinuance of a use of land.
- (n) Power to serve a planning contravention notice, breach of condition notice or stop notice.
- (o) Power to issue an enforcement notice.
- (p) Power to apply for an injunction restraining a breach of planning control.
- (q) Power to determine applications for hazardous substances consent, and related powers.
- (r) Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
- (s) Power to require proper maintenance of land.
- (t) Power to determine applications for listed building consent, and related powers.
- (u) Power to determine applications for conservation area consent.
- (v) Duties relating to applications for listed building consent and conservation area consent.
- (w) Power to serve a building preservation notice, and related powers.
- (x) Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.



- (y) Powers to acquire a listed building in need of repair and to serve a repairs notice.
- (z) Power to apply for an injunction in relation to a listed building.
- (aa) Power to execute urgent works.
- (bb) Power related to mineral working.
- (cc) Power related to footpaths and bridleways.
- (dd) Power as to certification of appropriate alternative development.
- (ee) Power to serve purchase notices.
- (ff) Powers related to blight notices.
- (gg) Powers relating to the preservation of trees.
- (hh) Powers relating to the protection of important hedgerows.
- (ii) Power to make limestone pavement orders.

Where Members of the Development Control Committee are minded to take a decision against Officer Recommendation, Members should defer consideration of that matter to the next meeting of the Committee in order to receive a further report from the Service Director of Planning, if necessary, in consultation with the County Borough Legal and Democratic Services Officer, upon the strengths and weaknesses of any proposed or possible planning reasons for such a decision.

### **Powers Delegated to Officers**

2.3 The following powers are delegated to the Service Director of Planning:

2.3.1 The determination of planning (an other planning related) applications, functions and procedures relating to Town and Country Planning (including Enforcement) as contained within the following Acts (as amended where applicable) and including all subordinate legislation:

- Planning and Compensation Act 2004
- The Town and Country Planning Act 1990
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- The Planning (Hazardous Substances) Act 1990
- The Caravan Sites and Control of Development Acts 1960 and 1968

- The Environment Act 1995
- The Planning and Compensation Act 1991
- Land Compensation Act 1991
- Habitats Directive 92/43/EEC

Subject to the following exceptions:-

- (a) Applications where a Councillor submits a request to the Service Director of Planning for it to be reported to the Development Control Committee.
- (b) Applications that the Service Director of Planning considers that the nature of the proposal warrants the involvement of the Development Control Committee.
- (c) Enforcement action that the Service Director of Planning considers that that nature of the development or breach warrants the involvement of the Development Control Committee.
- (d) Applications submitted by serving Councillors or their immediate family or employees of the Development Control Service or their immediate families.
- (e) Applications submitted by, or on behalf of, the Council or involving land owned by the Council, where the nature of the Council's interests is more than a minor nature.
- (f) Applications that are accompanied by an Environmental Impact Assessment.
- (g) Applications for consent to erect electricity lines which have a capacity of 132KV or above.
- (h) Applications where there is/are objection(s) to the proposal and the Development Control Service wish to recommend approval of the application contrary to the objection.
- (i) Applications where the Service Director of Planning is recommending approval which would be contrary to the provisions of the Development Plan.
- (j) Full applications for residential development for more than 1 dwelling or outline applications on a site area of greater than 0.2 hectares.
- (k) Reserved matters applications for more than 5 dwellings.
- (l) Reserved matters application for mixed use/business or commercial development where the gross external floor area of

buildings exceed 1000 sq. metres where it is within 200 metres of any dwelling or 5000 sq. metres in all other cases.

- (m) Applications for new-build commercial, industrial or retail development or applications to extend the same which exceeds 50% of its original size.
- (n) Applications to change premises into a public house or licensed club or applications to extend an existing public house or licensed club.
- (o) Applications for more than 3 caravans.
- (p) Full planning applications for telecommunication masts and apparatus.
- (q) Applications for Grade I or II\* Listed Building Consent.

and, if authorised by the Service Director to a Development Control Manager.

2.3.2 All functions relating to the Building Control/Regulation contained within the following Act (as amended where applicable) and including all subordinate legislation:

- The Building Act 1984

and any officer authorised by the Service Director.

### **3. Licensing Committee**

#### **Terms of Reference**

- 3.1 To discharge the functions of Rhondda Cynon Taff County Borough Council in respect of licensing functions including the adoption of legislative provisions, the designation of areas and streets, the grant, refusal, issue, revocation, cancellation and suspension of licenses in respect of:-
- (a) Power to issue licences authorising the use of land as a caravan site ("site licences").
  - (b) Power to licence the use of moveable dwellings and camping sites.
  - (c) Power to licence hackney carriages and private hire vehicles.
  - (d) Power to licence drivers of hackney carriages and private hire vehicles.
  - (e) Power to licence operators of hackney carriages and private hire vehicles.
  - (f) Power to licence sex shops and sex cinemas.

- (g) Power to licence performances of hypnotism.
  - (h) Power to licence premises for acupuncture, tattooing, ear-piercing and electrolysis.
  - (i) Power to licence pleasure boats and pleasure vessels.
  - (j) Power to licence market and street trading.
  - (k) Power to licence night cafes and take-away food shops.
  - (l) Duty to keep list of persons entitled to sell non-medicinal poisons.
  - (m) Power to licence dealers in game and the killing and selling of game.
  - (n) Power to licence scrap yards.
  - (o) Power to licence premises for the breeding of dogs.
  - (p) Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business
  - (q) Power to register animal trainers and exhibitors.
  - (r) Power to licence zoos.
  - (s) Power to licence dangerous wild animals.
- 3.2 To exercise the Licensing functions under Part 2 of the Licensing Act 2003 except Section 6 and any amendment or re-enactment thereof.
- 3.3 Powers to exercise any of the Licensing functions under Part 2 of the Licensing Act 2003 are delegated to Sub Committees comprising of any three Members of the Licensing Committee.
- 3.4 To exercise the licensing functions under the Gambling Act 2005 except those reserved for Council (approval of licensing policy and not to permit casinos).
- 3.5 Powers to exercise any of the licensing functions under the Gambling Act 2005 are delegated to Sub Committees comprising of any three members of the Licensing Committee.

#### **Powers Delegated to Chief Officers**

- 3.6 All operational and management requirements arising from the Committee's Terms of Reference including the issue of licences and the registration of applications which are not the subject of any objections from third parties. In respect of Licensing Functions under Part 2 of the Licensing Act 2003 a table of delegation of functions to officers is set out in the Council's adopted Licensing Policy Statement.

In respect of licensing functions under the Gambling Act 2005 the delegation of functions to officers is set out in the Council's Adopted Policy Statement as are the functions of authorised persons in accordance with Section 304 of the Gambling Act 2005 and prosecutions by a licensing authority in accordance with Section 346 of the Gambling Act 2005.

#### 4. **Audit Committee**

##### **Statement of Purpose**

- 4.1 The purpose of the Audit Committee is to monitor the adequacy of the risk management framework and the associated control environment; provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment; and to oversee the financial reporting process.

##### **Terms of Reference**

As a key element of new arrangements for corporate governance, designed to ensure openness, integrity and accountability, the Committee will assist the Authority in discharging its responsibility for ensuring financial probity, without taking any action which might prejudice it. The Committee will:-

- (A) Review and recommend for certification the Annual Governance Statement
- (B) Review, approve and ensure the co-ordination of the Annual Internal Audit Plan for the coming financial year
- (C) Review, scrutinise and issue reports and recommendations in relation to the Authority's financial affairs, and providing the opportunity for direct discussion with the auditor(s) on these
- (D) Review, scrutinise and issue reports and recommendations on the appropriateness of the Authority's risk management, internal control and corporate governance arrangements, and providing the opportunity for direct discussion with the auditor(s) on these
- (E) To receive reports on the performance of the Internal Audit Service throughout the year particularly in relation to matters of financial probity and corporate governance
- (F) Oversee the Authority's audit arrangements (both internal and external)
- (G) Review and comment on the Authority's certified draft financial statements before their approval by Council

- (H) To receive and consider the Head of Internal Audit's Annual Report and opinion on the level of assurance it can give over the Authority's governance arrangements and associated internal control environment
- (I) To receive and consider reports of the External Auditor in relation to matters of financial probity and corporate governance and providing the opportunity for direct discussion with the auditor(s) on these
- (J) Act as a point of arbitration, where senior officers of the Authority are unable to agree significant audit report recommendations
- (K) Receive ad hoc reports on any significant matters involving fraud, theft or other appropriate matters in breach of the Authority's Financial Procedure Rules and Contract Procedure rules, as part of the development of an anti-fraud culture
- (L) To receive reports in relation to proposed changes to the Authority's Contract Procedure Rules and Financial Procedure Rules and where deemed appropriate, recommend their approval to Council
- (M) Promote and review any measures designed to raise the profile of probity within the Authority
- (N) Consider national reports, for example, from the Wales Audit Office, of relevance to the work of the Authority
- (O) Agree, where Committee Members deem it appropriate, that a matter arising from a written report to a Committee which requires further clarification may be either dealt with by a request for a written commentary from the appropriate Group Director, or by that Group Director or their senior representative, attending to answer questions in person on that specific matter. Alternatively, the Audit Committee can refer the matter to the relevant Scrutiny Committee
- (P) The committee may require members and officers of the Authority to attend before it to answer questions. Such members and officers have a duty to comply but are not obliged to answer any questions that may be refused in court proceedings in England and Wales. The Committee may invite other persons to attend the meeting.

### **Powers Delegated to Chief Officers**

- 4.2 All operational and management requirements arising from the Committee's Terms of Reference.

## **5. Appointments Committee**

### **Terms of Reference**

- 5.1 To discharge on behalf of the Council the following functions:
- (a) To recommend to Council the appointment of the Head of Paid Service and Chief Officers.
  - (b) To appoint Officers at Service Director Level.

### **Powers Delegated to Chief Officers**

- 5.2 All operational and management requirements arising from the Council's Terms of Reference.

## **6. Appeals/Employee Appeals/Chief Officer Appeals Committee**

### **Terms of Reference**

- 6.1 To discharge on behalf of the Council the following functions:
- To hear and determine grievance, disciplinary, capability, redundancy or other dismissal appeals within the Council's procedures in respect of all staff including Chief Officers.
  - To hear any other appeal against a decision made or on behalf of the Authority.

### **Powers Delegated to Chief Officers**

- 6.2 All operational and management requirements arising from the Council's Terms of Reference.

## **7. Overview and Scrutiny Committee**

### **Terms of Reference**

- 7.1 For Terms of Reference see Part 4 – Rules of Procedure – Overview and Scrutiny Procedure Rules and Article 6.

## **8. Standards Committee**

### **Terms of Reference**

- 8.1 The Standards Committee will have the following roles and functions:
- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted Members and Church and Parent Governor representatives.

- (b) Assisting the Councillors, co-opted Members and Church and Parent Governor representatives to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- (d) Monitoring the operation of the Members' Code of Conduct.
- (e) Advising, training or arranging to train Councillors, co-opted Members and Church and Parent Governor representatives on matters relating to the Members' Code of Conduct.
- (f) Granting dispensations to Councillors, co-opted Members and Church and Parent Governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
- (g) Dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that Officer by the Local Commissioner in Wales.
- (h) Overview of the Council's whistleblowing policy.
- (i) Overview of complaints handling and ombudsman investigations.
- (j) Oversight of the constitution.
- (k) Oversight of the protocols adopted by the Council.
- (l) Oversight of the register of personal interests maintained under Section 81 of the Local Government Act 2000.
- (m) Oversight of the gifts and hospitality register.
- (n) Monitor adherence to the Council's Management of Unreasonably Persistent Customers Policy by Group and Service Directors.
- (o) The Committee will exercise the functions set out in (a) - (g) above in relation to Community Councils and Members of Community Councils.

### **Powers Delegated to the Monitoring Officer**

8.2 All operational and management requirements arising from the Council's Terms of Reference.



## **9. Democratic Services Committee**

### **Terms of Reference**

9.1 The democratic services committee shall have the following requirements and functions:

- (a) Each Member of the Democratic Service Committee be a Member of the Council: and  
  
No more than one Member of the committee be a Member of the executive which executive member must not be the Leader.
- (b) The Democratic Services Committee is a body to which Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (c) The Chair of the Democratic Services Committee must not be a member of the 'Executive group'.
- (d) The Democratic Services Committee may appoint one or more sub-committees, and may arrange for the discharge of any of its functions by such a sub-committee.
- (e) Any sub-committee of the Democratic Services Committee may not discharge functions other than those conferred on it.
- (f) The Democratic Services Committee is to appoint the person who is to chair any sub-committee of such a Committee.
- (g) All Members of the Democratic Services Committee, or of a sub-committee of the committee, may vote on any question that falls to be decided by the Committee.
- (h) The Democratic Services Committee may require members and officers of the Council to attend before it to answer questions such members and officers having a duty to comply with but are not obliged to answer any questions which they would be entitled to refuse to answer in court proceedings in England and Wales. The Democratic Services Committee may invite other persons to attend meetings of the committee.
- (i) The Democratic Services Committee must meet at least once in every calendar year.
- (j) The Democratic Services Committee must meet if the Council resolves it should meet.
- (k) At least one third of the members of the Democratic Services Committee may requisition a meeting by giving notice in writing to the chair of the committee.
- (l) The Chair of the Democratic Services Committee must secure that

meetings are held in accordance with the requirements stated in paragraph (i) – (k) above.

- (m)(i) Designating one of the Council's Officers to be the Head of Democratic Services (who may not be the Head of Paid Service, Monitoring Officer or Chief Finance Officer (as defined in the Local Government and Housing Act 1989). The Head of Democratic Services shall exercise the functions as set out in Section 9 (1) of the Measure;
- (ii) Review the adequacy of provision by the Council of staff, accommodation and other resources to discharge Democratic Services functions; and
- (iii) make reports and recommendations to the Council in relation to such provision.
- (n) To determine how it exercises its functions listed under paragraphs (m)(i)(ii)(iii) above and not exercise any functions other than those set out in these Terms of Reference.
- (o) To consider any report or recommendation sent to its members prepared by the Head of Democratic Services under Section 9(1) (h) of the Measure at a meeting held not more than three months after copies of the report are first sent to members of the committee.
- (p) As soon as practicable after it has prepared a report or made a recommendation under paragraph (o) above arrange for a copy of it to be sent to each Member of the Council who is not a Member of the Committee.
- (q) The Council must consider any report or recommendation at a meeting held not more than three months after copies of the report or recommendation are first sent to the Members of the Council.
- (r) To have regard to formal guidance issued by The Welsh Ministers.
- (s) An Executive Member sitting on the Democratic Services Committee should have within his/her portfolio Member Development and Training and/or be the Members Champion.

## **10. Corporate Governance and Constitution Committee**

### **Terms of Reference**

- 10.1 To review the Council's Constitution, and to recommend to Council and/or the Cabinet any changes in respect of:-
  - (a) drafting improvements to enhance clarity and remove minor anomalies:
  - (b) updating to reflect legislative changes and matters of record: and

(c) amendments to the Budget and policy Framework, Financial and Contracts Procedure Rules (subject to the advice of the Section 151 Officer being sought): and

(d) overseeing the implementation of the new Welsh 'Model Constitution' in respect of (i) incorporating the Council's existing constitutional framework into the new model and (ii) suggesting amendments and recommending changes to the existing framework in place for consideration by Council which can be included in the new model.

**11. VER Panel**

**Terms of Reference**

11.1 To consider applications from employees for voluntary early retirement.

**Powers Delegated to Chief Officers**

11.2 All operational and management requirements arising from the Council's Terms of Reference.

**12. Joint Consultative Committee (Trade Unions)**

**Terms of Reference**

12.1 To discharge on behalf of the Council the following functions:

(a) To provide a forum for the exchange of views between elected Members and Trade Unions on matters affecting employees.

(b) To consider specific matters affecting employees that are referred to it by Council Members, the Unions and Officers.

**Powers Delegated to Chief Officers**

12.2 All operational and management requirements arising from the Council's Terms of Reference.

**13 Local Education Authority Governors (Appointments) Committee**

**Terms of Reference**

13.1 To exercise the functions of the Local Education Authority in respect of the appointment/removal of any permanent or temporary school governors.

**Powers Delegated to Chief Officers**

13.2 All operational and management requirements arising from the Council's Terms of Reference.

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## **SECTION 5 - GENERAL SCHEME OF DELEGATION OF EXECUTIVE AND NON-EXECUTIVE FUNCTIONS TO OFFICERS**

### **1. Introduction**

The following functions are delegated to Chief Officers by the Council under Section 101 of the Local Government Act 1972 and by the Leader under Section 15 of the Local Government Act 2000.

All Chief Officers are authorised to make arrangements for the proper administration of the functions falling within their responsibility which are set out at Appendix 1. Specific functions can be undertaken jointly between Groups or Divisions or transferred between Groups or Divisions and if there is any dispute or uncertainty the Chief Executive may make a final determination.

- 1.1 The Chief Officers may authorise Officers in their or another Group/Service Area to exercise, functions delegated to them subject to such limits as they see fit. Where a Chief Officer authorises another Officer to discharge a function or power the Chief Officer remains responsible to the Council for the proper exercise of that function.
- 1.2 The Scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties including those relating to the employment, discipline and dismissal of staff and incidental legislation. In all cases delegated authority includes the power to issue and serve statutory and other notices, to institute formal cautions, to institute, prosecute and defend legal proceedings before courts or tribunals to settle including withdrawal and discontinuance of legal proceedings, to take default action under all legislation relevant to their functional area and to authorise Officers to appear on behalf of the Council in courts, tribunals, review boards and inquiries, to designate and/or authorise Officers pursuant to statutory powers or duties, also to sign all necessary documents and authorise entry to land in pursuance of statutory powers and for the avoidance of doubt the Director of Legal and Democratic Services may also exercise any of these powers in respect of all functional areas. In all cases, delegated authority includes the power to determine agreements. Any powers or duties exercised under previous delegations shall remain valid and effective.
- 1.3 The Constitution includes power for the Executive and for Committees to delegate their functions onwards to officers or to other local authorities.
- 1.4 Functions of the Council are divided between :-

- 1.4.1 Executive functions which are all those functions of the Council which are not non executive functions and;
  - 1.4.2 Non executive functions which are those functions listed in the Constitution together with any other functions which are required by statute or regulations to be non executive functions or local choice functions which the Council decides will be non executive functions.
- 1.5 Any exercise of responsibility of functions or delegated powers shall comply with:-
- 1.5.1 Any statutory provisions;
  - 1.5.2 The Council's Constitution including in particular the Rules of Procedure;
  - 1.5.3 The Council's Policy Framework and Budget;
  - 1.5.4 Members Code of Conduct and the Code of Conduct for Employees
  - 1.5.5 Agreed arrangements for recording the decisions;
  - 1.5.6 Taking legal or other appropriate professional advice when required.
  - 1.5.7 The principles of Best Value using the most efficient and effective means available.
- 1.6 The Scheme does not delegate any matter which
- 1.6.1 Is reserved by law or by this Constitution to the full Council or a Committee or the Cabinet; or
  - 1.6.2 Which may not by law be delegated to an officer.
- 1.7 Officers should in appropriate circumstances keep the appropriate Cabinet Member(s) properly informed of action taken under these delegations.
- 1.8 It is always open to the Cabinet or any Committee of the Council as appropriate to take decisions on any matter falling within the delegated power of an officer, provided that the matter is within their terms of reference.
- 1.9 Where expenditure is involved, such action shall be conditional upon financial provision being included within the approved budget of the Council and Financial Procedure Rules being complied with.

- 1.10 Should the title of an Officer be altered from that shown due to a re-organisation of group arrangements or any other reason, the approved delegated powers and duties may be exercisable by the Chief Executive or the appropriate Chief Officer, as the case may be, responsible for the function in question.
- 1.11 Any reference to a Committee shall be deemed to include a reference to any other Committee to which the Council may from time to time delegate the performance of the function referred to.
- 1.12 Any reference to a specific statute includes any statutory extension or modification or re-enactment of such statute and any regulation, orders or bylaws made thereunder.
- 1.13 In exercising these delegated powers the Chief Executive or the Chief Officer concerned shall have broad discretion subject to complying with all relevant legislation, the Council's Constitution, Council Procedure Rules and Financial Procedure Rules and overall Council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council.
- 1.14 Officers shall act so as to achieve for their service the policies and objectives of their service area always having regard to the overall corporate interests of the Council.
- 1.15 In exercising delegated powers, Officers shall consult other Officers as appropriate and shall have regard to any advice given.
- 1.16 It shall always be open to an Officer to consult a Cabinet Member, a Committee, or its Chairman or Vice-Chairman before the exercise of the delegated powers; Where a particular matter under delegated authority gives the Officer (or the relevant Cabinet Member or Chairman) cause for concern, it should be the subject of a report to the relevant Cabinet Member or the Cabinet or Committee. Any requirements for consultation with local members on matters affecting their electoral division will also be adhered to.
- 1.17 The Chief Executive shall be entitled to exercise any functions otherwise delegated to a Chief Officer in the event of that officer's absence or refusal to exercise specific delegated powers or in an emergency.

- 1.18 Where a decision is required urgently in order to protect the interests of the Council or to prevent or reduce the risk of damage to persons or property, the Chief Executive, any Chief Officer or any individual Cabinet Member in respect of functions within his/her portfolio and in consultation with the Chief Executive or a Chief Officer may take such a decision.
- 1.19 All decisions taken by Officers under the Scheme of Delegation are open to scrutiny and a sufficient record must be made of all such decisions including supporting evidence.



# PART 4

# RULES OF PROCEDURE

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# ***RULES OF PROCEDURE***

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# ***Council Procedure Rules***

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- NOTE:
- These are the rules and procedures for the conduct of full Council, indicating also where these rules apply to Committees and Sub-Committee meetings.
  - All references to the 'Proper Officer' in these rules are to the Council's Monitoring Officer.

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## **COUNCIL PROCEDURE RULES**

### **1. Annual Meeting of the Council**

#### **1.1 Timing and Business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- (i) elect a person to preside if the Mayor of the Council is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor of the Council;
- (iv) elect the Youth Mayor of the Council
- (v) elect the Deputy Youth Mayor of the Council
- (vi) receive any announcements from the Mayor and/or head of the paid service;
- (vii) elect the Leader of the Council;
- (viii) be told by the Leader of the names of Councillors he/she has chosen to be Members of the Cabinet, as the Executive arm of the Council;
- (ix) receive from the Leader a written record of the delegations made by him/her for inclusion in the Council's formal scheme of delegation;
- (x) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (xi) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year; and
- (xiii) consider any business set out in the notice convening the meeting.

## 1.2 **Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

## 2. **Ordinary Meetings**

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

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of a previous meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Mayor, Leader, Members of the Cabinet or the head of paid service;
- (v) deal with any outstanding business from the previous Council meeting;
- (vi) receive reports from the Cabinet, Overview and Scrutiny Committee and the Council's Committees and receive questions and answers on any of those reports;
- (vii) consider any motions submitted by Members; and
- (viii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committee for debate.

## 3. **Extraordinary Meetings**

### 3.1 **Calling Extraordinary Meetings.**

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;

- (ii) the Mayor of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council may forthwith call a meeting if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition. Where Members decide to call an extraordinary meeting of the Council, they shall notify the Proper Officer that they have done so, the business to be transacted and the date and time for which the meeting has been called. The Proper Officer shall thereupon ensure that the summonses required by paragraph 4(2) of Schedule 12 to the Local Government Act 1972, are published and sent to all Members.

### **3.2 Business**

The summons to each meeting shall set out the business to be considered thereat and no business other than that set out in the summons shall be considered at that meeting.

### **4. Time and Place of Meetings**

The time and place of meetings will be determined by the Proper Officer and notified to Members in the summons.

### **5. Notice of and Summons to Meetings**

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

### **5.2 Cancelling or Postponing a Meeting**

The Proper Officer may cancel or postpone a meeting, after consultation with the Chairman of the meeting, if it appears that in the interests of the proper despatch of the Council's business the meeting should be cancelled or postponed.

### **6. Person Presiding at the Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairman of Committees and Sub-Committees.

## 7. **Quorum**

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

## 8. **Duration of Meeting**

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. **Questions by Members**

### 9.1 **On Reports of the Executive or Committees**

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

### 9.2 **Questions on Notice at Full Council**

Subject to Rule 9.4, a Member of the Council may ask:

- the Mayor of the Council;
- a Member of the Executive;
- the Chairman of any Committee or Sub-Committee

A question on any matter in relation to which the Council has powers or duties or which affects the County Borough of Rhondda Cynon Taff.

The maximum number of questions on notice which may be asked at any meeting of the full council is 5 and if the number of questions received exceeds this amount it shall be the first five questions received by the Proper Officer that will be accepted. Any questions on notice not accepted will need to be resubmitted to the Proper Officer for the next full Council meeting in accordance with these rules.

### 9.3 **Questions on Notice at Committees and Sub-Committees**

Subject to Rule 9.4, a Member of a Committee or Sub-Committee may ask the Chairman a question on any matter in relation to which the Council has powers or duties or which affect the County Borough of Rhondda Cynon Taff and which falls within the terms of reference of that Committee or Sub-Committee.

#### 9.4 **Notice of Questions**

A Member may only ask a question under Rule 9.2 or 9.3 if either:

- (a) the question has been received by the Proper Officer not later than 5:00pm at least eight calendar days (not including the date of the meeting) before the date of the meeting; or
- (b) the question relates to an urgent matter, they have the consent of the Mayor to whom the question is to be put and the content of the question is given to the Proper Officer by midday on the day of the meeting.

#### 9.5 **Response**

An answer may take the form of:

- (a) a direct oral response at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer provided subsequently to the questioner, within 10 working days.

#### 9.6 **Supplementary Question**

A Member asking a question under Rule 9.2 or 9.3 may ask one supplementary question, without notice, of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply given to it.

### 10. **Motions on Notice**

#### 10.1 **Notice**

- (a) No motion moved by notice pursuant to this Rule 10.1 will be debated at the Annual Meeting of the Council.
- (b) Except for motions which can be moved under Rule 10.5 (urgent motions) or without notice under Rule 11, notice of every motion shall only be properly given if it is:
  - within Rule 10.3
  - in writing, by fax or e-mail (with the names of the Proposer and Secunder clearly stated) signed by the Proposer, and seconded; and
  - received by the Proper Officer not later than 5.00 p.m. at least eight calendar days (not including the date of the meeting) before the date of the meeting or, in any case where the Mayor certifies that the subject matter is urgent



and at the meeting gives reasons for its urgency, delivered to the Proper Officer before the start of the meeting.

- (c) Every notice of motion properly delivered will be dated and registered by the Proper Officer in the order in which they were received and open to Councillors' inspection after the deadline for receipt under Rule 10.1(b).
- (d) No notice of motion can be withdrawn or deferred once it has been delivered except:
  - (i) if prior to the commencement of the meeting, notice of withdrawal in writing signed by the Proposer, and Secunder has been delivered to the Proper Officer; or
  - (ii) in accordance with Rule 12.8.

### **Protocol**

When Motions are submitted under this Rule 10 and signed by more than two members the first two signatures listed shall be deemed to be those of the Proposer and Secunder. Seconders to notices of motion under this Rule 10 shall be deemed to have given their consent to their names being used.

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

- (a) The motions of which notice has been given which may be moved at a meeting shall be limited to 2 at each Ordinary meeting of the Council up to a maximum total of 20 motions in each municipal year, the allocation of which, for the following municipal year shall be determined at the Annual Meeting.
- (b) Motions for which notice has been given under Rule 10.1 and which will be considered at the meeting by virtue of the operation of Rule 10.2(a) will be listed on the agenda in the order in which the notices were received.
- (c) Motions received after the first two will be returned by the Proper Officer to the proposers.

### **10.3 Scope**

10.3.1 Subject to Rule 10.3.2 motions for which notice may be given under Rule 10.1 must be about matters for which the Council has a responsibility and which substantially affect the well-being of the administrative area of the Council.

10.3.2 Any notice of motion which requires a change in the proposed or existing budgetary framework may only call for a report on the

matter to be prepared for consideration by the Executive and or Council as appropriate.

- 10.3.3 If any notice of motion submitted appears to the Proper Officer to be out of order, illegal, irregular or improper, the Proper Officer shall immediately submit such notice to the Mayor and it shall not be accepted. In the event of non-acceptance, the Proper Officer shall so inform the member giving notice.

**10.4 Amendments to Motions of which Notice have been given under Rule 10.1**

- 10.4.1 An amendment to a motion of which notice has been given under Rule 10.1 may not be moved unless notice of the amendment has been given to the Proper Officer in writing signed by the proposer and seconded by 9.00 a.m. on the last working day before the meeting.

**10.5 Urgent Motions**

- 10.5.1 An urgent motion may be presented, with the permission of the Mayor, provided it has been notified to the Proper Officer by 5.00 p.m. on the day prior to the Council meeting.

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

- 10.5.3 The general authority referred to in 10.5.2 above is qualified in that an urgent motion should not be taken unless:

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

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

- 10.5.5 The Mayor will ask the Council to decide whether the motion should be:

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

Committee.

10.5.6 Urgent motions will not count against the allocation of motions agreed at the Annual Meeting for the following municipal year.

#### 10.6 **Moving Motion of which Notice is given**

A motion of which notice is given under Rule 10.1 or notice of motion to amend under Rule 10.4 or Rule 10.5 must be formally moved and seconded at the relevant meeting by the proposer and seconder of the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn and may not be re-submitted for a period of six months.

#### 11. **Motions Without Notice**

The following motions may be moved by any Member without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) to ask that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to ask that the meeting continue beyond 3 hours in duration;
- (n) to suspend a particular Council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (q) to give the consent of the Council where its consent is required

by this Constitution.

## **12. Rules of Debate**

### **12.1 No Speeches Until Motion Seconded**

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

### **12.2 Right to Require Motion In Writing**

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

### **12.3 Secunder's Speech**

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

### **12.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

### **12.5 When a Member May Speak Again**

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

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

### **12.6 Amendments to Motions**

- (a) An amendment to a motion must be relevant to the motion and will be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;

- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the sense or purpose of the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put the substantive motion to the vote.

#### **12.7 Alteration of Motion**

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

#### **12.8 Withdrawal of Motion**

A Member may withdraw a motion which he or she has moved with the consent of both the meeting and the seconder. The question as to whether the consent of the meeting will be granted will be voted upon without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it, unless permission is refused.

#### **12.9 Right of Reply**

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

on his or her amendment.

#### **12.10 Motions Which May Be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) to ask that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to ask that the meeting continue beyond 3 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### **12.11 Closure Motions**

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

vote without giving the mover of the original motion the right of reply.

#### **12.12 Point of Order**

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

#### **12.13 Personal Explanation**

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

### **13. State of the County Borough Debate**

#### **13.1 Calling of Debate**

The Council Leader will call a state of the County Borough debate annually on a date and in a form to be agreed with the Mayor. The purpose of the debate will be to review delivery of the agreed Community Plan for Rhondda Cynon Taff.

#### **13.2 Form of Debate**

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

#### **13.3 Chairing of Debate**

The debate will be Chaired by the Mayor.

#### **13.4 Results of Debate**

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council; and
- (ii) considered by the Leader and the Cabinet in proposing the budget and policy framework to the Council for the coming year.

### **14. Previous Decisions and Motions**

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

A motion or amendment to rescind a decision made at a meeting of

Council within the past six months cannot be moved unless the notice of motion is signed by at least a third of the Members.

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

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

#### **14.3 Officer Recommendation**

This standing order does not apply to motions resulting from a recommendation of an Officer of the Council.

### **15. Voting**

#### **15.1 Majority**

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

#### **15.2 Chairman's Casting Vote**

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

#### **15.3 Show of Hands or *Electronic Voting***

The Mayor will take the vote by show of hands, or electronic voting or, if there is no dissent, by the affirmation of the meeting.

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

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

#### **15.5 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **16. Minutes**

#### **16.1 Signing the Minutes**

The Mayor will sign the minutes of the proceedings at the next suitable



meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that can be discussed at the subsequent meeting is their accuracy.

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

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

## **16.3 Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

## **17. Record of Attendance**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## **18. Exclusion of Public**

Members of the public and press may be excluded only either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **19. Members' Conduct at Meetings**

### **19.1 Standing to Speak**

The Mayor may agree in the interests of the proper conduct of the meeting that a Councillor or Councillors generally may remain seated when whilst addressing the meeting.

### **19.2 Mayor Standing**

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

### **19.3 Member Disregarding Ruling of Mayor**

The Mayor shall check a member for irrelevance, tedious repetition, failure to address the chair, unbecoming language, or reflections of a personal character on another member. If the member disregards the Mayor, the Mayor may order him/her to end his/her speech and, if he/she considers it necessary, following a resolution of the Council or on his/her own initiative, order his/her removal from the meeting.

#### **19.4 Member to Leave the Meeting**

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

#### **19.5 General Disturbance**

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

#### **20. Disturbance by Public**

##### **20.1 Removal of Member of the Public**

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

##### **20.2 Clearance of Part of Meeting Room**

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

#### **21. Suspension and Amendment of Council Procedure Rules**

##### **21.1 Suspension**

All of these Council Rules of Procedure except Rule 15.4 and 16.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

##### **21.2 Amendment**

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

#### **22. Appointment of Substitute Members for Certain Committees**

##### **22.1 Allocation**

As well as allocating seats on Committees and Sub-Committees, the Council will allocate seats in the same manner for substitute Members for the Appointments Committee, Appeals/Employee Appeals/Chief Officer Appeals Committee and VER Panel only.

##### **22.2 Number**

For the three Committees mentioned in Rule 22.1 above the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on the three Committees.

### 22.3 Powers and Duties

Substitute Members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### 22.4 Substitution

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are the designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) after notifying the Proper Officer by 11.00 a.m. on the day of the meeting of the intended substitution.

### 23. Photographs and Recording of Meetings

Proceedings at meetings may not be photographed, videoed, sound recorded or transmitted in any way outside the meeting without prior permission of the Mayor. Failure to comply with this rule may invoke rule 19.4 (members to leave meeting) and 20.1 (removal of members of the public).

### 24. Application to Committees and Sub-Committees

All the Council Rules of Procedure apply to meetings of full Council with the exception of Rule 22. None of the rules apply to meetings of the Executive. Only Rules 4–12, 14–23 apply to meetings of Committees and Sub-Committees. Rule 22 applies to the Appointments Committee, Appeals/Employee Appeals/Chief Officer Appeals Committee and VER Panel.

# ***Open Government Council Meeting Procedure Rules***

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## **OPEN GOVERNMENT COUNCIL MEETING PROCEDURE RULES**

### **1. Introduction**

- 1.1 Open Government Council meetings will take place in accordance with a programme decided by the Council. The business of open government meetings will only comprise of:

### **2. Public Statement by the Leader and Cabinet Portfolio Holders**

- 2.1 The Leader of the Council and Member(s) of the executive may make statements in respect of matters affecting the County Borough as a whole, their particular portfolios or any matter which they consider requires to be brought to the attention of the public.
- 2.2 The total time allocated for public statements shall not exceed 10 minutes.

### **3. Public Question Time**

- 3.1 Any resident of or Council taxpayer or non domestic ratepayer in the County Borough may ask questions of Members of the Executive or the Chairpersons of Committees, or any Member of the Council. A period of up to 5 minutes each shall be allowed for 6 questions to be put and answered at the meeting and for supplementary questions and answers thereto under these rules.
- 3.2 The 6 Questions to be asked will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of questions has expired. Similarly themed questions will be grouped together.
- 3.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Legal and Democratic Services no later than 14 days before the date of the meeting. Each question must give the name and address of the questioner and must specify the member to whom it is to be put.
- 3.4 At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.
- 3.5 The Mayor or Deputy Mayor may reject a question if it:
- (i) is not about a matter for which the local authority has a responsibility or which affects the area of the Authority;
  - (ii) is defamatory, frivolous or offensive;
  - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past 12 months;
  - (iv) requires the disclosure of confidential or exempt information;

- (v) relates to an individual/group/business or the questioner's own particular circumstances;
- (vi) relates to a matter which is the subject of legal and enforcement proceedings, or an appeal to a court of tribunal or to a Government Minister, or the National Assembly or an investigation by the Local Government Ombudsman;
- (vii) relates to the personal circumstances or conduct of any officer and Councillor or conditions of service of employees;
- (viii) relates to the activities and aims of a political party or organisation;
- (viii) relates to a Regulatory Decision or a matter which may result in a Regulatory Decision; or
- (x) is a statement and not a genuine enquiry.

In addition the Mayor or Deputy Mayor may rule that a question shall not be answered if the cost of the preparation of the answer would in the opinion of the Director of Legal and Democratic Services exceed the financial limits set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 as may be amended from time to time.

The Ruling of the Mayor or Deputy Mayor as to the rejection of a question shall be final.

- 3.6 The Director of Legal and Democratic Services will make a record of each question received and the date and time at which it was received and a copy of the question will be open to the public inspection. The Director of Legal and Democratic Services will send a copy of the question to the Councillor to whom it is to be put. Rejected questions will be open for inspection with a record of the decision for the rejection which shall include the reasons for rejection. Copies of all questions to be asked at a particular meeting will be circulated to all Councillors and will be made available to the public attending the meeting. The minutes of the meeting will record the details of the questions that have been asked (including any supplementary questions) and by whom, together with the answers given.
- 3.7 Each questioner will be required to identify himself/herself at the meeting when the question is called for answer by the Mayor. When the questioner has identified himself/herself the question will be deemed to have been asked. If the questioner is absent or fails to identify himself/herself then the question will be answered in writing.
- 3.8 A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question

must relate to the answer given. The Mayor or Deputy Mayor may reject a supplementary question on any of the grounds in 3.5 above.

- 3.9 Any question which is not dealt with during public question time will be dealt with by a written answer after the meeting.
- 3.10 (i) Questions and supplementary questions will be answered without discussion and an answer may take the form of:-
- (a) An oral answer given by the Councillor to whom the question is addressed or another Councillor nominated by him or her;
  - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
  - (c) a written answer.
- (ii) A Councillor to whom a question is addressed may decline to answer subject to stating the reason for declining to answer.
- 3.11 Any Councillor may move that a matter raised by a question be referred to the Executive or the appropriate committee. Once seconded, such a motion will be voted on without discussion.

#### **4. Public Presentations**

- 4.1 Any resident of or Council taxpayer or non domestic ratepayer in the County Borough may make a presentation to Council on a matter for which the Council has responsibility. Presentations will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of presentations has expired.

A maximum of two, 5 minute presentations will be permitted per

meeting provided that a written submission summarising the presentation(s) is received by the Director of Legal and Democratic Services at least 14 days prior to the date of the meeting.

- 4.3 The relevant Cabinet Member will, if appropriate, subsequently provide a brief response.
- 4.4 The Mayor or Deputy Mayor at his/her discretion may reject a presentation if it is considered not to be an appropriate matter for consideration by Council. The ruling of the Mayor or Deputy Mayor shall be final.

#### **5. Reports of the Chairs of Scrutiny Committees**

- 5.1 The Chairs of Scrutiny Committees may make reports in respect of matters considered by and the work of their Committees. A period

of up to 10 minutes shall be allowed for the presentation of such statements.



# ***Access To Information Procedure Rules***

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NOTE: • Reference to the Proper Officer is to the Monitoring Officer, (with the exception of Rule 14, where the reference is to the Chief Executive).

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

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

### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

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

### **4. Notices of Meeting**

Unless a meeting is convened at short notice, the Council will give at least three clear days notice of any meeting by posting details of the meeting at the County Borough Council Offices, The Pavilions, Cambrian Park, Clydach Vale

### **5. Access to Agenda and Reports Before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least three clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

### **6. Supply of Copies**

The Council will supply copies of:

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

to any person on payment of a charge for postage and any other printing and handling costs.

### **7. Access to Minutes etc after the Meeting**

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

- (a) the minutes of the meeting or record of decisions taken by the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- (b) a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. Background Papers**

### **8.1 List of Background Papers**

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information as defined in Rule 10.

### **8.2 Public Inspection of Background Papers**

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

## **9. Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at, and made available to the public at, the Council Offices, The Pavilions, Clydach Vale.

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 Public and Private Meetings of the Cabinet**

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 13 and these procedure rules. This does not prevent the Cabinet from holding informal deliberations in private, with or without Officers present, but these meetings shall not take decisions.

## 10.2 Confidential Information – Requirement to Exclude Public

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

## 10.3 Exempt Information – Discretion to Exclude Public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in Article 6.

## 10.4 Meaning of Confidential Information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 10.5 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories (subject to any condition):

Category of Exempt Information	Condition
12. Information relating to a particular individual.	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"><li>• The Companies Act 1985;</li></ul>

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

Category	Condition
<p><i>(In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of Section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>18(a) Information which is subject to any obligations of confidentiality.</p> <p>18(b) Information which relates in anyway to matters concerning national security.</p> <p>18(c) The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p>	<p>Public interest test applies (see below)</p>
	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p>

### Public Interest Test

Information which:

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the 'qualifications' above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication", together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

## **12. The Forward Work Programme**

### **12.1 Period of Forward Work Programme**

The forward work programme will be prepared by the Proper Officer to cover a period of three months. It will be updated at the end of this period.

### **12.2 Contents of Forward Work Programme**

The forward work programme will contain matters which the Cabinet, overview and scrutiny panel and full Council are likely to consider. It will contain information on:

- (a) the timetable for considering the budget and any plans forming part of the policy framework and requiring Council approval, and which body is to consider them;
- (b) the timetable for considering any plans which are the responsibility of the Cabinet;
- (c) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- (d) the work programme of the Overview and Scrutiny Committee and its Task Teams.

The forward work programme will be published at least 14 days before the start of the period covered. The Proper Officer will publish a notice in at least one newspaper circulating in the area, stating that the forward work programme has been published and giving details of where it may be consulted or obtained.

## **13. Consultation on Proposals to be Considered by the Cabinet**

At least four weeks should be permitted in the forward plan timetable for consultation with the Overview and Scrutiny Committee and Electoral Division Members where a matter is to be considered by the Cabinet and is not urgent (as defined below) or confidential or exempt (as

defined in para 10).

A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last forward work programme was produced and a decision is required within four weeks.

A decision can only be treated as urgent if the decision taker (if an individual) or the Chairman of the body making the decision obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, or if the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council or, in his/her absence, the Vice Chairman will suffice. Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

## **14. Record of Decisions of the Executive**

### **14.1 The Decision Record**

- (a) A written record will be made of every Executive decision made by the Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.
- (b) This decision record will include a statement, for each decision, of:
  - (i) the decision made
  - (ii) the date the decision was made
  - (iii) the reasons for that decision;
  - (iv) any personal interest declared;
  - (v) any dispensation to speak granted by the Authority's Standards Committee;
  - (vi) the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

### **14.2 Preparing the Decision Record**

- (a) The Proper Officer or his or her representative shall attend any meeting of the Cabinet, a Committee of the Cabinet or a Joint Committee or joint Sub-Committee where all its Members are Members of a local authority executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.
- (b) Where an individual Cabinet Member has made any Executive



decision,

- (i) that Member shall as soon as reasonably practicable instruct the Chief Executive to produce a decision record; and
  - (ii) the decision shall not be implemented until that decision record has been produced, subject to (c) below.
- (c) Where the date by which an Executive decision made by an individual Cabinet Member must be implemented makes compliance with (b) ii above impracticable, the decision may be implemented if the decision maker has the agreement of
- (i) the Chairman of the Overview and Scrutiny Committee, or
  - (ii) if there is no such person or that person is unable to act, the Mayor, or
  - (iii) if there is no Chairman of the Overview and Scrutiny Committee or the Mayor, the Deputy Mayor

that the making of the decision is urgent and cannot reasonably be deferred.

## **15. Decisions by An Individual Member of the Cabinet**

### **15.1 Reports Must Be Taken Into Account**

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

### **15.2 Provision of Copies of Reports to Overview and Scrutiny Committee or *Appropriate Task Team***

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

### **15.3 Record of Individual Decision**

The decision recording rules in para. 14 will apply.

## **16. Overview and Scrutiny Committee and Task Team Members' Access to Documents**

### **16.1 Rights of Access**

Subject to Rule 16.2 below, the Overview and Scrutiny Committee including its Task Teams will be entitled to access to any document

which is in the possession or control of the Executive or its Committees and which contains material relating to

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

## **16.2 Limit on Rights**

The Overview and Scrutiny Committee or its Task Teams will not be entitled to any part of a document that contains:

- (a) confidential or exempt information, or
- (b) advice provided by a political advisor or assistant

unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of the Committee or its Task Teams.

## **17. Additional Rights of Access for Members**

### **17.1 Rights of Access**

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a meeting of a decision making body of the Council or by an individual Member of the Executive.

### **17.2 Limitation on Rights**

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

- (a) it would disclose exempt information falling within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972, or
- (b) it would disclose advice of a political advisor or assistant.

### **17.3 Nature of Rights**

These rights of a Member are additional to any other right he/she may have.

# ***Budget and Policy Framework Procedure Rules***

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

### **1. The Framework for Executive Decisions**

The Council will be responsible for the adoption of its policy framework and budget as set out in article 4. The policy framework and budget adopted by the Council will be based on that proposed by the Executive. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

### **2. Process for Developing the Framework**

- (a) The Cabinet, following detailed reports from respective Chief Officers, (following appropriate consultation with stakeholders) will present to Council, proposed plans, policies and the associated annual budgets. This will be done allowing adequate time for Council to deal with the matter and, if needed, refer the matter back to the Executive for further consideration.
- (b) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Executive's proposals and any related report from the Overview and Scrutiny Committee.

Any amendments to the proposals of the Cabinet to be proposed by members at Council may not be considered by Council unless notice of the proposed amendment has been given to the proper officer in writing and signed by the proposer and seconder not later than 5:00pm at least 8 calendar days (not including the date of the meeting) before the date of the Council meeting.

- (c) Any proposed amendment by a Member of the Council to the proposals of the Cabinet and made in accordance with paragraph 2 (b) above shall only be accepted and submitted to full Council for consideration if in the opinion of the Proper Officer (in consultation with advice sought from the s151 Officer) it is deemed to be legal and within the competence of the Council.
- (d) The Council's decision will be publicised and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader objects to it in that period.

- (e) If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect, prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (f) The Council meeting must take place within 21 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (g) The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.
- (h) All policy and budget reports presented to Council for decision shall subsequently be presented to the next calendar Overview & Scrutiny Committee.

### 3. **Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of the Financial Procedure Rules in Part 4 of the constitution relating to virement, (see (c) below), the Cabinet, Committee of the Cabinet, individual Members of the Cabinet, and any Officers, or joint arrangements discharging executive functions, may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to the budget approved by full Council, then that decision may only be taken by the Council, subject to the urgent decisions process.
- (b) If the Cabinet, Committee of the Cabinet, individual Members of the Cabinet, and any Officers, or joint arrangements discharging executive functions, want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions of the urgent decisions outside the budget and policy framework process shall apply.
- (c) **Virement Rules for Revenue Expenditure.** The relevant extracts from the Finance Procedure Rules are set out below:-

#### Virements within Divisions (up to £25k)

The Divisional Director is authorised to action virements up to a value of £25k within his/her Division, all changes will be reported to the Corporate Services Group Director. There will be no limit to the number of virements in any year, however there should be no manipulation used to circumvent the process for higher limit virements i.e. artificially splitting amounts to remain below £25k.

#### Virements within Groups (up to £100k)

Group Directors are authorised, in consultation with the Corporate Services Group Director to approve virements up to value of £100k within their respective service groups.

#### Virements between Groups (up to £100k)

Virements between groups up to a level of £100k must be approved by the respective Group Directors plus the Corporate Services Group Director.

#### Virements above £100k and up to £500k

Virements above £100k, and up to £500k, both within groups and between groups must be approved by the Executive.

#### Virements above £500k

All virements above £500k must be approved by Council.

#### Timing of Virements

Virements should be actioned prior to overspending occurring on a particular budget head. This is considered good accounting practice and demonstrates good budget management.

### **4. Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Cabinet, Committee of the Cabinet, an individual Member of the Cabinet, or Officers, or joint arrangements discharging Cabinet functions, may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council, if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee, the consent of the Chairman of the Council and, in his/her absence, the consent of the Vice Chairman, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (c) Urgent decisions taken in accordance with this paragraph shall not be the subject of the Call-in provisions set out in paragraph 5 below.

#### 5. **Call-In of Decisions Outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and/or the Chief Finance Officer's report, and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is, or would be, contrary to the policy framework, or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- (i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and distributed to all Members in the normal way;

Or

- (ii) amend the Council's budget or policy concerned, to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council be minuted and distributed to all Members in the normal way;

Or

- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.



# ***Executive Procedure Rules***

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## **EXECUTIVE PROCEDURE RULES**

### **1.1 Who May Make Executive Decisions?**

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet;
- (iii) an individual Member of the Cabinet;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) joint arrangements; or
- (vii) another local authority.

### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (i) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (iv) the nature and extent of any delegation of executive functions to Area Committees, any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any Joint Committee for the coming year; and
- (vi) the nature and extent of any delegation to Officers, with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

### 1.3 **Sub-Delegation of Executive Functions**

- (a) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to an Area Committee, joint arrangements or an Officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an Officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated such functions.

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

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, he/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

### 1.5 **Conflicts of Interest**

- (a) Where the Leader has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

- (c) If the exercise of an executive function has been delegated to a Committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## **1.6 Cabinet Meetings – When and Where?**

The Cabinet will meet at least 12 times in each municipal year, at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

## **1.7 Quorum**

The quorum for a meeting of the Cabinet shall be 5 and the quorum for a Committee of the Cabinet shall be 3.

## **1.8 How Are Decisions To Be Taken By The Cabinet?**

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2. How Are Cabinet Meetings Conducted?**

### **2.1 Who Presides?**

If the Leader is present, he/she will preside. In his/her absence, then the Deputy Leader shall preside. In the absence of both the Leader and Deputy Leader, the Cabinet will appoint a person from among those present to preside at that meeting.

### **2.2 Who May Attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution. For the avoidance of doubt, where meetings are not open to the public, Members of the Council who are not Cabinet Members may remain in the meeting as observers only.

### **2.3 What Business?**

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

- (i) consideration of the minutes of the previous meeting;

- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet, in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Cabinet Committees;
- (v) consideration of reports from the Overview and Scrutiny Committee;
- (vi) reports from Officers of the Authority;
- (vii) matters set out in the agenda for the meeting.

## 2.4 Consultation

All reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and with the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who Can Put Items On The Cabinet Agenda?

- (a) The Leader will decide the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- (b) The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet, where the Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
- (c) Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and, if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting and address the Cabinet with the consent of the Leader.
- (d) The Monitoring Officer and/or the chief financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a

meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

N.B. Reference to the Proper Officer is to the Chief Executive.

# ***Overview and Scrutiny Procedure Rules***

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## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. What Will Be The Arrangements For Overview and Scrutiny?

- (a) The Council will have an Overview and Scrutiny Committee and four Service Scrutiny Committees as set out in Article 6 and will appoint them as it considers appropriate from time to time. The Committees may appoint task finish working groups when considered appropriate.
- (b) The terms of reference of the Overview and Scrutiny Committee will be:-
  - (i) To approve an annual overview and scrutiny work programme, including the programme of the Scrutiny Committees to ensure that there is efficient use of the Committees' time, and that the potential for duplication of effort is minimised.
  - (ii) Where matters fall within the remit of more than one Service Scrutiny Committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute.
  - (iii) To receive requests from the full Council and/or Cabinet for reports from Overview and Scrutiny Committee and to allocate them if appropriate to one or more of the Service Scrutiny Committees.
  - (iv) To put in place and maintain a system to ensure that referrals from overview and scrutiny to the executive, either by way or report or for re-consideration are managed effectively and do not exceed the limits set out in this Constitution.
  - (v) At the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
  - (vi) To have the powers of an Overview and Scrutiny Committee in relation to executive decisions made but not implemented as set out in Section 21(3) of the Local Government Act 2000, as do all the Service Scrutiny Committees.
    - To review or scrutinise decisions made or action taken in connection with the discharge of Crime and Disorder functions.



- To make reports or recommendations in connection with the discharge of those functions in which case, it must supply a copy to each responsible authority or co-operating person or body for observations.
  - To agree with the responsible Authorities how progress on implementing the recommendations will be monitored.
- (vii) To prepare an Annual Report to Council on the work of Overview and Scrutiny during the preceding municipal year.

Pursuant to and in accordance with Sections 19 and 20 of the Police and Justice Act 2006 (and regulations and guidance made thereunder) to:-

- (viii) Review or scrutinise decisions made or action taken in connection with the discharge of Crime and Disorder functions.
- (ix) Make reports or recommendations to Council in connection with the discharge of those functions in which case it must supply a copy to each responsible authority or co-operating person or body
- (x) To co-opt such persons as the Overview and Scrutiny Committee considers appropriate when discharging such functions in (viii) and (ix) above.
- (c) The terms of reference of the Overview and Scrutiny and Service Scrutiny Committees will be:-
- (i) The performance of all overview and scrutiny functions on behalf of the Council.
- (ii) Each Service Scrutiny Committees will be Chaired by a Chairman appointed from the membership of the Overview and Scrutiny Committee (one for each of the four Service Scrutiny Committees).
- There will be cross party membership of all Service Scrutiny Committees
  - The Service Scrutiny Committees shall, undertake the following:-
    - investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Overview and Scrutiny Forum, the Council or Cabinet as appropriate;

- conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships;
- consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
- question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County Borough;
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

**2. Who May Sit On the Overview and Scrutiny Committees?**

All Councillors except Members of the Cabinet may be Members of the Overview and Scrutiny Committee and Service Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

**3. Co-optees**

The Overview and Scrutiny Committees or Service Scrutiny Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

**4. Education Representatives**

The Education and Children’s Services Scrutiny Committee shall include in its membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the National Assembly for Wales.

**5. Meetings of the Overview and Scrutiny Committee, and Service Scrutiny Committees**

There shall be at least six ordinary meetings of the Overview and Scrutiny Committee and at least eight ordinary meetings of each of the Service Scrutiny Committees in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman or by the Proper Officer if he/she considers it necessary or appropriate.

**6. Quorum**

The Quorum for the Overview and Scrutiny Committees and Service Scrutiny Committees shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

**7. Who Chairs**

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

**8. Role of the Chairmen of the Overview and Scrutiny Committee**

The role of Chairman of the Overview and Scrutiny Committee will be essential in implementing the new method of working. The Chairman, together with the four Chairmen of the Service Scrutiny Committees will liaise with the Cabinet and supervise the Work Programme and identify cross cutting themes arising from the four Service Scrutiny Committees. To enable him/her to carry out this role it is proposed that the Chairman be an ex officio non voting member of the four Service Scrutiny Committees.

In summary, therefore, the Chairman will:

- (i) be accountable for delivering the new way of working for Scrutiny;
- (ii) will meet regularly with the four Chairmen of the Service Scrutiny Committees to monitor Work Programmes;
- (iii) report to the four Standing Business Meetings of the Council on progress in implementing the new methods of working;
- (iv) be an ex officio non voting member of the four Service Scrutiny Committees;
- (v) will liaise with the Cabinet on issues affecting the Scrutiny Work Programme.

**9. Work Programme**

The Overview and Scrutiny Committee and Service Scrutiny Committees will (subject to the Overview and Scrutiny Forum) be responsible for setting their own Work Programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

**10. Agenda Items**

- (a) Any Member of the Overview and Scrutiny Committee or Service Scrutiny Committees shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for,

and be discussed at, a meeting of the Committee.

N.B. the above paragraph is a requirement of the Local Government Act 2000.

- (b) On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda.
- (c) The Overview and Scrutiny Committee and Service Scrutiny Committees shall also respond, as soon as their Work Programme permits, to requests from the Council and if it considers it appropriate the Cabinet, to review particular areas of Council activities. Where they do so, the Overview and Scrutiny Committee or Service Scrutiny Committees shall report its findings and any recommendations back to the Council and/or Cabinet.

## **11. Policy Review and Development**

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

## **12. Reports from Overview and Scrutiny Committee**

Once it has formed recommendations or proposals for development, the Overview and Scrutiny Committee or Service Scrutiny Committees will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

**13. Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet**

- (a) The agenda for Cabinet meetings shall include an item entitled "Issues Arising From An Overview and Scrutiny Committee or Service Scrutiny Committee". The reports of Overview and Scrutiny Committee or Service Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda.
- (b) Overview and Scrutiny Committee and Service Scrutiny Committees will in any event have access to the Cabinet's forward work programme for decisions and intentions for consultation. Even when an item is not the subject of detailed proposals from the Overview and Scrutiny Committee or a Service Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process.

**14. Rights of Overview and Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committees and Service 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee and Service Scrutiny Committees as appropriate, depending on the particular matter under consideration.

**15. Members and Officers Giving Account**

- (a) The Overview and Scrutiny Committee or any Service Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any other Member of the Cabinet, the Head of Paid Service and or any Senior Officer to attend before it to explain in relation to matters within their remit;
  - (i) any particular decision or series of decisions; and/or
  - (ii) the extent to which the action is taken to implement Council policy; and/or
  - (iii) their performanceand it is the duty of those persons to attend if so required.
- (b) Where any Member or Officer is required to attend the

Overview and Scrutiny Committee or any Service Scrutiny Committee under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least 5 working days notice of the meeting in which he/she is required to attend. 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.

- (c) Where in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Committee shall in consultation with the Member or Officer arrange an alternative date for attendance to take place.

## 16. **Attendance by Others**

The Overview and Scrutiny Committee and Service Scrutiny Committees may invite people other than those people referred to in the above paragraphs to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend. Attendance of such individuals is entirely optional.

## 17. **Call-In**

### 17.1 **Rules**

- (a) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or an Area Committee or under joint arrangements, the decision shall be published by the Proper Officer, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of it being made. All Members of the Overview and Scrutiny Committee and Service Scrutiny Committees will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless the Overview and Scrutiny Committee or Service Scrutiny Committees objects to it and calls it in for review.
- (c) During that period the Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee or

Service Scrutiny Committee if so requested in the specified format by any 3 Scrutiny Members and, shall then notify the decision taker of the call-in. He/she shall convene a meeting of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the Chairman or Vice-Chairman of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee, and in any case the meeting will be held within 5 clear working days of the decision to call-in (only in exceptional circumstances will the Chairman of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee consider extending this time limit).

- (d) As soon as the Chair of the Overview and Scrutiny or Service Scrutiny Committee signs a call-in form he/she shall cease to be the Chair for all purposes for the duration of the call-in process. If this situation arises then for the purposes of these Overview and Scrutiny Procedure rules references to 'Chair' of the Overview and Scrutiny Committee or Service Scrutiny Committee should be read as a reference to the 'Vice-Chair' of that Overview and Scrutiny Committee or Service Scrutiny Committee.
- (e) If, having considered the decision, the Overview and Scrutiny Committee or relevant Service Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 clear working days, amending the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the Overview and Scrutiny Committee or relevant Service Scrutiny Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee meeting, or the expiry of that further 5 clear working day period, whichever is the earlier.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a

Committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council's request.

- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.
- (i) In order to ensure the call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
  - (i) the Overview and Scrutiny Committee and each of the Service Scrutiny Committees may only call-in a total of 3 decisions per 2 month period;
  - (ii) any 3 Scrutiny Members (from at least 2 political groups) are needed for a decision to be called in;
  - (iii) once a Member has signed a request for call-in under paragraph 17 (call-in) above, he/she may not do so again until the period of 2 months has expired.
  - (iv) No Education Co-opted Members may report a decision be called in.
- (j) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (k) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

17.1A Reference to a 'clear working day' in these Overview and Scrutiny procedure rules is defined as the following:-

A complete period of 24 hours (excluding weekends and Bank Holidays), beginning and ending at midnight on the day in question.

Therefore, by way of example, for the purposes of these call-in rules it shall exclude the day on which the relevant Cabinet decision notice is published and the day on which the call-in meeting is held.

## 17.2 Call-In and Urgency

- (a) The call-in procedure set out above shall not apply where the



decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor and the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.

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

## 18. **The Party Whip**

When considering any matter in respect of which a Member of the Overview and Scrutiny Committee or Service Scrutiny Committees is subject to a party whip, the Member must declare the existence of the whip, and the nature of it before the commencement of the Committees deliberations on the matter. The declaration, and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

## 19. **Procedure at Overview and Scrutiny *and* Service Scrutiny Committee Meetings**

- (a) The Overview and Scrutiny Committees and Service Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (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 Overview and Scrutiny Committee;
  - (v) the business otherwise set out on the agenda for the meeting which shall always include the following items:
    - Performance (P.I.'s national and local and specific

- service issues)
  - Delivery against Action Plans (in particular W.P.I.)
  - Matters Called In
  - Cabinet Forward Plan
  - Budget
  - Policy Development and Review
  - Matters referred from Cabinet
- (b) The rules of procedure at an Overview and Scrutiny Committee and Service Scrutiny Committees will be the same as the Council Procedure Rules except that the Chairman of the meeting may allow the rules of debate to be relaxed to enable a full contribution by those attending the meeting whether as members of the Committee or in any other capacity which allows them to contribute to the work of the meeting.
- (c) Where the Overview and Scrutiny Committee or Service Scrutiny Committees conducts investigations, the Committee or Service Scrutiny Committees may also ask people to attend to give evidence at Committee/Service Scrutiny Committees 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/Service Scrutiny Committees be given the opportunity to ask questions of attendees and to contribute and speak;
  - (ii) that those assisting Committees by giving evidence be treated with respect and courtesy;
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (d) Following in the investigation or review, the Committee/Service Scrutiny Committees should prepare a report, for submission to the Cabinet and or Council as appropriate and shall make its report and findings public.

# ***Officer Employment Procedure Rules***

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## OFFICER EMPLOYMENT PROCEDURE RULES

### 1. Recruitment and Appointment

#### (a) Declarations

- (i) The County Borough Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are the:

- |  |                                  |
|--|----------------------------------|
| <input type="checkbox"/> Parent        | <input type="checkbox"/> Brother |
| <input type="checkbox"/> Grandparent   | <input type="checkbox"/> Sister  |
| <input type="checkbox"/> Partner       | <input type="checkbox"/> Uncle   |
| <input type="checkbox"/> Child         | <input type="checkbox"/> Aunt    |
| <input type="checkbox"/> Stepchild     | <input type="checkbox"/> Nephew  |
| <input type="checkbox"/> Adopted Child | <input type="checkbox"/> Niece   |
| <input type="checkbox"/> Grandchild    |                                  |

of an existing Councillor or employee of the County Borough Council; or of the partner of such persons.

- (ii) No candidate so related to a Councillor or employee will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

#### (b) Seeking support for appointment

- (i) The County Borough Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the County Borough Council. This rule will be included in any recruitment information.

- (ii) No Councillor will seek support for any person for any appointment with the County Borough Council.

### 2. Appointments

Where the County Borough Council proposes to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006), and it is not proposed that the appointment be made exclusively from among its existing officers, the Director of Human Resources must:

#### (a) draw up a statement specifying –

- (i) the duties of the officer concerned, and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- (d) Where a post has been advertised as provided in paragraph 2(b), the County Borough Council must -
  - (i) interview all qualified applicants for the post, or
  - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (e) Where no qualified person has applied, or if the relevant authority decide to re-advertise the appointment, the relevant authority may make further arrangements for advertisement in accordance with paragraph 2(b).

**3. Appointment of Head of Paid Service, Group Directors and Director - Level 1**

The full Council will approve the appointment of the Head of Paid Service and other Chief Officers set out in Article 12 following the recommendation by a Committee or Sub-Committee of the Council. That Committee or Sub-Committee must include at least one Member of the Executive but no more than half must be Members of the Executive.

**4. Appointment of Officers at Director Level 2 and Service Directors Level 1-2**

A Committee or Sub-Committee of the Council will appoint persons to these posts. That Committee or Sub-Committee must include at least one Member of the Executive but no more than half must be Members of the Executive.

**5. Appointments to Head of Service - Level 1-2 and Heads of Service (Soulbury)**

Appointment to these posts are the responsibility of the Head of Paid Service and other Chief Officers in conjunction with the Director of Human Resources.

**6. Other Appointments**

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

**N.B. Honorarium payments/acting up appointments can be agreed by senior managers who are employed on chief officer terms and conditions of employment, or their nominated representative(s). However, such arrangements should not exceed a period of 6 months. Any extension to these arrangements must be made in conjunction with the Director of Human Resources.**

## **Disciplinary Matters**

### **7. Head of Paid Service (Chief Executive), Monitoring Officer & Chief Finance Officer**

#### **General**

- 7.1 The principles of natural justice and of good management practice must govern the conduct of any proceedings against the Head of Paid Service, Chief Financial Officer or Monitoring Officer on the grounds of either alleged misconduct (i.e. 'discipline') or alleged inability to carry out the role of Head of Paid Service, the Chief Financial Officer or the Monitoring Officer (i.e. 'capability'). Council's should also have full regard to the principles and standards set out in the ACAS Code of Practice on Disciplinary Procedures.
- 7.2 No disciplinary action (other than action to which the sub-paragraph 7.2.1 below applies) in respect of the head of the authority's paid service (unless the head of the authority's paid service is also a council manager of the relevant authority), its monitoring officer or its chief finance officer, may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, other than in accordance with a recommendation in a report made by a "designated independent person" under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct).
- 7.2.1 The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.

#### **Disciplinary Procedure**

The disciplinary procedure is as follows:-

- 7.3 An Investigation Committee of 3 Members, namely the Mayor, the Leader of the Council and the Cabinet Member with responsibility for Human Resources, together with such other nominated Members as are needed to satisfy the political balance requirements of the Local Government and Housing Act 1989 shall be empowered to suspend from duty the aforementioned officers in accordance with sub-paragraph 7.2.1 above pending investigation of an allegation of misconduct.
- 7.4 The Investigation Committee must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

For the purpose of considering the allegation of misconduct, the

Investigation Committee:

- (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
  - (b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and
  - (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- 7.5 (a) Where it appears to the Investigation Committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint the “designated independent person”.
- (b) The designated independent person who is appointed –
    - (i) must be such person as may be agreed between the relevant authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
    - (ii) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.
  - (c) The designated independent person –
    - (i) may direct –
      - that the relevant authority terminate any suspension of the relevant officer;
      - that any such suspension is to continue after the expiry of the 2 month period referred to in paragraph 7.2.1
      - that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
      - that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (iv);
    - (ii) may inspect any documents relating to the conduct of the

relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;

(iii) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;

(iv) must make a report to the relevant authority –

- stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
- recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and

(v) must no later than the time at which the report is made under sub-paragraph (iv), send a copy of the report to the relevant officer.

(d) Subject to paragraph (e), the relevant officer and Investigating Committee, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

(e) Where there is no agreement under paragraph (d), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

(f) The Council must consider the report prepared under paragraph (c)(iv) within 1 month of receipt of that report.

(g) The authority must pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with the discharge of functions under this regulation.

## **8. Group Directors, Directors Level 1-2, Service Directors Level 1-2, Heads of Service Level 1-2, Heads of Service (Soulbury)**

### **Introduction**

The procedures relating to discipline and capability apply to chief officers and related posts above Spinal Column Point 49 with the exception of the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer. In cases of gross misconduct, it may not be necessary to operate all stages of the disciplinary procedure.



## **Disciplinary Procedure**

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

(Full details of the procedure are contained within the Disciplinary Policy for Chief Officers).

### **9. Other Positions**

Power to suspend and discipline employees below chief officer level is the responsibility of senior managers who are employed on chief officer terms and conditions of employment.

In addition, officers at the PO6 grade are authorised to give warnings up to a final written level but cannot dismiss from service.

(Full details of the procedure are contained within the Disciplinary Policy for Council Employees).

## **Grievance Matters**

### **10. Head of Paid Service (Chief Executive), Monitoring Officer & Chief Finance Officer**

Full details are contained within the Grievance procedure for Head of Paid Service (Chief Executive), Monitoring Officer & Chief Finance Officer.

### **11. Group Directors, Directors Level 1-2, Service Directors Level 1-2, Heads of Service Level 1-2, Heads of Service (Soulbury)**

Full details are contained within the Grievance Procedure for Chief Officers.

### **12. Other Positions**

Power to determine upon grievances below chief officer level is the responsibility of senior managers who are employed on chief officer terms and conditions of employment.

## **Management & Control of Sickness Absence**

### **13. Head of Paid Service (Chief Executive), Monitoring Officer & Chief Finance Officer**

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

### **14. Group Directors, Directors Level 1-2, Service Directors Level 1-2, Heads of Service Level 1-2, Heads of Service (Soulbury)**

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

### **15. Other Positions**

Power to determine upon sickness absence matters below chief officer level is the responsibility of senior managers who are employed on chief officer terms and conditions of employment.

In addition, officers at the PO6 grade are authorised to give warnings up to a final written level but cannot dismiss from service.

**N.B. Any request received in relation to extending an employees sickness pay entitlement will be determined upon by the Chief Executive/Group Director, in conjunction with the Director of Human Resources.**

### **Managing Change**

### **16. Senior managers who are employed on chief officer terms and conditions of employment are authorised to consult with trade unions on managing change issues e.g. restructures, regradings, employee transfers, in conjunction with the Director of Human Resources.**

# ***Financial Procedure Rules***

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## FINANCIAL PROCEDURE RULES

### 1. Introduction

The County Borough of Rhondda Cynon Taff is the second largest Local Authority in Wales, occupying some 424 square kilometres of the South Wales Valleys, with a population of 234,403 (mid-year estimate 2009).

The Authority provides a diverse range of services to its residents. These services are organised across four Service Groups and the Chief Executive's Division. A brief description of each area is as follows:-

- **Education and Lifelong Learning** – This group contains all of the 'traditional' Education related services together with Libraries, Museums and the Heritage Park;
- **Community and Children's Services** – This group has a focus on Community Development, Better Health (including front line services for Community Care), together with 'Children and Young People' services;
- **Environmental Services** – This group focuses on the 'visible' Environmental services operated by the Authority. It includes front line services for Transportation & Highways Development Control, Environment & Highways, Waste, Community Safety, Leisure, Parks & Countryside services together with Cultural related services;
- **Corporate Services** – This group contains both front line (e.g. Housing Benefits and Council Tax) and corporate support functions (e.g. Finance, ICT, Legal and Procurement) that underpin the service delivery capability across all groups;
- **Chief Executive's** – This area has a focus on the development, implementation and monitoring of the Council's Corporate Policies and Strategies. As such it includes key service units for Regeneration and Planning, Human Resources and Strategic Policy.

The Authority operates a Leader and Cabinet form of Executive. This form of Executive was adopted in May 2002.

The Authority's approved Financial Procedure Rules reflect the political framework that exists within the Council at this present time. It is acknowledged however that this document will require review further to any future changes. The rules also take account of the statutory duties of the Authority as required by the Local Government (Wales) Measure 2009 Parts 1 and 2.

The Financial Procedure Rules provide clarity about the financial accountabilities of individuals – the Executive, other Members, the Chief Executive, the Monitoring Officer, the Corporate Services Group Director, Directors and other Officers. To assist the process of understanding and securing maximum value from the Financial Procedure Rules, the Corporate Services Group Director will administer a number of initiatives that assist and inform all relevant staff. This will include a sustained and targeted programme of education and training and easily accessible copies of the full document made available i.e. on the Authority's intranet site.

A series of subsidiary documents is in place that support and provide further detail around the operational requirements contained within the Financial Procedure Rules. These are kept under on-going review.

The definition of officers contained in this document is as follows:-

- Corporate Services, Group Director - in fulfilling the statutory duties in relation to the financial administration and stewardship of the authority, i.e. the Section 151 role;
- Directors - this includes;
  - the Chief Executive;
  - all Group Directors (encompassing the Corporate Services, Group Director in undertaking non Section 151 duties & the Director of Education & Lifelong Learning);
  - Directors (Level 1 and 2);
  - Service Directors / Heads of Service;
  - Any other officer as authorised in the Scheme of Delegation.

NB: With reference to Section 4.8 (Scheme of Virement) specific authorisation levels are set out at Service Director level and above.

Virement Action cannot be authorised by an officer below Service Director level.

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## 2. Status of the Financial Procedure Rules

**Financial Procedure Rules** provide the framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

The Procedure Rules identify the financial responsibilities of the Council, Leader and Cabinet (herein described as the 'Executive'), Scrutiny and other Members, the Chief Executive, the Monitoring Officer, the Corporate Services Group Director and all other Directors. Reference is made to the Authority's 'Scheme of Officer Delegation' and these procedure rules should be read in conjunction with that scheme.

All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.

The Corporate Services Group Director is responsible for:-

- Maintaining a continuous review of the Financial Procedure Rules and submitting any additions or necessary changes to the Council for approval. In particular a review of the financial parameters contained within this document will be undertaken on at least an annual basis to reflect inflationary changes and / or other price influencing factors;
- Reporting, where appropriate, breaches of the Financial Procedure Rules to the Executive;
- Issuing advice and guidance to underpin the Financial Procedure Rules that Members, Officers and others, acting on behalf of the Authority, are required to follow;
- Considering, in exceptional circumstances written requests from Directors (following consultation with the appropriate Cabinet Member) to waive specific requirements within the Rules for a defined period. When a specific waive is agreed this will be formally recorded and will be made available to Internal or External Audit on request.

The Corporate Services Group Director is empowered to undertake immediate action not detailed within these Financial Procedure Rules as deemed necessary for Rhondda Cynon Taf County Borough Council to discharge its responsibilities. Thereafter, details of the circumstances, action taken and outcome(s) must be promptly reported to the Full Council.

***The Chief Executive and all Group Directors are responsible for ensuring that all staff in their respective Groups are aware of the existence and content of the Authority's Financial Procedure Rules and other internal regulatory documents and that they comply with them.***

They must also ensure that copies of the Rules are accessible for reference within their Groups, and that adequate training and explanation is available to support compliance.

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### 3. Framework

**The Procedure Rules** are subdivided into five key areas, for ease of reference and interpretation. These are:-

- Financial Management;
- Financial Planning;
- Risk Management and Control of Resources;
- Financial Systems and Procedures;
- External Arrangements.

The framework adopted has been to consider the relevant issues under the sub headings described above, detail the key controls expected and identify the specific requirements in terms of the roles of the Corporate Services Group Director and Directors.



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## 4. FINANCIAL MANAGEMENT

### 4.1 Introduction

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

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.

The key principles underpinning this responsibility are highlighted below:-

### 4.2 Key Principles and Values Underpinning our Financial Management

The Authority will observe the highest standards of impartiality, integrity and objectivity in relation to the stewardship of its resources, and in all its activities it will act with regularity and propriety.

The Authority will accord with Government policy on openness and comply with all reasonable requests for information from users of the Authority's services and individual citizens, subject to the needs of confidentiality for commercial or personal reasons (in line with the Freedom of Information Act 2000 and the Data Protection Act 1998).

The Authority is accountable to the Welsh Assembly Government, users of its services and individual citizens for the activities of the Authority, for the stewardship of public funds, and the extent to which key performance targets and objectives have been met.

The Authority will deliver its responsibilities in line with the Welsh Assembly Government's "Making the Connections" agenda through ensuring that services are delivered in the most efficient, effective and economical way, within available resources and with continuous and, where relevant, independent validation of the performance achieved.

- **Roles and Responsibilities**

#### **The Council**

The Council is responsible for adopting the Authority's Constitution and Members' Code of Conduct, and for approving the policy framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its Constitution. The Council is also

responsible for monitoring compliance with the agreed policy and related Executive decisions.

The Council is responsible for approving procedures for the recording and reporting of decisions taken. This includes those key decisions delegated by, and decisions taken by, the Council and its Committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution (as detailed in Part 3 – Responsibility for Functions).

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

The Executive is responsible for proposing the policy framework and budget to the Council, and for discharging executive functions, in accordance with the policy framework and budget.

Executive decisions can be delegated to a Committee of the Executive, an individual Executive Member, an Officer, or a Joint Committee.

The Executive is responsible for establishing protocols to ensure that individual Executive Members consult with relevant Officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities, and any risk management issues that may arise from the decision.

## **4.3 Committees of the Council**

- **Overview and Scrutiny Committee**

The Overview and Scrutiny Committee is responsible for co-ordinating the work of the four Service Scrutiny Committees. It is also responsible for fulfilling the Overview and Scrutiny role in relation to 'All Council' cross cutting themes that cut across the terms of reference of the four Service Scrutiny Committees.

- **Service Scrutiny Committees**

Each Service Scrutiny Committee is responsible for the Overview and Scrutiny role in respect of their service area.

- **Audit Committee**

The Committee assists the Council in discharging its responsibility for ensuring financial probity. The Committees Terms of Reference include monitoring the performance of Internal and External Audit as well as receiving regular reports (from Internal & External Audit) that enable it to monitor the overall governance arrangements in place across the Council. The Committee's full Terms of Reference is contained within section 4.1 of the Council's Constitution.

- **Standards Committee**

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

- **Quasi Judicial Committees**

Development Control and Licensing are the main committees exercising quasi-judicial functions.

#### 4.4 **The Statutory Officers**

- **Head of Paid Service (Chief Executive)**

The Head of Paid Service (who is also the Chief Executive) is responsible for the corporate and overall strategic management of the Authority, as a whole. He / she must report to and provide information for the Council, the Executive, the Scrutiny Committees and other Committees. He / she is responsible for establishing a framework for management direction, style, standards, and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all of the Council's decisions.

- **Monitoring Officer (Director of Legal and Democratic Services)**

The Monitoring Officer (who is also the Director of Legal and Democratic Services) is responsible for promoting and maintaining high standards of conduct and provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual, or potential, breaches of the law, or maladministration, to the Council and / or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

The Monitoring Officer must ensure that Executive decisions, and the reasons for them, are made public. He / she must also ensure that Council Members are aware of decisions made by the Executive, of decisions made by individual Members with decision making powers and also of significant decisions made by Officers, who have delegated Executive responsibility.

The Monitoring Officer is responsible for advising all Members and Officers about who has authority to take a particular decision.

The Monitoring Officer is responsible for advising the Executive, or Council, about whether a decision is likely to be considered

contrary, or not wholly in accordance with, the policy framework.

The Monitoring Officer (together with the Corporate Services Group Director) is responsible for advising the Executive, or Council, about whether a decision is likely to be considered contrary, or not wholly in accordance with the budget. Actions that may be contrary to the budget include:-

- Initiating a new policy;
- Committing expenditure in future years over and above the approved budget;
- Effecting interdepartmental transfers, above virement limits;
- Causing the total expenditure financed from Council Tax, grants, and corporately held reserves to increase above the approved budget, or to increase by more than a specified amount.

The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

- **Chief Finance Officer (Corporate Services Group Director)**

The Chief Finance Officer (who is also the Corporate Services Group Director) has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:-

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounts and Audit (Wales) Regulations 2005 (as amended).

The Corporate Services Group Director is responsible for:-

- The proper administration of the Authority's financial affairs;
- Setting and monitoring compliance with financial management standards;
- Advising on the corporate financial position, and on the key financial controls necessary to secure sound financial management;
- Providing financial information;
- Preparing the revenue budget and capital programme;

- Treasury management;
- Insurance and risk management;
- Pension fund.

Section 114 of the Local Government Finance Act 1988 requires the Corporate Services Group Director to report to the Council, Executive and External Auditor if the Authority, or one of its Officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted, or would result, in a loss or deficiency to the Authority;
- Is about to make an unlawful entry in the Authority's accounts.

Section 114 of the 1988 Act also requires:-

- The Corporate Services Group Director to nominate a properly qualified member of staff to deputise should he / she be unable to perform the duties specified under Section 114, personally;
- The Authority to provide the Corporate Services Group Director with sufficient staff, accommodation, and other resources, including legal advice where this is necessary, to carry out this duty under Section 114.

#### 4.5 Chief Executive and Directors

For the purposes of these Financial Procedure Rules any reference to "Directors" will include all of the posts detailed in Section 1 taking action within the agreed Scheme of Officer Delegation.

Directors are responsible for:-

- Ensuring that Executive Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Corporate Services Group Director;
- Signing contracts on behalf of the Authority.

***It is the responsibility of Directors to consult with the Corporate Services Group Director and seek approval on any matter liable to materially affect the Authority's finances, before any commitments are made.***

#### 4.6 All Authority Employees

All Authority employees (including temporary, part time and externally funded staff), and particularly those with a line management or resource management responsibility, should be aware of their

responsibilities and that they are accountable for those responsibilities, to the Chief Executive and the Council. They must ensure that the Authority activities for which they are responsible and accountable are in accordance with the rules and procedures detailed in the Authority's Constitution. (This will require adequate training and information on the relevant actions required for each post).

#### 4.7 **Other Financial Management Accountabilities**

There are other specific requirements around financial management which must be observed by all. These are:-

- Scheme of virement;
- Treatment of year end balances;
- Accounting policies;
- Accounting records and returns;
- The annual statement of accounts.

#### 4.8 **Scheme of Virement**

The scheme of virement is intended to enable the Executive, Directors, and their staff to manage revenue budgets with a degree of flexibility, within the overall policy framework determined by the Council, and therefore, to optimise the use of resources to deliver agreed service objectives.

##### **Virement Action Limits**

For the purposes of these rules, a virement is a change in use of a budget within or between service areas.

##### **• Virement Rules For Revenue Expenditure**

###### Virements within Services (up to £25,000)

The Service Director is authorised to action virements up to a value of £25,000 within his / her Service. All changes will be reported to the Corporate Services Group Director. There will be no limit to the number of virements in any year, however there should be no manipulation used to circumvent the process for higher limit virements i.e. artificially splitting amounts to remain below £25,000.

###### Virements within Groups (up to £100,000)

Group Directors are authorised, in consultation with the Corporate Services Group Director, to approve virements up to a value of £100,000 within their respective service groups.

###### Virements between Groups (up to £100,000)

Virements between groups up to a level of £100,000 must be

approved by the respective Group Directors plus the Corporate Services Group Director.

Virements above £100,000 and up to £500,000

Virements above £100,000, and up to £500,000, both within groups and between groups must be approved by the Executive.

Virements above £500,000

All virements above £500,000 must be approved by Council.

Timing of Virements

Virements should be actioned prior to overspending occurring on a particular budget head. This is considered good accounting practice and demonstrates good budget management.

***Virement approvals must be sought before there is any commitment to incur expenditure.***

- **Key Controls**

The Scheme or Virement is administered by the Corporate Services Group Director within guidelines set by the Council. Any variation from this scheme requires the approval of the Council.

The overall budget is agreed by the Executive and approved by the Council. Directors and budget managers (as defined within the Scheme of Delegation) are, therefore, authorised to incur expenditure in accordance with the estimates that make up that budget. For the purposes of the virement scheme, a budget head is considered to be a detailed budget line as maintained within the Corporate Accounting System i.e. code level.

Virement does not create an additional overall budget. Directors are expected to exercise their discretion in managing their budgets responsibly, and prudently. For example, they should aim to avoid supporting recurring 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. They must plan to fund such commitments from within their own budgets

- **Responsibilities of the Corporate Services Group Director**

To prepare jointly with the relevant Director a report to the Executive where virements in excess of £100,000 are proposed.

- **Responsibilities of Directors**

A Group Director may exercise virement on budgets under his or her control for amounts up to £100,000 on any one budget head during the year, in consultation with the Corporate Services Group Director.

A Service Director may exercise virement on budgets under his or her control for amounts up to £25,000 on any one budget head during the year. All virements will be reported to the Corporate Services Group Director.

Amounts greater than £100,000 and up to £500,000, both within Groups and between Groups, require the approval of the Executive, following a joint report by the Corporate Services Group Director, and the relevant Group Director(s), which must specify the proposed expenditure, the source of funding, and the implications in the current and future financial year(s).

All virements above £500,000 must be approved by Council.

Virement that is likely to impact on the level of service activity of another Group should be implemented only after agreement with the relevant Group Director.

No virement relating to a specific financial year should be made after 31 March in that year (unless under exceptional circumstances and approved by the Corporate Services Group Director). Virements must be actioned prior to expenditure being incurred or committed to be incurred on a budget head.

Where an approved budget is a lump-sum budget, or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that :-

- The amount is used in accordance with the purposes for which it has been established;
- The Executive has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits must be reported to the Executive;
- Requests for supplementary estimates are discouraged and **will only be considered in the most exceptional of circumstances**. The need for supplementary estimates must first be considered by the Group Director who shall prepare a report to the Corporate Services Group Director, explaining why such expenditure cannot be met from within the existing approved budget, including detailed consideration of all other areas of the budget. Approval of a supplementary estimate is subject to consideration by the Executive. In the extreme circumstances whereby a supplementary estimate is approved any amount unused for the approved purpose will be “clawed back” into the Authority’s General Reserves.



#### 4.9 Treatment of Year End Balances

- **General Fund Balances**

**No Service should budget for a deficit.** Every Director has a duty to report expected overspends to the Corporate Services Group Director. Where a year-end net overspend occurs, this will normally be a first call on the following year's budget of the Group.

In accordance with procedures laid down by the Corporate Services Group Director, provisions and earmarked reserves for specific items of expenditure planned, but delayed in any particular year will be considered as part of the normal annual closure of accounts.

- **Key Considerations**

A provision can only be established in the accounts if:-

- The Council has a present obligation, as a result of a past event;
- The transfer of economic benefits will be required to settle the provision;
- A reliable estimate can be made of the amount of the obligation.

An earmarked reserve has a less prescriptive definition and often results from instances where anticipated expenditure, which can be predicted with some degree of accuracy, has been postponed. An earmarked reserve should only be established if:-

- There is a firm commitment / policy decision to the pursuance of the project or scheme e.g. an order raised or committee minute;
- The amount must be material and restricted in number to those considered to be key as determined by the Corporate Services Group Director.

- **Schools Balances**

Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Executive Member concerned, following evaluation by the Director of Education and Lifelong Learning and the Corporate Services Group Director. Schools will normally be expected to agree a plan to recover the deficit within a defined period.

In exceptional circumstances, schools may seek to incur

expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Executive. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the following year's reduced budget share.

#### 4.10 Accounting Policies

The Corporate Services Group Director is responsible for the preparation of the Authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom* and the *Best Value Accounting Code of Practice*, for each financial year ending 31<sup>st</sup> March.

- **Key Controls**

Systems of internal control must be in place to 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 a true and fair view of the financial position of the Authority.

- **Responsibilities of the Corporate Services Group Director**

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 for the year ending 31<sup>st</sup> March.

- **Responsibilities of Directors**

To adhere to the accounting policies and guidelines approved by the Corporate Services Group Director.

#### 4.11 Accounting Records and Returns

Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory responsibility to prepare annual accounts that present a true and fair view of its operations during the year. These accounts 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**

All Executive Members, Directors, finance staff and budget

managers operate within the required accounting standards and timetables (as laid down by the Corporate Services Group Director).

All the Authority's transactions, material commitments, 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 (including criteria set out by external funding bodies and in accordance with the Authority's **Retention of Financial Records Policy**).

- **Responsibilities of the Corporate Services Group Director**

To determine the accounting procedures and format of records for the Authority. Where these are maintained outside the Finance Division, the Corporate Services Group Director should consult the appropriate Group Director.

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

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

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

To make proper arrangements for the audit of the Authority's accounts, in accordance with the prevailing Accounts and Audit (Wales) Regulations.

To ensure that arrangements are in place to claim all funds, including grants, by the due date.

To prepare, approve by Council and publish the audited accounts of the Authority for each financial year in accordance with the statutory timetable.

To ensure the proper retention of financial documents in accordance with the Authority's agreed policy, as set out in its Retention of Financial Records Policy. This policy is to retain its

main financial ledgers for six years from the end of the financial year concerned (including papers supporting individual financial transactions, unless they are required for longer periods for taxation, or European Grant purposes). If an Authority employee is in any doubt as to the method and time period for retaining documents or files, they must consult the Director of Legal and Democratic Services for guidance.

- **Responsibilities of Directors**

To consult and obtain the approval of the Corporate Services Group Director before making any changes to accounting records and procedures.

To comply with the principles identified above when allocating accounting duties.

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

To supply any information required to enable the statement of accounts to be completed, in accordance with the guidelines issued by the Corporate Services Group Director.

#### 4.12 **The Annual Statement of Accounts**

The Authority has a statutory responsibility to prepare its accounts in such a way as to present a true and fair view of its operations during the year. The Council is responsible for approving the statutory annual statement of accounts.

- **Key Controls**

An Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its Officers has the responsibility for the administration of these affairs. For this Authority, that Officer is the Corporate Services Group Director.

The Authority's Statement of Accounts must be prepared in accordance with proper practices, as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC), the *Best Value Accounting Code of Practice* and also in accordance with the prevailing Accounts & Audit Regulations (Wales).

To include within the Authority's Statement of Accounts an 'Annual Governance Statement' (that is signed by the Chief Executive and Leader of the Council). The statement must also be reported to the Audit Committee for review and to recommend its certification by the Chief Executive and the Leader of the Council.

- **Responsibilities of the Corporate Services Group Director**

To select suitable accounting policies and to apply them consistently.

To make financial judgements and estimates that are reasonable and prudent.

To comply with the Code of Practice on Local Authority Accounting.

To maintain proper accounting records that are kept up to date.

To take reasonable steps for the prevention and detection of fraud and other irregularities.

To sign and date the Statement of Accounts, stating that it presents a true and fair view of the financial position of the Authority at the accounting date and its income and expenditure for the year ended 31 March.

To draw up the timetable and procedures for the preparation of the Authority's final accounts, and to advise staff and external auditors, accordingly.

- **Responsibilities of Members**

To approve the Authority's Statement of Accounts.

The Chairperson (Mayor) of the appropriate Committee (Council) to sign and date the Statement of Accounts on behalf of the Committee (Council) confirming that the Council has discharged its responsibilities.

- **Responsibilities of Directors**

To comply with accounting guidance provided by the Corporate Services Group Director, and supply him / her with the information required in accordance with the timetable for closing the annual accounts.

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## **5. FINANCIAL PLANNING**

### **5.1 Introduction**

The Council is responsible for agreeing the Authority's policy framework and budget, as proposed by the Executive. In terms of financial planning, the key elements are:-

- The Community Strategy;
- The Improvement Plan;
- The Revenue Budget;
- The Capital Programme.

### **5.2 Policy Framework**

The Council is responsible for approving the budget and policy framework (within which comprise a number of Statutory Plans and Policies).

The Council is also responsible for approving procedures for agreeing variations to the approved budgets, plans and strategies that form the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Such decisions should be referred to the Council by the Monitoring Officer and / or the Corporate Services Group Director.

The Executive is responsible for taking "in-year" decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

### **5.3 Preparation of the Community Strategy**

The Chief Executive is responsible for proposing any changes to the Community Strategy to the Executive, for consideration, before their onward submission to the Council and Local Service Board (LSB), for approval.

### **5.4 Preparation of the Improvement Plan**

Each local authority has a statutory responsibility to publish an annual Improvement Plan. The purpose of the Plan is to explain overall priorities and objectives, current performance, and proposals for further improvement. The Improvement Plan is a key element in the Authority's programme of engaging with the public. The External Auditor is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and publication of the Plan.

In accordance with the Local Government (Wales) Measure 2009 Part 1, the Plan is required to be produced by 31<sup>st</sup> October each year. A copy of the Plan can be viewed on the Authority's website:-

- **Key Controls**

To produce the Plan in accordance with statutory requirements.

To meet the timetables set for the production of the Plan.

To ensure that all performance information is accurate, complete, measurable and up to date.

To provide performance targets which are meaningful, realistic, and challenging.

- **Responsibilities of the Corporate Services Group Director**

To advise upon the financial information that needs to be included in the Improvement Plan in accordance with statutory requirements and agreed timetables.

To contribute to the development of corporate and service targets, objectives, and performance information.

- **Responsibilities of Directors**

To supply the financial information that needs to be included in the Improvement Plan, in accordance with statutory requirements and agreed timescales.

To ensure that systems are in place to measure service activity and collect accurate information for use as performance indicators.

To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken, if targets are not likely to be met.

To contribute to the development of the Improvement Plan in line with statutory requirements.

To contribute to the development of corporate and service targets, objectives, and performance information.

## 5.5 **Performance Management Framework**

The Authority has in place a Performance Management Framework. The basis of the framework will build upon the hierarchy of the Community Strategy, Strategic Plans, Business Plans and Individual Action Plans / Personal Development Plans.

## 5.6 Budgeting

Under this section the following issues will be considered:

- Format of the revenue budget;
- Revenue budget preparation, monitoring, and control;
- Budgets and medium-term planning;
- Resource allocation;
- Capital programmes, budget preparation, monitoring and control;
- Maintenance of General Reserves.

### A. **Format of the Revenue Budget**

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

- **Key Controls**

The format of the revenue budget complies with all legal requirements.

The format complies with LASAAC / CIPFA's *Best Value Accounting – Code of Practice* (for external reporting requirements).

The format reflects the accountabilities of service delivery.

- **Responsibilities of the Corporate Services Group Director**

To advise the Executive on the format of the budget to be approved by the Council.

- **Responsibilities of Directors**

To comply with the accounting guidance provided by the Corporate Services Group Director.

### B. **Revenue Budget Preparation, Monitoring and Control**

Budget management ensures that once the Council has approved its budget, the resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.



By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource requirements, at the earliest opportunity.

- **Key Controls**

Budget managers should be responsible for all controllable income and expenditure within their sphere of responsibility.

There is a nominated budget manager for each cost centre heading.

Budget managers formally accept accountability for their budgets and the level of service to be delivered, and understand their financial responsibilities.

Budget managers follow an approved certification process for all expenditure.

Income and expenditure is properly recorded and accounted for.

Performance levels / levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs with the budget.

The requirements in terms of budget monitoring frequency are identified overleaf in Table 1:-

**Table 1**

**Summary of Budget Monitoring Reporting Requirements**

Frequency	Requirements
Quarterly	<ol style="list-style-type: none"> <li>1. Comparison of Actual v Budget</li> <li>2. Projected Outturn.</li> <li>3. Analysis of Significant Variances.</li> <li>4. Full analysis of action to be taken to resolve any overspends - actual or projected.</li> <li>5. <b>Any</b> emerging issues that may have an impact upon the financial position (i.e. risk analysis).</li> <li>6. Progress in achieving agreed key performance indicators.</li> <li>7. Information reported as an aggregate report to the Executive (and thereafter onto the Scrutiny Committees for review and challenge).</li> </ol>
Monthly	<ol style="list-style-type: none"> <li>1. Reporting and monitoring of significant emerging issues and key financial risks.</li> <li>2. An Authority Wide Key Issues report collated corporately for internal reporting and management purposes.</li> </ol>

• **Responsibilities of the Corporate Services Group Director**

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

- Budget management is exercised within annual cash limits, unless the Council agrees otherwise;
- Each Director has timely information available on actual receipts and payments (through the General Ledger, not including commitment details kept by the Service groups) on each budget, which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- Expenditure is committed only against an approved budget head;
- All Officers responsible for committing expenditure

comply with relevant guidance, including the Financial Procedure Rules;

- Each cost centre has a single named manager, determined by the appropriate Group Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that result in the commitment of expenditure and collection of income;
- Significant variances from approved budgets are investigated and reported by budget managers, regularly.

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

To prepare and submit reports on the Authority's projected income and expenditure compared with the budget, on a quarterly basis to the Executive (refer Table 1). Reports may also be required on an ad hoc basis should there be a material issue, judged so, by the Corporate Services Group Director.

- **Responsibilities of Directors**

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

To ensure that an accountable budget manager is identified for each Cost Centre budget under the control of the Group Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure and generates income.

To ensure that spending remains within the service's overall budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To ensure that a complementary monitoring process is in place to review performance levels / levels of service, in conjunction with the budget monitoring process.

To prepare and submit to the Executive reports on services' projected expenditure and income compared with the appropriate budgets, in consultation with the Corporate Services Group Director.

To ensure prior approval by the Council or Executive (as appropriate) for all new proposals that:-

- Create financial commitments in future years;
- Change existing policies, initiate new policies, or cease existing policies;
- Materially extend or reduce the Authority’s services;
- Have a consequential effect on the capital resources of the Authority.

To ensure compliance with the Scheme of Virement (refer to section 4.8).

To agree with the relevant Group Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Group Director’s level of service activity.

### C. **Budgets and Medium-Term Planning**

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

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the overarching business plans and priorities of the Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. **It is illegal for an Authority to budget for a deficit.**

Medium-term financial planning involves a planning cycle in which managers consider resource requirements over a three-year period. As each year passes, another future year will be added to the medium-term plan. This ensures that the Authority is always properly preparing for events, in advance.

- **Key Controls**

Specific budget approval for all expenditure and income.

**Budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability, within the Scheme of Delegation, for their budgets and the level of service to be delivered.**

A monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to

ensure that any corrective action is taken.

Arrangements are in place to monitor, up date and deliver a Medium Term Financial Planning & Resources strategy (covering both Capital and Revenue expenditure).

- **Responsibilities of the Corporate Services Group Director**

To prepare and submit reports on budget prospects for the Executive, including resource constraints set by the Welsh Assembly Government. Reports should take account of medium-term prospects.

To determine the detailed form of the Authority's revenue and capital estimates and the methods for their preparation, consistent with the budget, approved by the Council and after consultation with the Executive and Directors.

To prepare and submit reports to the Executive on the aggregate spending plans of Service Groups, and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on all (i.e. short, medium and long term) implications of spending decisions.

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 developments or savings options, and in developing financial aspects of service planning.

To advise the Council on Executive proposals in accordance with his / her responsibilities under Section 151 of the Local Government Act 1972.

- **Responsibilities of Directors**

To prepare estimates of income and expenditure, for submission to the Executive following consultation with the Corporate Services Group Director.

To prepare budgets that are consistent with any relevant cash limits, within the Authority's annual budget cycle and that accord with the guidelines issued by the Executive. The format will be prescribed by the Corporate Services Group Director in accordance with the Council's general directives.

To integrate medium term financial and budget planning into 3-year service planning, so that budget plans can be

supported by financial and non-financial performance measures (over a medium term timescale). A key requirement, as part of the Performance Management framework within the Authority is for each discrete service area to prepare, develop and utilise a business planning approach. The Business Plans themselves will be closely linked with the budget preparation exercises, and will offer an opportunity for service areas to highlight resource pressures and identify efficiencies, where necessary.

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

- Goals of the Community Strategy;
- Customer consultation;
- Spending patterns and pressures revealed through the budget monitoring process;
- Legal requirements;
- Policy requirements, as defined by the Council in the approved policy framework;
- Initiatives already under way.

#### **D. Resource Allocation**

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 include staff, money, equipment, goods and materials.

- **Key Controls**

Resources are acquired in accordance with the law, and via an approved authorisation process.

Resources are used only for the purpose intended, to achieve approved policies and objectives, and are properly accounted for.

Resources are securely held for use when required.

Resources are used with the minimum level of waste, inefficiency or loss.

- **Responsibilities of the Corporate Services Group**

## **Director**

To advise on sources/methods of funds available (such as grants and borrowing).

- **Responsibilities of Directors**

To work within budget limits and to utilise resources allocated, in the most efficient, effective and economic way.

To identify opportunities to minimise, or eliminate, resource requirements, or consumption, without having a detrimental effect on service delivery.

### **E. Capital Programmes; Budget Preparation, Monitoring and Control**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Authority, such as land, buildings, 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.

The Government places strict controls on the financing capacity of the Authority. 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**

Specific approval by the Council for the programme of capital expenditure.

Development of a capital programme within a medium term planning horizon.

Expenditure on capital schemes is subject to the approval of the Corporate Services Group Director.

Maximise available resources and ensure all resources are utilised within prescribed periods.

A scheme and estimate is prepared for each capital project for approval by the Executive (with a project plan, progress targets and associated revenue expenditure approved by the Corporate Services Group Director).

Proposals for improvements and alterations to buildings must be approved by the appropriate Group Director, in consultation with the Corporate Services Group Director (Service Director – Corporate Estates).

Schedules for individual schemes within the overall budget

approved by the Council must be submitted to the Executive for approval (for example, minor works), or under other arrangements approved by the Council.

The development and implementation of asset management plans.

Accountability for each proposal rests with a named project manager.

Monitoring of progress against the approved budget, the project plan, and the agreed outputs/outcomes.

Maximisation of potential external grant funding is achieved.

- **Responsibilities of the Corporate Services Group Director**

To prepare an estimate of available resources to fund the capital programme for each financial year and / or for a longer period where medium term planning requires.

To prepare capital estimates jointly with Directors, and the Chief Executive, and to then report them to the Executive, for approval. The Executive will make recommendations on the capital estimates, and on any associated financing requirements, to the Council. Executive approval is required where a Group Director proposes to bid for funding or exercise additional borrowing approval, not anticipated in the capital programme. This is because the extra borrowing may create future revenue commitments including increased capital financing costs.

To prepare and submit regular reports to the Executive on the projected income, expenditure, and resources, compared with the approved estimates.

To issue guidance concerning capital schemes and associated controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Corporate Services Group Director, having regard to government regulations, and accounting requirements.

To seek authorisation from the Executive for individual schemes where the estimated expenditure exceeds the capital programme provision.

- **Responsibilities of Directors**

To comply with guidance concerning capital schemes, controls and monitoring arrangements issued by the Corporate Services Group Director.

To ensure that all capital proposals have undergone a



project appraisal in accordance with guidance issued by the Corporate Services Group Director.

To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Corporate Services Group Director.

To ensure that adequate records are maintained for all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Corporate Services Group Director, where required.

To prepare and submit reports, jointly with the Corporate Services Group Director, to the Executive, of any variation in contract costs greater than the approved limits.

To ensure that the necessary capital funding is utilised within the prescribed period. In exceptional circumstances where forward commitments may be necessary, the details should be formally reported to the Corporate Services Group Director for consideration. If approved, each Director should manage forward commitments in a structured way.

To prepare and submit reports, jointly with the Corporate Services Group Director, to the Executive (as appropriate), on completion of all contracts where the final expenditure exceeds the original contract sum by more than 10% or £100,000 whichever is the lesser.

To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Corporate Services Group Director and, if applicable, approval of the scheme through the capital programme process.

To consult with the Corporate Services Group Director and to seek Executive approval where the Group Director proposes to bid for external capital grant aid to support expenditure that has not been included in the current year's capital programme.

## **F. Maintenance of Reserves**

The Authority maintains on its balance sheet a number of Usable and Unusable Reserves:-

- **Usable Reserves**

These are reserves held to fund expenditure or to reduce Council Tax. These are both Revenue and Capital reserves and contain such items such as Council Fund Balances (General Fund Balances), Capital Receipts Reserves and Capital Grants Unapplied.

The Authority also maintains revenue reserves in respect of Delegated Schools, which are ring-fenced to the respective service area. Earmarked reserves and an Insurance Reserve are also maintained for specific future expenditure requirements (and are subject to procedures set down by the Corporate Services Group Director). Trust Fund balances are also maintained and relate to monies entrusted to this Authority by individuals, and external organisations, for specific purposes.

- **Unusable Reserves**

These are reserves that are established for statutory purposes. Reserves such as Capital Adjustment Account and Revaluation Reserve cannot be used to support spending.

Other reserves are established to mitigate against the General Fund having to bear the immediate costs of such items as holiday pay accruals and financial instruments adjustments. Other unusable reserves are established for Pensions costs, Unequal Pay backpay and Deferred Capital Receipts.

- **Key Controls**

To maintain reserves in accordance with the accounting treatment laid out in the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC), and agreed accounting policies.

For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

Authorisation and expenditure from reserves by the appropriate Group Director to be in consultation with the Corporate Services Group Director.

All items within the Authority's Balance Sheet should be reconciled by a nominated Officer (on at least an annual basis) with key items also being monitored by the Corporate Services Group Director.

A formal reporting protocol indicating the level of the Authority's reserves together with potential pressures that may affect such balances.

- **Responsibilities of the Corporate Services Group Director**

To advise the Executive and/or the Council on prudent levels of reserves for the Authority, and to take account of the advice of the external auditor in this matter.

- **Responsibilities of Directors**

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

To inform the Corporate Services Group Director of any items or occurrences that could impact upon the Authority's reserves in a timely manner.

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## 6. RISK MANAGEMENT AND CONTROL OF RESOURCES

### 6.1 Introduction

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

### 6.2 Risk Management

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 planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the body concerned and to ensure the continued financial and organisational well-being of the entity. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks, effectively.

It is the overall responsibility of the Executive to approve the Authority's risk management strategy, and to promote a culture of risk management awareness throughout the Authority.

- **Key Controls**

The Council has a risk management strategy.

The Council has a risk register that is updated and reviewed regularly.

The identification, analysis and evaluation of risk is on-going and embedded into the organisation.

Appropriate risk mitigation strategies have been taken by Management. Acceptable levels of risk are determined and insured against where economically appropriate.

Appropriate scrutiny of risk management takes place.

- **Responsibilities of the Corporate Services Group Director**

To prepare and promote the Authority's risk management strategy.

To develop risk management controls in conjunction with other Directors.

To include all appropriate employees of the Authority under a

suitable fidelity guarantee insurance policy.

To offer insurance cover to schools, in accordance with School Funding (Wales) Regulations 2010.

To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other Officers, where necessary.

To maintain an effective Internal Audit function.

- **Responsibilities of Directors**

To notify the Corporate Services Group Director immediately of any loss, liability or damage that may lead to a claim against the Authority, together with any information or explanation required by the Corporate Services Group Director, or the Authority's insurers.

To take responsibility for risk management, having regard to advice from the Corporate Services Group Director, and other specialist Officers (e.g. crime prevention, fire prevention, health and safety).

To ensure that there are regular reviews of risk within their Groups.

To notify the Corporate Services Group Director promptly of all new risks, properties or vehicles that require insurance and/or of any alterations affecting existing insurances.

To consult the Corporate Services Group Director and Director of Legal and Democratic Services on the terms of any indemnity that the Authority is requested to give.

To ensure that employees, or any other party covered by the Authority's insurances, do not admit liability, or make any offer to pay compensation, that may prejudice the assessment of liability in respect of any insurance claim.

### 6.3 **Internal Controls**

The Authority is an extremely complex organisation and beyond the direct control of any individual. It, therefore, requires internal controls to manage and monitor progress towards the achievement of strategic objectives.

The Authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

The Authority faces a wide range of risks, both from internal and external factors, which could threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

- **Key Controls**

To undertake a review of the Council's internal control environment via the production of an annual Governance Statement (in accordance with best practice '*Delivering Good Governance in Local Government*', published by CIPFA and SOLACE)

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, delegated decisions and approval procedures, and information systems.

An effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom 2006*, and with any other statutory obligations, and regulations.

- **Responsibilities of the Corporate Services Group Director**

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

- **Responsibilities of Directors**

To manage processes and to check that established controls are being adhered to. To regularly evaluate the effectiveness of those controls, in order to ensure they remain appropriate to manage the proper use of resources, the achievement of objectives, and the management of risks.

To review existing controls in the light of changing circumstances affecting the Authority and to establish and implement new ones, in accordance with guidance from the Corporate Services Group Director. Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

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

## 6.4 Audit Requirements

Two basic requirements will be considered in this section:-

- Internal Audit;
- External Audit.

### A. Internal Audit

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 (Wales) Regulations 2005 (SI 2005/368) Regulation 6, more specifically requires that a “Local government body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control”. These arrangements are reviewed by the External Auditor on an annual basis.

Accordingly, Internal Audit is an independent, objective function, established by the Authority, for reviewing the systems 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**

Internal Audit is independent in its planning, and operation.

The Operational Audit Manager has direct access to the Chief Executive, all levels of management, and directly to elected Members.

The Internal Audit Service complies with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom 2006*.

Internal Audit's Terms of Reference are consistent with CIPFA recommendations and are endorsed by Audit Committee.

- **Responsibilities of the Corporate Services Group Director**

To ensure that the Authority's Internal Auditors are empowered to:-

- Access Authority premises, at all reasonable times;
- Access all assets, records, documents, correspondence

and control systems;

- Receive any information and explanation considered necessary which relates to any matter under consideration, or investigation;
- Require any employee of the Authority to account for cash, stores, or any other Authority asset under his or her control;
- Access records belonging to third parties, such as contractors, when required;
- Directly access the Chief Executive, the Executive, and The Audit Committee.

In circumstances whereby the Authority enters into joint funding or joint venture agreements, it is essential that the formal Agreement includes a standard provision entitling the Authority's Internal Auditors to have access to records, and the provision of necessary explanations, regarding the application of the Authority's resources.

To undertake an annual audit needs assessment.

To approve the annual audit plan, prepared by the Operational Audit Manager, which takes account of the characteristics and relative risks of all the activities performed by the Authority.

To ensure that that Council has in place adequate procedures to prevent bribery taking place as defined within the Bribery Act 2010.

To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

- **Responsibilities of Directors**

To ensure that Internal Auditors are given access at all reasonable times, to any premises, personnel, documents and assets that the auditors consider necessary for the purposes of properly carrying out their work.

To ensure that Internal Auditors are provided with any information and explanations that they seek in the course of their work.

To consider and respond promptly to all recommendations contained within audit reports.

To ensure that any agreed actions arising from audit report recommendations are carried out in a timely and efficient fashion.



To comply fully with the Council's Anti-fraud and Corruption Strategy and ensure compliance with those procedures aimed at preventing bribery as defined within the Bribery Act 2010.

To notify the Corporate Services Group Director, immediately, of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources that should arise. Pending investigation and reporting the Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

## **B. External Audit**

The office of the Auditor General Wales was established under the Government of Wales Act 1998 and subsequently the Government of Wales Act 2006. From 1<sup>st</sup> April 2005, the Public Audit (Wales) Act 2004 extended the Auditor General Wales's functions to include the appointment of external auditors for local government bodies, and for undertaking inspections under the Wales Programme for Improvement (under the Local Government Act 1999). The External Auditor has rights of access to all documents and information necessary for audit purposes.

The basic duties of the External Auditor are defined under Section 17 of the Public Audit (Wales) Act 2004 and Section 7 of the Local Government Act 1999. The Auditor General Wales publishes a Code of Audit and Inspection Practice which prescribes the way in which auditors appointed by him / her are to carry out their functions. The code is prepared under Section 16 of the 2004 Act and Section 8B of the 1999 Act (as amended by the 2004 Act).

The Code of Audit Practice issued by the Auditor General for Wales requires the Wales Audit Office to:-

- Provide an audit opinion on the accounting statements;
- Review the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources;
- Consider whether the Improvement Plan is prepared and published in accordance with statutory requirements; and
- Issue a certificate confirming that they have completed the audit of the accounts.

In summary, the above requires that the Authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts not only complies with legal requirements but also 'present a true and fair view' of the financial position of the Authority, and its income and

expenditure, for the year in question.

- **Key Controls**

External Auditors are:-

- Appointed by the Auditor General Wales;
- Required to report to the Audit Committee on ‘Relevant matters relating to the audit’ of the financial statements under IAS (UK and Ireland) 260 before the opinion on the financial statements is given.

- **Responsibilities of the Corporate Services Group Director**

To ensure that external auditors are given access, at all reasonable times, to all premises, personnel, documents and assets that the external auditors consider necessary for the purposes of properly carrying out their work.

To ensure there is effective liaison between external and internal auditors.

To work with the external auditor and advise the Council, Executive, and Directors, on their responsibilities in relation to external audit.

To ensure access is permitted to appropriate records of any external bodies where a relationship with the Authority exists, and that this arrangement is formally documented (e.g. third party arrangements for grants).

- **Responsibilities of Directors**

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 properly carrying out their work.

To ensure that all records and systems are up to date, and available for inspection.

To ensure that all working papers to support accounting entries, grant claims, etc., are of a sufficiently high standard.

## 6.5 Preventing Fraud, Corruption and Bribery

The Authority will not tolerate fraud, corruption or bribery in the administration of its responsibilities, whether from inside or outside the Authority.

The Authority’s expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring

adherence to legal requirements, rules, procedures and practices.

The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud, corruption and bribery.

Any potential fraud or irregularity should be reported in accordance with the 'Whistle Blowing' and 'Anti-fraud and Corruption' policies.

- **Key Controls**

The Authority has an effective Anti-fraud and Corruption policy and maintains a culture that will not tolerate fraud or corruption.

The Authority has in place procedures that prevent acts of bribery as defined in the Bribery Act 2010.

All Members and staff act with integrity and lead by example.

Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt.

High standards of conduct are promoted amongst Members by the Standards Committee.

The maintenance of a register of interests that records the acceptance of hospitality and gifts in line with Council policy.

Whistle blowing procedures are in place and operate effectively.

Legislation including the Public Interest Disclosure Act 1998 is adhered to.

- **Responsibilities of the Corporate Services Group Director**

To develop and maintain an Anti-fraud and Corruption policy along with procedures that prevent Bribery.

To maintain adequate and effective internal control arrangements.

To ensure that there are proper reporting and investigatory procedures in place to deal with suspected irregularities.

- **Responsibilities of Directors**

To ensure that all suspected irregularities are reported to the Operational Audit Manager.

To instigate the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

To ensure that where financial impropriety is discovered, the Corporate Services Group Director is informed, and where sufficient evidence exists to believe that a criminal offence may

have been committed, the police are called in to determine, with the Crown Prosecution Service, whether any prosecution will take place.

To maintain a Group register of interests.

## 6.6 **Assets**

Under this section the following issues will be highlighted:-

- Security;
- Inventories;
- Stocks and Stores;
- Intellectual Property;
- Disposal of Land & Buildings;
- Disposal of Obsolete Equipment and Other Assets;
- Information, Computers and relevant legislation.

### A. **Security**

The Authority holds tangible 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.

- **Key Controls**

Resources are used only for the purposes of the Authority and are properly accounted for.

Resources are available for use when required.

Resources no longer required are disposed of in accordance with the law and Council Policies so as to maximise benefits.

An asset register is maintained for the Authority, assets are recorded when they are acquired by the Authority and this record is updated as changes occur with respect to the location and condition of the asset.

All staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the statutory requirements of the Data Protection Act (1998) and the Copyright, Designs and Patents Act (1988).

All staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Authority's Information Communications Technology (ICT) policies.

All staff are aware of their responsibilities in regards the efficient use of energy resources and their need to comply with the Council's Energy Management Protocols.

- **Responsibilities of the Corporate Services Group Director**

To ensure that an asset register is maintained in accordance with good practice for all fixed assets, applying a de minimus level to each asset type as indicated in Table 2 below:-

**Table 2 - Asset Register De minimus Levels**

<b>Asset Type</b>	<b>De minimus Level (£)</b>
Land and Buildings	20,000
Vehicles	5,000
Plant and Equipment	5,000
Infrastructure	20,000
Community Assets	Nil

The function of the asset register is to provide the Authority with information about fixed assets so that they are:-

- Safeguarded;
- Used efficiently and effectively;
- Adequately maintained;
- Charged to the appropriate user within the revenue accounts.

To receive the information required for accounting, costing and financial records from each Group Director.

To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) and the Royal Institute of Chartered Surveyors (RICS).

To maintain a property database for all properties currently owned or used by the Authority. Any use of property by a Group or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use. The details held should be in accordance with de minimus levels set out previously in Table 2.

- **Responsibilities of Directors**

Where Group Directors are responsible for a certain class of asset they shall maintain a database in a form approved by the Corporate Services Group Director for all plant, machinery and moveable assets currently owned or used by the Authority. The details held should be in accordance with de minimus levels set out previously in Table 2.

To ensure Group Directors carry out a meaningful annual Impairment Review in compliance with International Accounting Standards.

To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession of, or enter on to, the land until a lease or agreement, in a form approved by the Group Director in consultation with the Corporate Services Group Director, has been established as appropriate.

To ensure the proper security of all buildings and other assets under their control. Also, to ensure the efficient use of energy resources and compliance with the Council's Energy Management Protocols.

To pass title deeds to the Corporate Services Group Director who is responsible for the custody of all title deeds.

To ensure that no Authority asset is subject to personal use by an employee without proper authority, as defined by the 'Use of Council Property' section within the Authority's disciplinary procedures (paragraph 1.2(v) of the Council's Disciplinary Procedure Rules).

To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority.

To ensure that the responsible Director maintains a register of moveable assets in accordance with arrangements defined by the Corporate Services Group Director.

To ensure that assets are identified, their locations are recorded and, if appropriate, they are clearly marked.

To consult with the Corporate Services Group Director in any case where security is thought to be defective or where it is

considered that special security arrangements may be needed.

To ensure that any cash held at a Council site is held in accordance with key controls and within relevant insurance limits.

To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Director responsible for the service area.

To arrange for the valuation of assets for accounting purposes to meet the requirements specified by the Corporate Services Group Director.

To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

## **B. Inventories**

- **Responsibilities of Directors**

Inventories shall be maintained in all establishments of the Council by the Officer in Charge in a form approved by the Corporate Services Group Director. Directors shall be responsible for ensuring, by physical checks of items appearing in the inventories at least annually, that inventories are being properly maintained for all establishments under their control. The level and extent of the checks will need to be determined by the Group Director consistent with the risk of loss (e.g. value, portability, alternative use). Surpluses and deficiencies revealed at inventory checks shall be reported to the Corporate Services Group Director.

Directors are required to compile inventories and record an adequate description of all furniture, fittings, equipment, plant and machinery under their control.

The listing of furniture, fittings, equipment, plant and machinery must also be provided to the Corporate Services Group Director as requested.

## **C. Stocks and Stores**

- **Responsibilities of Directors**

To make arrangements for the care and custody of stocks

and stores in each Group by ensuring that procedures are in place for the receipt and issuing of stocks and stores and that the responsible Officers within each Group comply with those procedures.

To ensure stocks are maintained at reasonable levels in line with their use and are subject to a regular physical check (complying with the required 'Segregation of duties' procedures). All discrepancies should be investigated and pursued to a satisfactory conclusion.

To investigate and remove from the Authority's records (i.e. write-off) discrepancies as necessary, or to obtain Executive approval if they are in excess of a predetermined limit (any single occurrences greater than £1,000 must be reported to the Executive).

To authorise the sale or write-off and disposal of redundant stocks. Procedures for disposal of such stocks should be by competitive quotations or auction, unless otherwise agreed, following consultation with the Corporate Services Group Director.

To seek Executive approval to the write-off of redundant stocks in excess of £20,000 in any one year. Anything below this can be done in consultation with the Corporate Services Group Director.

To submit to the Corporate Services Group Director, following a stock take, a certificate indicating the value of stocks, stores and works in progress at 31 March each year in accordance with time scales laid down.

## **D Intellectual Property**

Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

- **Key Controls**

In the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Authority's approved intellectual property procedures.



- **Responsibilities of the Corporate Services Group Director**

To develop and disseminate good practice in relation to the management and control of the Authority's intellectual property.

- **Responsibilities of Directors**

To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

**E. Disposal of Land & Buildings**

The Authority must ensure that its Property and Land Portfolio matches the requirements of its corporate aims and objectives. All land and buildings not currently required, and not likely to be required in the future, should be disposed of subject to key controls.

- **Key Controls**

Land and Buildings for disposal are identified through the continuing review process and, if appropriate, are disposed of, but only when it is in the best interests of the Authority, after taking into consideration all relevant factors, including economic climate, and in accordance with Council Policies.

Due regard must be given to any conditions of external funding received by the Authority in respect of Land and Buildings e.g. period of retention, type of use.

All property disposals are carried out under the provisions of Section 123 of the Local Government Act 1972 to ensure best consideration. Any sale below best consideration requires Welsh Assembly Government approval (unless covered by a General Disposal Consent authorised by the Welsh Assembly Government).

Written procedures protect staff involved in the disposal from accusations of personal gain and bribery.

- **Responsibilities of the Corporate Services Group Director**

To identify and authorise the disposal of Land and Buildings.

To ensure appropriate accounting entries are made to remove the value of disposed land and buildings from the

Authority's records and to include the sale proceeds as appropriate.

To ensure that the disposal is promptly recorded in the Asset Register.

To monitor the impact of disposals of land and buildings on the availability of resources for the capital programme.

- **Responsibilities of Directors**

To seek advice from the Corporate Services Group Director (Service Director – Corporate Estates) on the disposal of surplus land and buildings.

Where land or buildings are surplus to requirements, a recommendation for sale must be the subject of prior consultation with the Corporate Services Group Director (Service Director – Corporate Estates) and the relevant Group Director.

To record all disposals or part exchanges of Land and Buildings, that should normally be by competitive tender or public auction, unless otherwise decided following consultation with the Corporate Services Group Director (Service Director – Corporate Estates).

To ensure that income received for the disposal of land and buildings is properly banked and coded.

To process all disposals of Land and Buildings through the Corporate Services Group Director (Service Director – Corporate Estates).

To provide any other key management information as required by the Corporate Services Group Director to assist in identifying Land and Buildings for disposal.

**F. Disposal of Obsolete Equipment and Other Assets**

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and Council policies.

- **Key Controls**

Due regard must be given to any conditions of external funding received by the Authority in respect of equipment and other assets e.g. period of retention, type of use.

Written procedures protect staff involved in the disposal from accusations of personal gain.

Assets are held only if they have an effective current or planned use by the Authority.

Disposal takes place in accordance with relevant policies such as Information Communications Technology (ICT) and Physical Security policy S.6.6.

- **Responsibilities of the Corporate Services Group Director**

To issue guidelines representing best practice for disposal of obsolete equipment and other assets (as detailed in the Council's Disposal of Assets and Equipment procedures).

- **Responsibilities of Directors**

To identify and authorise disposal of obsolete equipment and other assets.

To seek advice from the Procurement Unit on the disposal of surplus or obsolete materials, stores or equipment.

To ensure that income received for the disposal of an asset is properly banked and coded.

To record the disposal in the Inventory.

To inform the Corporate Services Group Director on the disposal of an asset to enable an accurate up to date Asset Register to be maintained consistent with deminimus levels.

Where the proceeds from the disposal are less than £6,000 to re-invest the proceeds in accordance with the priorities set out in the relevant Business Plan.

Where the proceeds from the disposal are greater than £6,000, to notify the Corporate Services Group Director, who will arrange for the appropriate accounting entries and subsequent allocation of the receipt.

## G. **Computers and Relevant Legislation**

The Council has implemented and communicated an Information Security Policy that provides a framework to protect the Council's Information Assets from all threats, whether internal or external, deliberate or accidental.

It is the Policy of the Council to ensure that:-

- Information will be protected against unauthorised access;
- Confidentiality of information will be assured;
- Integrity of information will be maintained;
- Regulatory and legislative requirements will be met;

- Business Continuity plans will be produced, tested and regularly reviewed;
- All breaches of information security, actual or suspected, will initially be reported to the ICT Service Desk and, where appropriate, investigated by Management.

The policy supports the Council in its operation of ICT Security whose aim is to maintain:-

- **Confidentiality of information** - protecting access to it;
- **Integrity of information** - preventing alteration of information; and
- **Availability of information** - ensuring information and services are available to authorised persons when required.

The Council, its employees and agents must comply with all UK and European legislation that is pertinent to the use and security of its ICT facilities.

- **Key Controls**

#### **The Computer Misuse Act 1990**

The following are offences:-

- Unauthorised access to a computer (This would occur, for example, where an employee intentionally exceeds his or her level of authorised use of a computer, or where a hacker breaches the security of a computer);
- Unauthorised modification of the contents of a computer (This covers such items as unauthorised modification of computer programs or the deliberate introduction of a virus – even if the virus is harmless);
- Unauthorised access to a computer in order to facilitate a further offence (Examples of this would include hacking in order to commit fraud, or accessing sensitive data in order to blackmail an individual).

#### **Copyright Designs and Patents Act 1988**

Computer software is protected by copyright as much as books, videos, records, etc. Unauthorised copying is an offence under the Copyright Design and Patents Act 1988 and could lead to prosecution of both the employee and the Authority.

The Authority is liable to audit from such organisations as FAST (Federation Against Software Theft) - a consortium of

large and powerful software vendors. They will prosecute if they find irregularities.

### **Data Protection Act 1998**

The Authority is subject to the requirements of the Data Protection Act 1998. The Authority's Corporate Information Management Officer advises employees in cases of doubt and is responsible for ensuring that the Authority's entry in the Data Protection Register is kept up to date. The following principles are to be followed when processing personal data:-

- Personal data shall be processed fairly and lawfully;
- Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes;
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;
- Personal data shall be accurate and, where necessary, kept up to date;
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or purposes;
- Personal data shall be processed in accordance with the rights of data subjects under this Act;
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
- Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

The requirements of the Data Protection Act 1998 as detailed above apply to both data held electronically and manually.

### **Freedom of Information Act 2000**

The Act confers a general right of access to information held by public Authorities, subject to certain conditions and exemptions.

A requirement is placed on public Authorities to consider the exercise of any discretion that they may have to disclose information, notwithstanding that an exemption applies to information having regard to all the circumstances of the case, and the desirability of:-

- Informing the applicant whether it holds information;
- Communicating the information - whether the public interest in disclosure outweighs the public interest in maintaining the exemption in question.

A duty is placed on every public authority to adopt and maintain a scheme which relates to the publication of information by that Authority.

- **Responsibilities of the Corporate Services Group Director**

To issue detailed guidelines and procedures relating to the use of computers across the network and in wider traffic via the internet.

To put in place adequate monitoring arrangements to ensure that all procedures with regards to computer use are being followed by all services.

- **Responsibilities of Directors**

To comply with all guidelines and procedures issued by the Corporate Services Group Director with respect to the use of computers.

## 6.7 Treasury Management

Many millions of pounds pass through the Authority's books each year. The CIPFA Code of Practice on Treasury Management and Prudential Code has been established to recognise the need to maintain financial probity in this respect across local authorities. This aims to provide assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sums. Secondary consideration is given to liquidity, with yield (return on investment) being third.

- **Key Controls**

That the Authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management, the Prudential Code* and with the Authority's Treasury Policy Statement.

The Council has formally adopted the following clauses:-

- This Council will create and maintain, as the cornerstone for effective treasury management:-
  - A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities;
  - Suitable treasury management practices (TMP's), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMP's will follow the recommendations contained in section 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles;

- This Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in its TMP's.
- This Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Council and for execution and administration of treasury management decisions to the Group Director Corporate Services who will act in accordance with the Council's policy statement and TMP's and if a member of CIPFA, CIPFA's Standard of Professional Practice on Treasury Management;
- This Council names the Corporate Services Scrutiny Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

- **Responsibilities of Corporate Services Group Director – *treasury management and banking***

To produce a Treasury Management Strategy incorporating Prudential Indicators and an Investment Strategy (before the start of each financial year).

To produce (as a minimum) an annual report following the end of each financial year and a mid-year review on Treasury Management Activities.

To arrange the borrowing and investments of the Authority in such

a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Authority's Treasury Management Policy Statement and Strategy.

To report at least twice a year on Treasury Management activities to the Council.

To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Corporate Services Group Director.

- **Responsibilities of Directors – *treasury management and banking***

To follow the instructions on banking issued by the Corporate Services Group Director.

- **Responsibilities of Corporate Services Group Director – *investments and borrowing***

To ensure that all investments of money are made in the name of the Authority and approved by the Council.

To ensure that all securities that are the property of the Authority and the title deeds of all Investment Assets in the Authority's ownership are held in the custody of the appropriate Group Director.

To effect all borrowings in the name of the Authority.

To act as the Authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Authority.

- **Responsibilities of Directors – *investments and borrowing***

To inform the Corporate Services Group Director of any material cashflows to aid efficient investment on a timely basis.

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the Corporate Services Group Director.

## **Trust Funds**

Trust Funds are entities which are separate from the Authority but for which the Authority acts as trustee in accordance with the legal framework of the fund. Examples include the Pension Fund, the Welsh Church Act Fund and Education Trust Funds.

- **Responsibility of the Corporate Services Group Director - *trust funds and funds held for third parties***



To ensure that the Trust Fund is operated in accordance with its legal framework, having due regard to the objectives of the organisation.

To develop, where necessary, separate Financial Procedure Rules and Contract Procedure Rules. In the event of separate Financial Procedure Rules and Contract Procedure Rules being silent on an issue, the Authority should comply with its own Financial Procedure Rules and Contract Procedure Rules.

- **Responsibilities of Directors – trust funds and funds held for third parties**

To arrange for all trust funds to be held, wherever possible, in the name of the Authority. All Officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Corporate Services Group Director, unless the deed otherwise provides.

To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Corporate Services Group Director, and to maintain written records of all transactions.

To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

- **Responsibilities of the Corporate Services Group Director – imprest accounts**

To provide employees of the Authority with cash or bank imprest accounts to meet minor expenditure on behalf of the Authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made and periodically to review the arrangements for the safe custody and control of these advances.

To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly, unless prior agreement has been made for this process to be undertaken within individual Groups.

- **Responsibilities of Directors – imprest accounts**

To ensure that employees operating an imprest account:-

- Obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
- Make adequate arrangements for the safe custody of the account;

- Produce upon demand by the Corporate Services Group Director cash and all vouchers to the total value of the imprest amount;
- Record transactions promptly;
- Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder;
- Provide the Corporate Services Group Director with a certificate of the value of the account held at 31 March each year within timescales set by the Corporate Services Group Director;
- Ensure that funds are never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the imprest and change relating to purchases where an advance has been made;
- On leaving the Authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Corporate Services Group Director for the amount advanced to him or her.

## **Cash Floats**

- **Responsibility of the Corporate Services Group Director**

To issue a cash float (a sum of money in the form of a cheque) to an establishment where there may be a vending machine, till, cashier desk or any other location dealing with cash transactions.

To assess the reasonableness of the amount requested in relation to the size of the establishment and the level of its activities.

To keep records of increases and decreases of cash floats.

To reconcile cash floats held in establishments to the ledger at year end (at a minimum).

- **Responsibilities of Directors**

To initiate a cash float request.

To make adequate arrangements for the safe custody of the cash float.

To reconcile cash floats held in accordance with instructions issued by the Corporate Services Group Director.

To provide the Corporate Services Group Director with a certificate of the value of the cash float held at the 31<sup>st</sup> March each year within time scales prescribed by the Corporate Services Group Director.

To ensure that the float is never used to cash personal cheques or to make personal loans.

If the cash float is no longer required:-

- To inform the Corporate Services Group Director of the payment;
- To pay the amount of the float originally issued into the bank account (either via the cash desk or through a bank branch);
- To provide a ledger code and a paying-in-slip.

## 6.8 Staffing

In order to provide the highest level of service, it is crucial that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

- **Key Controls**

An appropriate Human Resource strategy and policy exists, in which staffing requirements and budget allocations are matched.

Procedures are in place for forecasting staffing requirements and controls are implemented to ensure that staff time is used efficiently and to the benefit of the Authority.

Policies are in place to manage and optimise the value from the workforce.

Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

The Authority operates a full equal opportunities policy for all positions.

- **Responsibilities of the Corporate Services Group Director**

To ensure that budget provision exists for all existing and new employees including external third party funding.

To act as an advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.

- **Responsibilities of Directors**

To produce an annual staffing budget.

To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision

(including on-costs, overheads and the agreed establishment).

To appoint and manage staff (including staff and post changes) in accordance with the human resource policies of the Authority.

To ensure that staffing details (movements, annual leave, etc.) are appropriately and correctly recorded in line with corporate guidance and on corporately agreed systems / forms.

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To ensure that the Corporate Services Group Director is immediately informed if the staffing budget is likely to be materially overspent.

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## 7. FINANCIAL SYSTEMS AND PROCEDURES

### 7.1 Accounting Systems

The Authority's corporate General Ledger will be the official record and all subsidiary and satellite systems must be reconciled to this.

Service Groups have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing, payroll and HR and management systems. These Groups are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Corporate Services Group Director has a professional responsibility to ensure that the Authority's financial systems are sound and must therefore be notified, at the outset, of any new developments or changes.

- **Key Controls**

Basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated and maintained.

Financial information is communicated to the appropriate managers on an accurate, complete and timely basis.

Early warning is provided of deviations from targets, plans or budgets that require management attention.

Operating systems and procedures are secure.

Access to the Authority's financial system is tailored according to individual employee's areas of responsibility. Authorisation and removal of access is undertaken on a timely basis.

- **Responsibilities of the Corporate Services Group Director**

To make arrangements for the proper administration of the Authority's financial affairs, including to:-

- Issue advice, guidance and procedures for Officers and others acting on the Authority's behalf;
- Determine the accounting systems, form of accounts and supporting financial records;
- Administer and control the corporate financial information system;
- Set disaster recovery standards for corporate financial systems;

- Establish arrangements for the audit of the Authority’s financial affairs;
- Define minimum standards for financial systems;
- Approve any changes to be made to existing financial systems.

• **Responsibilities of Directors**

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Corporate Services Group Director.

To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document and vice versa, is maintained.

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.

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.

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.

To ensure that systems are documented and staff trained in operations.

To ensure that any financial systems within their service area meet the minimum standards laid down by the Corporate Services Group Director.

To ensure that any proposed new systems that impact on financial reporting are notified to the Corporate Services Group Director at the planning stage.

To establish a scheme of authorisation identifying Officers authorised to act upon the Directors behalf in respect of payments, staff remuneration, income collection and placing orders, including variations, and showing the limits of their authority.

To establish and supply lists of authorised Officers (where

appropriate), with specimen signatures and delegated limits, to the Corporate Services Group Director, together with any subsequent variations.

To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems, in accordance with standards and directions issued by the Corporate Services Group Director.

To have regard to Computer Usage regulations identified earlier in section 6.6 (G).

To ensure that satellite systems and any financial reports are reconciled to the corporate ledgers.

## 7.2 Income and Expenditure

This section will consider the following issues:-

- Income;
- Ordering and paying for goods, works and services \*;
- Contracts for building, constructional or engineering works\*;
- Payments to employees or Members\*;
- Internal invoicing.

\* Prior to contracting with any individual, the authorised officer should confirm whether the proposed contractual status is one of a 3<sup>rd</sup> Party relationship or one of an Employee/Employer relationship (Further guidance is available in the 'Procedures for Confirming Employment Status' held in the Creditors Section of the Council's Intranet System 'Inform'). The status of the contractual relationship will determine which of the sub-sections apply.

### A. Income

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. All efforts must be made to obtain income in advance of supplying goods or services as this improves the Authority's cashflow and also avoids the time and cost of administering debts.

- **Key Controls**

All income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed.

All income is collected from the correct person, at the right time, using the correct procedures and the appropriate

stationery.

All money received by an employee on behalf of the Authority should be properly recorded immediately and banked at intervals that are efficient and demonstrate value for money in terms of amount and frequency.

The responsibility for cash collection should be separated from that for identifying the amount due and for reconciling the amount due to the amount received.

All formal requests for income due to the Authority must be processed through the Authority's Corporate Debtors System, unless otherwise authorised by the Corporate Services Group Director.

Effective action is taken to pursue non-payment within defined timescales.

Formal approval for debt write-off is obtained (above that approved in the scheme of delegation).

Appropriate write-off action is taken within defined timescales, as contained in the Authority's Write-off Policy and Procedures guidelines.

Appropriate accounting adjustments are made following write-off action.

All appropriate income documents are retained and stored for the defined period in accordance with the Authority's Retention of Financial Records Policy.

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 Services Group Director**

To agree arrangements for the collection of all income due to the Authority and to approve the procedures, systems and documentation for its collection.

To order and supply to Service Groups all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.

To agree the write-off of bad debts or seek approval from the Executive:-

- Where the irrecoverable debt is £2,000 or less by the relevant Director in consultation with Corporate Services Group Director, except where the Corporate Services



Group Director considers they are matters of principle or policy which should be referred to the Executive;

- Where the irrecoverable debt is over £2,000, by the Executive after considering a report of the Corporate Services Group Director.

All debts written off will be “charged back” to the Group responsible for raising the original invoice or charged against a provision previously set up from the relevant Group’s resources. Directors will, where relevant, be requested to formally explain reasons for the nature and frequencies of write-off within their Groups.

To ensure that appropriate accounting adjustments are made following write-off action.

To set the debt recovery policies for the Authority, including the minimum standards of information required to support any debts outstanding.

To advise service areas, where appropriate, of the level and details of debt outstanding for their areas.

To make the most economic, efficient and effective arrangements for the collection of income of behalf of the Council.

- **Responsibilities of Directors**

To ensure that, wherever possible, income is received in advance of the service being provided.

To ensure, where it is not deemed possible to collect income in advance, that invoices are raised via the Authority’s Corporate Debtors System, or an equivalent system approved by the Corporate Services Group Director, in line with the Sundry Debtors System Guidance Manual.

In all instances, due regard should be given to the most efficient and effective means of income collection subject to approval by the Corporate Services Group Director.

To establish an annual review of charges for the supply of goods or services, including the appropriate charging of VAT (refer to ‘Taxation’ Section 7.3) in line with guidance from the Corporate Services Group Director.

To ensure that all income is correctly coded to the appropriate cost centre/fund.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To follow appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly in consultation with the Corporate Services Group Director.

To set appropriate levels of bad debt provision, taking account of the level of outstanding debt, as notified by the Corporate Services Group Director. Where appropriate, the resources set aside for bad debt provisions will be funded from the relevant Group.

To issue official receipts or to maintain other documentation for income collection.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income for the appropriate period.

To lock away all income to safeguard against loss or theft and to ensure the security of cash handling and banking arrangements with due regard to insurance thresholds for specific sites and containers. Keys to locks should be kept securely off site.

To ensure that income is paid fully and promptly into the appropriate Authority bank account in the form in which it is received. Appropriate details should be recorded on a paying - in slip to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

To ensure income is not used to cash personal cheques or other payments.

To supply the Corporate Services Group Director with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Corporate Services Group Director to record correctly the sums due to the Authority and to ensure accounts are sent out promptly. To do this, Directors should use established performance management systems to monitor recovery of income and flag up areas of concern to the Corporate Services Group Director. Directors have a responsibility to assist the Corporate Services Group Director in collecting debts that they have originated, by providing any further information requested by the debtor and in pursuing the matter on the Authority's behalf.

To keep a record of every transfer of money between employees of the Authority. The receiving Officer must sign for the transfer and the transferor must retain a copy.

To recommend to the Corporate Services Group Director all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

To obtain the approval of the Corporate Services Group Director when writing off debts in excess of the approved limit and the approval of the Executive where required.

To notify the Corporate Services Group Director of outstanding income (reserved debtors) relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Corporate Services Group Director.

## **B. Ordering and Paying for Work, Goods and Services**

Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These Financial Procedure Rules should be read in conjunction with the Authority's Contract Procedure Rules and Procurement Guidelines.

Every Officer and Member of the Authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with appropriate codes of conduct.

Official orders must be in a form approved by the Corporate Services Group Director. Official orders must be issued for all work, goods or services to be supplied to the Authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Corporate Services Group Director e.g. purchases via an approved Purchase Card.

Each order must conform to Procurement Guidelines and make full use of County Borough Supplies and Corporate Contracts. Standard terms and conditions must not be varied without the prior approval of the Corporate Services Group Director.

Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method

of payment from the Authority shall be by cheque, BACS or other instrument or method approved by the Corporate Services Group Director, drawn on the Authority's bank account. Payment means other than cheque, BACS or other approved instrument or method, shall require the prior agreement of the Corporate Services Group Director.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Authority contracts.

- **Key Controls**

All goods and services are only ordered by appropriate persons and are correctly recorded.

All goods and services shall be ordered in accordance with the Authority's Contract Procedure Rules unless they are purchased from sources within the Authority.

Goods and services received are checked to ensure they are in accordance with the order. There should always be segregation of duties between those raising, approving and receipting orders. Where the Council's E-procurement system is being used goods can be receipted by the same person who raised the order – but items cannot be receipted on the system by the person who approved / authorised the order.

Payments are not made unless goods have been received by the Authority to the correct price, quantity and quality standards (except where a pre-agreed arrangement has been approved by the Corporate Services Group Director).

All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.

All appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the Authority's Retention of Financial Records Policy.

All expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected.

In addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically (further guidance is available from the Corporate Services Group Director).

- **Responsibilities of the Corporate Services Group Director**

To approve the form of official orders and associated terms and conditions.

To make payments from the Authority's funds based on the Directors authorisation that the expenditure has been duly incurred in accordance with financial regulations (except where a pre-agreed arrangement has been approved by the Corporate Services Group Director e.g. a payment in advance to a grant funding recipient).

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Directors, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

To provide advice and encouragement on making payments by the most economical means.

To be satisfied that sufficient procedures exist within the budgetary control system to allow for commitments to be taken into account in budget monitoring reports.

- **Responsibilities of Directors**

To ensure that unique pre-numbered official orders are used for all goods and services.

To ensure that orders are only used for goods and services provided to the group. Individuals must not use official orders to obtain goods or services for their private use.

To ensure that only those staff authorised by him or her authorise orders and to maintain (for orders not raised using the Council's E-Procurement System) an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their Authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value for money principles should underpin the Authority's approach to procurement.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should be carried out by a different Officer from the person

who authorised the order. Appropriate entries should then be made in inventories or stores records.

To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:-

- Receipt of goods or services and the Authority's official order number that it relates to (except where a pre-agreed arrangement has been approved by the Corporate Services Group Director);
- That the invoice has not previously been paid;
- That expenditure has been properly incurred and is within budget provision (with the exception as detailed for receipt of goods or services);
- That prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
- Correct accounting treatment of tax – including the deduction and administration of the Construction Industry Scheme (CIS) where appropriate, referring to guidance issued in the Authority's Taxation Manual;
- That the invoice is correctly coded;
- That discounts have been taken where available;
- That appropriate entries will be made in accounting records.

To ensure that a budgetary control system exists within Groups that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

To ensure that at least two authorised members of staff are involved in the ordering, receiving and payment process. For electronic orders the person raising the order must be different to the person approving / authorising the order. For paper based orders, the person raising the order must be different to the person signing approval of the subsequent invoice and that signature must match the signature on the list of authorised signatories. Preferably, a third person should acknowledge receipt of the goods or services ordered but it is recognised that staffing arrangements sometimes demand that the person raising the order and receipting the goods and services is the same.

To ensure that the Group maintains and reviews periodically

a list of staff approved to authorise invoices. Names of authorising Officers together with specimen signatures and details of the limits of their Authority shall be forwarded to the Corporate Services Group Director as appropriate.

To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of this not being complied with should be reported to the Council's Internal Audit Service.

To encourage suppliers of goods and services to receive payment by the most economical means for the Authority. It is essential that all methods of payment have the prior approval of the Corporate Services Group Director.

To ensure that the Group obtains value for money from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality (having regard to best practice guidelines issued by the Corporate Services Group Director, which are in line with value for money principles and the Authority's Contract Procedure Rules).

To ensure that employees are aware of the national code of conduct for local government employees.

To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Corporate Services Group Director. This is because of the potential impact on the Authority's borrowing powers, to protect the Authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

To notify the Corporate Services Group Director of outstanding expenditure (reserve creditors) relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Corporate Services Group Director.

To notify the Corporate Services Group Director immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Authority's Retention of Financial Records Policy.

## **C Contracts for Building, Construction or Engineering Work**

Requirements exist in relation to Building, Construction and Engineering works contracts. These requirements exist equally for in house and external contractors and are covered by the

## Council's Contract Procedure Rules.

This section should be read in conjunction with the Council's Contract Procedure Rules and Corporate Procurement Guidelines.

- **Key Controls**

Contracts must comply with:-

- The Council's Contract Procedure Rules and those Financial Procedure Rules relating to Contracts;
- Any standard form of contract adopted by the Council for the purpose in hand;
- National and EU Legislation.

- **Responsibilities of the Corporate Services Group Director**

The Corporate Services Group Director shall ensure that formal procedures are in place including the maintenance of the Council's Contract Management System which controls all significant contracts (All contracts in excess of £50,000 and others deemed significant), from tendering to final payment stages in accordance with the relevant section of the Corporate Procurement Guidelines (Contract Procedure Rules and all associated and subsidiary documents). The system shall show the status of accounts on each contract between the Council and the contractor, together with any payments.

- **Responsibilities of Directors**

To maintain the Council's Contract Management System to control all significant contracts within their service areas, from tendering to final payment stages.

All payments to contractors shall be made on a certificate signed by the appropriate officer as determined by the Scheme of Delegation in a form approved by the Corporate Services Group Director. This certificate shall show the total amount of the contract, the value of work executed to date, retention money, amount paid to date and the amount now certified. Advice on the format of certificates can be obtained from the Corporate Services Group Director.

Any variation of, addition to or omission from, a contract duly authorised, shall be given in writing to the contractor by the responsible Group Director.

The responsible Group Director shall ensure that for any variations not within budget, there is strict compliance with



the scheme of virement.

In every case, before a final certificate is issued by or on behalf of a Group Director, the Council's Contract Management System should be updated.

Documentation will be retained in accordance with the Retention of Financial Records Policy and will be made available to the Corporate Services Group Director as required.

Where professional architects, engineers or surveyors are employed to design or supervise work for the Council, it shall be a condition of their employment that they:-

- Be engaged by the relevant Director at fee rates competitively and fairly set, arranged in accordance with Contract Procedure Rules;
- Make available to the appropriate Director all documents relating to the Contract, for which they are acting on the Council's behalf, before a final certificate of costs is issued.

Each Group Director, in consultation with the Corporate Services Group Director shall be responsible for reporting to the Executive any variations, additional payments and likely over-spending in excess of £50,000 or 10% of the contract sum (whichever is the greater) unless covered by the initial report. No payment above these values will be made without approval, other than in exceptional circumstances (e.g. potential breach of contract) which must be agreed with the Corporate Services Group Director.

The Contract Manager shall bring to the attention of the responsible Officer, as determined by the Scheme of Delegation, the potential for the deduction of liquidated and ascertained damages. The Officer shall make the decision to pursue or otherwise based upon the full facts, including the nature of the claim, materiality and any relevant legal considerations. Any proposal not to deduct liquidated damages, where such a right has accrued, shall be reported to the Group Director and to the Corporate Services Group Director.

On completion of every contract the Contract Manager should review the performance of the contractor and maintain records on the Council's Contract Management System in accordance with the Corporate Procurement Guidelines. Financial and Technical Vetting shall be carried out for all prospective contractors and arrangements for such vetting agreed with the Corporate Services Group Director.

A detailed report on the progress and costs of Capital Schemes shall be made regularly to the Executive; the detailed format and frequency of these reports are to be agreed by the Corporate Services Group Director. In addition, for contracts over £100,000 in tender value, details of the original and anticipated final costs, programme progress and instructions exceeding 10% of the contract sum shall be shown. A realistic estimate of the value of any known or anticipated claims should also be included in the forecast final cost.

Bonds and guarantees may be required of a Contractor or Parent Company by the Contracting Officer, having taken due account of risks involved for the Council. Guidance to risk assessment can be provided by the Corporate Services Group Director.

When a risk is perceived, the potential bond shall be a minimum of 10% of the contract value.

#### **D Payments to Employees, Pensioners and Members**

Employee costs are the largest item of expenditure for most of the Authority's services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' established post and conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are paid in accordance with the scheme adopted by the Council.

- **Key Controls**

Proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:-

- Starters;
- Movers;
- Leavers.

Ensure compliance with all Human Resources Policies.

All payments are in accordance with individuals' established posts and terms and conditions and based on authorised timesheets, staff returns or individual claims as approved.

Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

Ensure all payroll additions and deductions are reconciled to the Authority's financial system on a periodic basis (monthly).

Ensure employee payroll records are linked to the approved establishment. All appropriate payroll documents are

retained and stored for the defined period in accordance with the Authority's Retention of Financial Records Policy and that HM Revenue and Customs (HMRC) / EU regulations are complied with.

- **Responsibilities of the Corporate Services Group Director**

To arrange and control secure and reliable payment of salaries, wages, pensions, emoluments and other remuneration to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.

To record and make arrangements for the accurate and timely payment of tax, pension and other statutory / voluntary deductions.

To make arrangements for payment of all travel and subsistence claims.

To make arrangements for paying Members allowance or travel and subsistence allowances upon receiving the prescribed form, duly completed and authorised.

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

To ensure that there are adequate arrangements for administering pension matters on a day-to-day basis.

- **Responsibilities of Directors**

To ensure that the creation of new posts are in line with agreed Council processes and to ensure that appointments are only made to such correctly established , valid and vacant posts.

To ensure appointments are made in accordance with the regulations of the Authority and that remuneration complies with all Council policies for the payment of employees, pensioners and Members.

To notify the Corporate Services Group Director of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Corporate Services Group Director and in accordance with the approved policies of the Council.

To ensure that adequate and effective systems and procedures are operated, so that:-

- Payments are only made to bona fide employees;

- Employees are authorised against the approved establishment post structure;
- Payments are only made where there is a valid entitlement;
- Conditions and contracts of employment are correctly applied;
- Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

To send an up-to-date list of the names of Officers authorised to sign records to the Head of Service Payroll or the Director of Human Resources, as appropriate, together with specimen signatures, where such Authorisation is not facilitated and controlled through the Council's Payroll and Human Resources systems. The payroll provider should maintain signatures of Officers authorised to sign timesheets, claims and all other variations affecting pay.

To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed, consultant or subcontract basis as referred to at the start of this section. The HMRC applies a tight definition for employee status which the above guidance helps determine. In cases of doubt, advice should be sought from the Corporate Services Group Director.

To certify travel and subsistence claims and other allowances (in line with the timetable laid down by the Corporate Services Group Director). Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred and that allowances are properly payable by the Authority, ensuring that cost-effective use of travel arrangements is achieved. Invoices / receipts must be retained for all mileage and non-mileage expenses claims in line with the Council's Retention of Financial Records policy. Claims submitted more than three months after the expenses were incurred must be accompanied by a written explanation for the delay and be certified by the authorised signatory. For specific guidance, reference should be made to the Authority's Expense Claim procedures.

To ensure that the Corporate Services Group Director is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax, P11d and self-assessment procedures.

To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with

the Authority's Retention of Financial Records Policy.

- **Responsibilities of Members**

To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year-end.

E. **Internal Invoicing**

The internal recharge of service income and costs is administered currently, in part, through an internal invoicing system, operated manually and without interaction with the Authority's external invoicing systems.

- **Key Controls**

All income due and expenditure from, service areas in respect of internal recharging relationships is correctly recorded and accounted for.

An appropriate timescale is allowed for certification of internal invoicing and where not actioned, arbitration processes exist to clear all disputes.

- **Responsibilities of the Corporate Services Group Director**

To issue guidelines and procedures on the administration of the Authority's internal invoicing system.

To ensure that internal charging processes are efficient and effective and represent the best interests of the Authority as a whole.

To arbitrate on outstanding disputed invoices at the end of the financial year where the client and supplier departments fail to reach agreement for payment of the invoices.

- **Responsibilities of Directors**

To comply with all guidelines and procedures issued by the Corporate Services Group Director on the administration of the Authority's internal invoicing system.

### 7.3 **Taxation**

Like all organisations, the Authority has a legal obligation to ensure its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all Officers to be aware of their role.

- **Key Controls**

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 Services Group Director**

To complete all Inland Revenue returns regarding PAYE in accordance with statutory regulations.

To ensure compliance with HMRC and Department for Work and Pensions regulations.

To complete a monthly return of VAT inputs and outputs to HMRC.

To complete monthly and annual CIS returns in accordance with statutory requirements, including maintaining an up-to-date register of certificates and registration cards.

To meet all additional taxation requirements as laid out in the Taxation Manual.

To maintain up-to-date guidance for Authority employees on taxation issues in the Authority's Taxation Manual.

To facilitate training opportunities for Authority employees on taxation issues where appropriate.

To reconcile Taxation codes within the Authority's Financial System.

- **Responsibilities of Directors**

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry scheme requirements and is registered as such with this Authority.

To manage and control other service sector specific taxation issues in agreement with the Corporate Services Group Director, for example, Landfill Tax.

To ensure that all persons employed by the Authority are added to

the Authority's payroll and tax deducted from any payments. Ensure individuals are bona fide self-employed or are employed by a recognised staff agency in accordance with National Insurance categorisation.

To follow the guidance on taxation issued by the Corporate Services Group Director.

To inform the Corporate Services Group Director of any items of expenditure and/or income that may have a material effect on the taxation position of the Authority.

#### 7.4 **Trading Accounts/Services**

Under the Best Value Accounting Code of Practice, Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the Improvement Plan.

- **Responsibilities of the Corporate Services Group Director**

To advise on the establishment and operation of trading accounts.

- **Responsibilities of Directors**

To consult with the Corporate Services Group Director where a trading service wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged and to produce an annual report in support of the final accounts.

To ensure that the same accounting principles are applied in relation to trading accounts as for other services.

## 8. EXTERNAL ARRANGEMENTS

### 8.1 Partnerships

Partnerships play a key role in delivering the Community Strategy 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.

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**

The main reasons for entering into a partnership are:-

- The desire to find new ways to share risk;
- The ability to access new resources;
- To provide new and better ways of delivering services;
- To forge new relationships;
- Community involvement.

**A partner is defined as either:-**

- An organisation (private, public or community) undertaking, part funding or participating as a beneficiary in a project;

or

- A body whose nature or status gives it a right or obligation to support the project.

**Partners participate in projects by:-**

- Acting as a project deliverer or sponsor, solely or in concert with others;
- Acting as a project funder or part funder;
- Being the beneficiary group of the activity undertaken in a project.

**Partners have common responsibilities:-**



- To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- To act in good faith at all times and in the best interests of the partnership's aims and objectives;
- To be open about any conflict of interests that might arise;
- To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- To act wherever possible as ambassadors for the project.

- **Key Controls**

If appropriate, to be aware of their responsibilities under the Authority's Financial Procedure Rules and Contract Procedure Rules.

To ensure that risk management processes are in place to identify and assess all known risks.

To ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise.

To agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences.

To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

The Chief Executive (or authorised nominee) represents the Authority on partnership and external bodies.

- **Responsibilities of the Corporate Services Group Director**

To advise on effective controls that will ensure that resources are not wasted.

To advise on the key elements of project funding. They include:-

- A scheme appraisal for financial viability, in terms of value for money and affordability, in both the current and future years;

- Risk appraisal and management;
- Resourcing, including taxation issues;
- Audit, security and control requirements;
- Carry-forward arrangements.

To ensure that the accounting arrangements are satisfactory.

- **Responsibilities of Directors**

To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Corporate Services Group Director.

To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Corporate Services Group Director in a format specified by this Officer.

To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Authority.

To ensure that all agreements and arrangements are properly documented.

To provide appropriate information to the Corporate Services Group Director to enable a note to be entered into the Authority's statement of accounts concerning material items.

## 8.2 External Funding

External funding is 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 the Authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds such as the National Lottery grants, European grants and Local Regeneration Funds provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

- **Key Controls**

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 Council.

To ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

To ensure that staff employed (and funded in full or in part) for the purposes of externally funded projects are properly recorded on the Council's Human Resources and Payroll systems.

To ensure that appropriate exit arrangements are established for dealing with the end of the project / source of external funding.

- **Responsibilities of the Corporate Services Group Director**

To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.

To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

To ensure that audit requirements are met.

To ensure that adequate monitoring arrangements for grants exist across all service groups.

- **Responsibilities of Directors**

To ensure that all applications for external funding and / or projects being developed for external funding applications are approved, as appropriate, at inception to ensure that:-

- It is in pursuance of the Council's priorities;
- Future impacts upon the Council's revenue and capital budgets are duly considered;
- Appropriate and robust exit arrangements are in place.

To ensure that all claims for funds are made by the due date.

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

To ensure that sufficient project management resources are assigned to schemes to facilitate successful completion of all projects.

To ensure that third party agreements are notified to the Corporate Services Group Director.

To ensure that all relevant documentation is retained in accordance with the Authority's Retention of Financial Records Policy.

### 8.3 **Work for Third Parties**

Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is not ultra vires.

- **Key Controls**

To ensure that proposals are costed properly in accordance with guidance provided by the Corporate Services Group Director.

To ensure that contracts are drawn up using guidance provided by the Corporate Services Group Director and that a formal approvals process is adhered to.

- **Responsibilities of Corporate Services Group Director**

To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

- **Responsibilities of Directors**

To ensure that the approval of the Corporate Services Group Director is obtained before any negotiations are concluded to work for third parties.

To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Corporate Services Group Director.

To ensure that appropriate insurance arrangements are made.

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

To ensure that no contract is subsidised by the Authority.

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

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

To ensure that such contracts do not impact adversely upon the services provided by the Authority.

To ensure that all contracts are properly documented.

To provide appropriate information to the Corporate Services Group Director to enable a note to be entered into the Statement of Accounts.

# **Contract Procedure Rules**

## **KEY MESSAGES:**

- Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council (in accordance with the Scheme of Delegation) are affected by these Rules.
- Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts / established Framework Agreements / other legally available arrangement).
- Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

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## **CONTRACT PROCEDURE RULES**

### **Section 1 Introduction**

These Contract Procedure Rules should be read in conjunction with the Council's Financial Procedure Rules and Scheme of Delegation. Where there is a conflict between the Scheme of Delegation, Financial Procedure Rules and Contract Procedure Rules, the provisions of the Scheme of Delegation shall prevail and the determination of the Director of Legal and Democratic Services in consultation with the Group Director of Corporate Services upon such conflict shall be final.

A key requirement of these procedure rules is to ensure competitiveness and the primary method of achieving this is through a competitive process. These Rules set a framework for these processes and aim to strike the right balance between price and quality whilst keeping the cost of contracting to a minimum.

### **Scope**

These Contract Procedure Rules:

- Are applicable to the making by the Council of all Contracts, for the provision, supply, hire or disposal of goods, materials or intellectual products, and for the provision of services, the use of consultants and to Contracts for income.
- Are not applicable to Contracts of service (i.e. employment contracts). Please note however that the procurement of Agency Workers and Consultancy Services does fall within the scope of these Rules.

### **Functionality**

These Contract Procedure Rules:

- Are applicable to the formation of Contracts and to any matters as may arise in the process of managing Contracts, which significantly change, vary or terminate any such Contract during its currency.
- Relate to the extension or renewal of Contracts beyond their initial term.
- Are without prejudice to the need for budget holders to ensure that budgets are not exceeded.
- Are without prejudice to the requirements of UK and EU Legislation governing any Contract in which case those requirements shall be followed (even if they conflict with these rules).

## **Aims**

These Contract Procedure Rules:

- Aim to achieve value for money for the Council in the market by ensuring provision for securing competition at appropriate levels of expenditure whilst avoiding disproportionate or bureaucratic costs where levels of expenditure are less significant.
- Aim to achieve fullest accountability at all levels whilst ensuring an adequate audit trail by requiring the Directors to record who did what, how and when.
- Aim to ensure that Officers follow proper and fair procedures for the involvement and selection of Contractors.
- Aim to ensure compliance with EU Procurement Directives.
- Aim to ensure that proper Specification is made by Officers which reflect the appropriate and realistic quality requirements for any defined need, and that offers may be judged by objective criteria.
- Aim to ensure that levels of monitoring and training exist to ensure proper compliance and that these rules are regularly reviewed to take account of new circumstances.

## **Status**

These Contract Procedure Rules:

- Are made under Section 135 of the Local Government Act 1972 and all other powers enabling the Council.
- Are applicable to all parts of the Council's activities.
- Are applicable where the Council is acting as agent for another body unless the principal directs otherwise.
- Must be adopted by any external contractors empowered to form Contracts on behalf of the Council and by any person who is not an Officer of the Council engaged to manage a Contract on behalf of the Council.
- Shall apply to the selection of nominated suppliers and nominated Sub-contractors for products covered by prime costs and provisional sums in a main contract.
- Shall be interpreted so far as possible to ensure the Aims set out in these rules are achieved.
- Are not applicable to expenditure between Service Areas, Groups or the use of the Council's trading organisations.



## **Who is affected by these Procedure Rules?**

Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council in accordance with the Scheme of Delegation.

## **Tendering / Ordering / Advertising**

Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts / established Framework Agreements / other legally available arrangement).

Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

Aligned to the Councils continued modernisation agenda, the Corporate Procurement Unit has implemented a number of Electronic Procurement Systems that should be utilised as corporate solutions to support the cost efficient procurement of goods and services (streamlining the transaction process and reducing unnecessary administration overheads where possible). Please refer to Appendix 1 or the Council's Procurement intranet site for further information regarding the use of these systems.

In accordance with the principles of the Welsh Assembly Government "Opening Doors, The Charter for SME Friendly Procurement", contracts exceeding £25,000 shall be advertised on the Council's Contract Management System and or the Welsh National Procurement Website (Buy4Wales), where practical, and providing that it represents best value for the Council. In any event, all contracts for Supplies and Services exceeding the EU Procurement Thresholds and Works contracts exceeding £750,000 shall be advertised on the Council's Contract Management System and or the Welsh National Procurement Website. Details of contracts awarded shall also be advertised on the Council's Contract Management System and or the Welsh National Procurement Website.

## **Service Director of Procurement**

The Service Director of Procurement has a clear strategic role in the procurement of all services, supplies and works, and as such, it is vital that this expertise is employed and consulted upon for all contracts that are deemed as being high value (more than £50,000), complex or where they involve the transfer of staff. Furthermore, the Service Director of Procurement on behalf of the relevant Director shall place all EU notices of advertisement, and where this is the case, all such tender returns or expressions of interest are to be addressed to the Service Director of Procurement and returned to the Corporate Procurement Unit.

## **Legal Requirements**

Formal procedures are required to be made by every Local Authority under Section 135 of the Local Government Act 1972. The Act refers to the supply

of 'goods or materials and the execution of works'.

All Public Procurement in the UK is governed by the EU Treaty and the EU Procurement Directives and UK Procurement Regulations that implement the Directives. This legal framework helps to ensure that Public Procurement is conducted in a fair and open manner, both within the UK and across the EU.

### **Focus of these Rules**

Section 135 of the 1972 Local Government Act does not set any particular format for Contract Procedure Rules nor does it prescribe the contents in any detail. In considering any specific set of circumstances however, it is expected that at all times, Officers will have in mind the objective implicit within section 135 of the Act, namely that contracting processes shall include '***provision for securing competition***'.

### **Procurement Planning**

At the commencement of each financial year, Directors shall submit to the Service Director of Procurement a completed Contract Initiation Document (available through the Procurement Intranet site) detailing the planned procurement activities over £50,000. The Corporate Procurement Unit will use this information for procurement planning, to identify collaborative opportunities, to allocate appropriate resources and to ensure all relevant legislative requirements are observed.

### **EU Procurement Directives**

The Council's Contract Procedure Rules require compliance in all cases to the EU Procurement Directives. In this regard all such notices are to be placed by the Service Director of Procurement.

### **Proprietary Products**

The Contract Procedure Rules also recognise that some products and services may be unique and therefore are available from one source only, and that in such circumstances, competitive tendering may not always be appropriate. The procedures within these rules for the procurement of Proprietary Products set out the requirements to be followed in these situations.

### **The Framework of Rules**

At the heart of these Contract Procedure Rules is a system of nominated Officers, which is intended to ensure proper separation of duties, to identify accountabilities and to encourage the best use of skills and knowledge. The framework includes for each contract:

- a Director
- a Contract Manager
- a Contracting Officer.

Due regard must be given to the responsibilities allocated to each under the Council's Scheme of Delegation.

### **Contract Management**

In addition to the processes by which contracts are established, there is a need to ensure that contracts are properly managed during their life. These Contract Procedure Rules therefore cover aspects of Contract Management, which relate to ongoing contract variation, price control or termination of contracts at any time during the contract period.

### **Variation to Contracts**

These Contract Procedure Rules give powers to Directors (in consultation with the Group Director of Corporate Services and the Director of Legal and Democratic Services) to agree variations beyond the original contract terms. Other variations regarding the terms of the contract are to be dealt with by the Contract Manager in conjunction with the Corporate Procurement Unit. Please also refer to the requirements of the Financial Procedure Rules concerning variations.

### **Contract Management System**

One significant purpose of these Contract Procedure Rules is to ensure transparency relating to decisions taken around the contracting process. These Contract Procedure Rules require the establishment of a Contract Management System, which shall be the primary place for recording details of all contracts awarded over the value of £50,000. Each Service Area shall ensure that contract details are notified to the Service Director of Procurement for inclusion on the Contract Management System (Alito). In such cases where access to this system has been granted, it is the responsibility of the Contract Officer to record details of contracts awarded on the system.

Directors shall ensure that detailed records of all contract correspondence and decisions taken are retained.

Whilst supporting a Divisional focus of responsibilities, the Contract Procedure Rules also recognise a corporate need to gather information and share contracting expertise and wisdom across the Council and with Members. The availability of information through the proper keeping of the Council's Contract Management System is vital in allowing this to take place.

### **Reviewing the Procedure Rules**

It is intended that these rules will be kept under continuous review so that they reflect changes in contracting and best practice. The reviews will be carried out by the Service Director of Procurement in conjunction with the Group Director of Corporate Services and the Director of Legal and Democratic Services.

## **Guidance**

In order to ensure that Officers have access to advice and guidance, a support system, including assistance and advice from the Corporate Procurement Unit is available. Officers who have doubt or difficulties in any given situation relating to contracts should contact the Service Director of Procurement.

Corporate Procurement Unit contact details:

Tel: 01443 432070

Email: [Purchasing@rctcbc.gov.uk](mailto:Purchasing@rctcbc.gov.uk)

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## **Section 2 Contract Procedure Rules**

### **Exemptions**

- A.1. Schools with delegated budgets who have their regulations under the scheme for financing schools are exempt from these Contract Procedure Rules.
- A.2. Any purchase made through the following arrangements will be exempt from these Contract Procedure Rules, providing that prior approval has been obtained from the Service Director of Procurement:
- Through the Welsh Purchasing Consortium,
  - Any other Local Authority Purchasing Consortium,
  - Value Wales (Procurement),
  - Any joint purchasing and supply arrangements organised by another local authority or public body or a central government supply organisation.
- A.3. Other exemptions from these rules may only be granted:
- By the Group Director of Corporate Services in consultation with the Director of Legal and Democratic Services and the Service Director of Procurement.
  - In an emergency, threatening injury or damage to persons or property, when a Director can take any necessary action. This action must then be reported to the Group Director of Corporate Services or Director of Legal and Democratic Services as soon as practicable after the event.
- A.4. For any exemption, a formal request must be made by the relevant Director to the Group Director of Corporate Services.
- A.5. The Director must ensure that details relating to the exemption are reported to the Service Director of Procurement who will be responsible for maintaining an Exemptions Register. This Register will be provided to the Group Director of Corporate Services and Director of Legal and Democratic Services on a quarterly basis for review.

### **Instances where there is no requirement for competition**

- B.1. There is no requirement for competition for work placed with internal trading organisations. However, where the value of the contract is above the low value threshold (£50,000), and another trading organisation is known to offer comparable services to those required, the Contracting Officer may seek competition. In these circumstances, the Contracting Officer must be able to demonstrate that competition is likely to lead to better value for money (taking account not only of price, but of the total cost to the Council of the competitive process, including any loss of revenue with the internal trading organisation).
- B.2. There is no requirement for competition for work placed with other

Council departments that are not internal trading organisations.

- B.3. Any purchase made through the arrangements specified under A.2 will be deemed as having satisfied the competition requirements. Notwithstanding this, Contracting Officers shall satisfy themselves that a proper process has been followed in respect of EU Procurement Directives where the value of the contract is above the threshold.

### **Estimated Contract Value**

- B.4. These relate to the estimated value over the term of the Contract (or over four years - if the term is four years or longer - reference EU Procurement Directive) and in estimating the contract value the Contracting Officer shall take account of historic cost and an assessment of future trends or, where the requirement is new, the best estimate of value available at the time. Guidance should be sought from the Corporate Procurement Unit where assistance is required in estimating contract values.
- B.5. Against which an estimate of Contract expenditure is made, the requirement shall not be artificially split to avoid competition, and neither shall:
- Any other form of disaggregating be accepted for similar purposes.
  - A Group, Service Area or Section of the Council be permitted to regard itself as a 'discrete operational unit' within the terms of the EU Procurement Directives.

### **External Service Agreements**

- B.6. A Service Level Agreement (SLA) is an agreement between a service provider and client that governs all aspects of their relationship. Where the Service Provider is a legal entity external to the client, the SLA will often be a formal contract.

It is important to document and agree any Service Level Agreement, including any commercial and exit arrangements of the participating organisations. This should include clear criteria for determining the ongoing viability of the arrangement and supported by agreed and measurable performance indicators with the service provider. In support of this, the standard Service Level Agreement Template available via the Council's Procurement intranet site or from the Service Director of Procurement should be used.

### **Bonds or Guarantees**

- B.7. May be required of a Contractor or a parent company by the Contracting Officer, having taken due account of risks (through risk assessment) involved for the Council. Guidance relating to Bonds or Guarantees can be obtained from the Corporate Procurement Unit.

### **Private Interests**

- B.8. No Member, employee or agent of the Council shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.
- B.9. Members and employees of the Council shall comply with the requirements of Section 117 of the Local Government Act 1972 and the employees Code of Conduct set out in the Constitution about the declaration of private interest in Contracts with the Council. Such interests must be declared to the Director of Legal and Democratic Services acting in his or her capacity as a Monitoring Officer for inclusion in the appropriate registers.

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## Section 3 Procedures

### C.1. Deciding Which Value Threshold

The Contracting Officer shall determine in accordance with B.4 the estimated value of the contract and thereby the thresholds to be used which shall be as follows:

<b>C2</b>	Purchases below £50,000 (see pg. 14)
<b>C3</b>	Between £50,000 and below the EU Procurement Thresholds for <b>Supplies and Services contracts</b> (see pg. 15)
<b>C4</b>	Between £50,000 and below the EU Procurement Thresholds for <b>Works contracts</b> (see pg. 16)
<b>C5</b>	Above the EU Procurement Thresholds (see pg. 17)

The **EU Procurement Thresholds** effective from 1<sup>st</sup> January 2010 and valid for a period of two years are:

Works	<b>£3,927,260</b>
Supplies	<b>£156,442</b>
Services	<b>£156,442</b>

Note:

- For term contracts, the estimated total value relates to the entire term or four years whichever is the less.



## CONTRACT PROCEDURES – OVERVIEW:

	<b>Estimated Contract Value</b>			
	<b>C2</b>	<b>C3</b>	<b>C4</b>	<b>C5</b>
	<b>Below £50,000</b>	<b>£50,000 to EU Thresholds (Supplies &amp; Services)</b>	<b>£50,000 to EU Thresholds (Works)</b>	<b>Above EU Thresholds</b>
<b>Key requirement</b>	*Where possible, Utilise Corporate Contracts / other available contracts <u>before</u> placing order / undertaking tender process.	*Where possible, Utilise Corporate Contracts / other available contracts <u>before</u> placing order / undertaking tender process.	*Where possible, Utilise Corporate Contracts / other available contracts <u>before</u> placing order / undertaking tender process.	*Where possible, Utilise Corporate Contracts / other available contracts <u>before</u> placing order / undertaking tender process.
<i>* Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.</i>				
<b>Key requirement</b>	Due regard for ensuring value for money is achieved.	Contracting Officer must arrange for a <u>Competitive Tender</u> to be undertaken.	Contracting Officer must arrange for a <u>Competitive Tender</u> to be undertaken.	Seek advice from Service Director of Procurement before commencing any tender process.
<b>Quotations or Tenders?</b>	Where Corporate Contract / other Contract <u>not</u> available for use: <ul style="list-style-type: none"> <li>• Ensure VFM is achieved (below £20k).</li> <li>• Ensure VFM is achieved &amp; 2 written quotations - documentary evidence retained (between £20k and £50k).</li> </ul>	Where Corporate Contract / other Contract <u>not</u> available for use: <ul style="list-style-type: none"> <li>• 4 written tenders.</li> </ul>	Where Corporate Contract / other Contract <u>not</u> available for use: <ul style="list-style-type: none"> <li>• 4 written tenders (between £50k and £250k).</li> <li>• 5 written tenders (between £250k and EU Threshold)</li> </ul>	Seek advice from Service Director of Procurement before commencing any tender process.
<b>Advertising Requirements</b>	Refer to 'Tendering / Ordering / Advertising' Section (pg. 5, Para. 4).			
<b>Returned to:</b>	Any Officer	**Any Officer	**Any Officer	**Service Director of Procurement
<b>Opened by:</b>	Any Officer	**Two Tender Opening Officers	**Two Tender Opening Officers	**Two Tender Opening Officers
<i>**Refer to 'Receipt' section &amp; 'Opening' section (pg. 18-19).</i>				
<b>Form of Contract:</b>	Official order	Formal Contract	Formal Contract	Formal Contract
<b>Contract Awarded by:</b>	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.
<b>Completion of Contract</b>	Retain evidence of all contract documentation (quotations etc).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito) and update the Buy4Wales site (create OJEU Award Notice).

C.2.1. Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts / established Framework Agreements / other legally available arrangement) and observe the requirements of B.1.

Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

Where Framework Agreements are to be utilised, Contracting Officers must conform to the specific requirements of each Framework Agreement for the selection and letting of contracts.

Aligned to the Council's continued modernisation agenda, the Corporate Procurement Unit has implemented a number of Electronic Procurement Systems that should be utilised as corporate solutions to support the cost efficient procurement of goods and services (streamlining the transaction process and reducing unnecessary administration overheads where possible). Please refer to Appendix 1 or the Council's Procurement intranet site for further information regarding the use of these systems.

C.2.2. Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall observe the following requirements:

- For contracts below £20,000 due regard must be given for ensuring value for money is achieved.
- For contracts between £20,000 and £50,000 a minimum of 2 written quotations should be requested and due regard must be given for ensuring value for money is achieved. Documentary evidence of the decision making process must be retained.

C.2.3. The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.2.4. The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

<b>C3</b>	<b>Supplies and Services Contracts with a value between £50,000 and below the EU Procurement Thresholds</b>
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C.3.1. The Contracting Officer shall observe the requirements of C.2.1 (where available, practical and appropriate to do so) before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council.

C.3.2. Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall arrange for a Competitive Tender to be undertaken and shall arrange for the following number of tenders to be obtained and evidenced (these are minimum requirements and Contracting Officers may deem it appropriate to seek more to ensure a competitive process):

- For contracts between £50,000 and the European Thresholds at least 4 written tenders for Supplies and Services contracts.

Due regard must be given for ensuring value for money is achieved. In such cases where the minimum amount of tenders cannot be obtained, the Contracting Officer shall refer to C.6.4.

C.3.3. The Contracting Officer must decide and record:

- The form in which Tenderers shall be invited to tender.
- The criteria to be used to select the successful Contractor / Supplier from among those tendering.
- The criteria to determine whether the chosen Contractor performs satisfactorily.

C.3.4. The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.3.5. The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

<b>C4</b>	<b>Works Contracts with a value between £50,000 and below the EU Procurement Thresholds</b>
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C.4.1. The contracting Officer shall observe the requirements of C.2.1 (where available, practical and appropriate to do so) before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council.

C.4.2. Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall arrange for a Competitive Tender to be undertaken and shall arrange for the following number of tenders to be obtained and evidenced (these are minimum requirements and Contracting Officers may deem it appropriate to seek more to ensure a competitive process):

- For contracts between £50,000 and £250,000 at least 4 written tenders for Works contracts.
- For contracts between £250,000 and the European Thresholds at least 5 written tenders for Works contracts.

Due regard must be given for ensuring value for money is achieved. In such cases where the minimum amount of tenders cannot be obtained, the Contracting Officer shall refer to C.6.4.

C.4.3. The Contracting Officer must decide and record:

- The form in which Tenderers shall be invited to tender.
- The criteria to be used to select the successful Contractor from among those tendering.
- The criteria to determine whether the chosen Contractor performs satisfactorily.

C.4.4. The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.4.5. The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

<b>C5</b>	<b>Contracts with a total value in excess of the EU Procurement Thresholds</b>
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- C.5.1. The Contracting Officer shall follow rules C.2.1 – C.4.5 except where they conflict with EU Procurement Directives (see pg. 12).
- C.5.2. The Contracting Officer shall seek advice from the Service Director of Procurement before commencing the process to ensure full compliance with EU Procurement Directives and to decide the procedure to be used.
- C.5.3. The Service Director of Procurement shall place all Contract Notices in accordance with the requirements of the EU Procurement Directives.
- C.5.4. The Contracting Officer shall ensure compliance with the procedure set out in the relevant Directives.
- C.5.5. The Contracting Officer shall provide details of all Contracts subject to EU Directives, including details of Contract Award, so that the Service Director of Procurement can publish a Contract Award Notice in accordance with the requirements of the EU Directives.
- C.5.6. The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

### **Single Tenders**

- C.6.1. A single tender may only be invited when:
- by reason of regulation or legislation only one supplier of the product or service exists;
  - the value of the contract is below £50,000 and the costs of complying with a tender procedure outweighs the likely benefits;
  - only a Propriety Product is suitable or acceptable to customers or the Product consists of repairs or works to an existing Propriety Product;
  - in exceptional cases of such extreme emergency that a tender process cannot be undertaken. In these cases the reason for the urgency shall not be within the control of the Director or Contracting Officer.
- C.6.2. In all such cases, the Director and Contracting Officer must certify the reason why, sign and date the certification and maintain a record.
- C.6.3. In all such cases above, the Contracting Officer must ensure:
- that the product is specified in writing;

- where only one tenderer is identified, ensure that the best price and conditions are negotiated and that these are recorded;
- that provisions for the adjustment in price, volumes or other variable factors have been agreed and recorded in writing.

### **Contracts where there are less than the required minimum Tenders Invited**

C.6.4. In such cases where the Contracting Officer wishes to proceed with less than the required number of tenders specified in these Contract Procedure Rules, the Director and Contracting Officer must certify the reasons why, sign and date and maintain records for future use and inform the Service Director of Procurement.

### **D. Terms and Conditions**

D.1. Where available, practical and appropriate to do so, the Council's adopted Standard Terms and Conditions shall be specified as a minimum requirement for entering into contracts for Supplies, Works or Services. Any doubt as to the applicability of these conditions or any clauses contained therein should be referred to the Director of Legal and Democratic Services or Service Director of Procurement for consultation.

### **E. Approved Lists**

E.1. Approved Lists cannot be used for the exclusive selection of Tenderers for any Contract above the value thresholds set in European Procurement Directives as detailed at C.1 of these rules (other than Contracts designated as Part B services under the EU Services Directive).

E.2. Contracting Officers shall also observe the requirements of C.2.4 before utilising an Approved Vendors List (AVL).

### **F. Processing Of Tenders**

A key function of these Procedure Rules is to set down a framework, which can demonstrate that the requirements of public accountability and transparency are extant. To achieve this, the following shall apply:

#### **Receipt**

F.1. The Contracting Officer must ensure:

- Returned Tenders are contained in a plain envelope or package with no identifying markings.
- The envelope or package is securely sealed and bear the words "Tender for....." followed by the Product, Work or Service(s) to which it relates, using the template available through the Corporate Procurement Unit Intranet site.

- Envelopes or packages shall be addressed impersonally to the Director, (or for values above EU thresholds, the Service Director of Procurement), who shall date stamp them and keep them unopened in safe custody until the time appointed for opening. Envelopes or packages that do not comply with this Regulation shall be opened as part of the formal opening procedures and recorded as non-compliant.

F.2. Where tenders are to be returned electronically, the Contracting Officer must ensure:

- All potential tenderers have been appropriately registered on the Council's Contract Management System (Alito).
- All tender documentation is made visible to tenderers.
- The exact time and date of the receipt of tenders is clearly recorded.
- Two Tender Opening Officers are assigned to open the tenders on the time and date allocated for opening.

### **Opening**

F.3. Tenders that are subject to EU Procurement Directives (see pg. 12) shall be opened and recorded by the Service Director of Procurement.

F.4. Tenders shall be opened and details recorded at one time by not less than two Tender Opening Officers (at which time either the Contracting Officer or the Contract Manager for the Contract may be present). The Tender Opening Register template available through the Procurement Intranet Site should be used to record the tender opening details.

F.5. Where tenders are to be opened electronically via the Alito System, the Contracting Officer must ensure - prior to opening tender documents submitted through the system - the 'Content Type' appears in the correct format and also ensure the document size does not appear as zero. In the event that the document size appears as zero, the requirements of F.14 shall be observed.

F.6. No Tender received after the other Tenders have been opened shall be considered.

F.7. A Tender received after the time fixed for receipt but before the other Tenders have been opened may be considered, provided there is evidence that it was posted or dispatched early enough to be received in due time by the normal course of post or dispatch.

F.8. Bona fide tenders opened shall be recorded in the Tender Opening Register and should include the name of all contractors or suppliers submitted. The Tender Opening Register should also be signed and dated by the Tender Opening Officers. There is no requirement to maintain a written Tender Opening Register where Tenders are

received and opened via the Council's Contract Management System (Alito).

- F.9. The requirements of F.1 to F.8 shall be followed where a Pre Qualification process is to be undertaken.

### **Electronic Tenders and Electronic Auctions**

- F.10. The requirements of F.1 to F.9 shall be deemed to have been satisfied if the Council's approved Electronic Tendering and or Electronic Auction elements of the Council's Contract Management System (Alito) have been used in accordance with appropriate guidance, user documentation and procedures for using the systems. Further information regarding the use of the Council's Contract Management System (Alito) may be obtained via the Corporate Procurement Unit or via the Corporate Procurement Unit Intranet site.
- F.11. Where an externally hosted extranet is to be used to support the tendering process; prior approval of the Service Director of Procurement must be obtained.

### **Amendment to Tenders, Errors and Omissions**

- F.12. No request to amend a Tender after the time fixed for receipt shall be accepted.
- F.13. If a Contracting Officer finds an error in a Tender, the Tenderer shall be given the opportunity of either confirming or withdrawing the Tender.
- F.14. Except where a standard form of contract code provides to the contrary, the Contracting Officer may certify that any error contained in an offer appears to be a genuine mistake by typing, printing or arithmetic, or appears to be an Alito technical issue, in which case the Contracting Officer may, in consultation with the Director, draw the error to the attention of the Tenderer, and allow them to correct it.
- F.15. A Contracting Officer may seek clarification of the information provided (or not provided) by a Tenderer only where this is necessary to aid understanding.
- F.16. If, for any reason, it is necessary to amend the Specification after Tenders have been received, the Tender procedure shall be repeated unless the Contracting Officer certifies that this is not possible and records the reasons why.

### **Assessment of Tenders**

- F.17. The assessment of Tenders shall be based upon the criteria for award and the criteria set out in the Tender documents (and where appropriate, published in an EU notice).



## **Acceptance of Tenders**

The Director:

- F.18. Shall accept the highest Tender where payment is to be received by the Council unless a decision is taken not to proceed with the Contract.
- F.19. Shall accept the lowest or the most economically advantageous tender for all contracts where payment is to be made by the Council unless a decision is taken not to proceed with the Contract. Guidance and approval should be sought from the Service Director of Procurement where tenders are to be evaluated on a quality or price basis.
- F.20. May accept a Tender not complying with the above only if the Director in consultation with the Group Director of Corporate Services and the Service Director of Procurement certify why it is in the Council's best interest to do so.
- F.21. Shall, where appropriate, sign the Contract documents or place them before the Director of Legal and Democratic Services for signature or seal, with such explanations as he or she may require.

## **G. Guidance and Support**

In the use of these Procedure Rules:

- G.1. Should there be any doubt or lack of clarity as to the meaning or application, then Officers must seek advice from the Group Director of Corporate Services, Director of Legal and Democratic Services or Service Director of Procurement. Guidance may also be obtained via the Procurement Intranet site.

## **H. Completion of Contracts**

- H.1. All Contracts shall be attested either Under Hand by the Director or Under Seal. The Director of Legal and Democratic Services shall be consulted if a Contract is to be attested Under Seal.
- H.2. The Director shall consider (in consultation with the Director of Legal and Democratic Services) whether, having regard to the need for extension of the period of limitations, a Contract should be attested Under Seal.
- H.3. The Common Seal shall be attested by the Director of Legal and Democratic Services or a signatory authorised by him and an entry of every sealing shall be made, consecutively numbered and shall be signed by the person who has attested the seal. The seal shall not be affixed without the authority of Council, Cabinet, Committee or under delegated powers.
- H.4. Following the award of the contract (and where the contract value exceeds £50,000), the Contract Officer must ensure that the contract details are notified to the Service Director of Procurement for inclusion

on the Council's Contract Management System (Alito). In such cases where access to this system has been granted, it is the responsibility of the Contract Officer to record details of contracts awarded on the system.

## **I. Contract Management**

- I.1. A Director must appoint a Contract Manager to manage the performance of a contract throughout its term. The duties of the Contract Manager shall begin when the contract is awarded and shall cease when it is completed or terminated.
- I.2. The Contract Manager should ensure that management and monitoring arrangements for the contract have been established and recorded (including the methods for reporting and monitoring performance, costs and service delivery against the agreed Contract Specification and Terms and Conditions).
- I.3. The Contract Manager will also be responsible for:
  - The management of the relationship between the Council and the supplier (ensuring effective lines of communication are in existence between client representatives, stakeholders and service providers).
  - The identification, allocation and management of the risks associated with the performance of the contract.

## **J. Termination Procedures**

- J.1. Where consideration is being given to terminating any contract arrangements, reference should be made to the Service Director of Procurement and or the Director of Legal and Democratic Services.

## **K. Retention of Documents**

- K.1. Contract documentation should be retained securely, in an appropriate format and in accordance with the Council's Document Retention Policy (available through the Procurement Intranet site).
- K.2. Where tender or contract documentation is transferred between Council premises, appropriate records should be maintained recording the date of transfer and the location where the documentation will be available or stored.
- K.3. Where consultancy services are utilised in progressing any procurement, it should be ensured that copies of all documentation are retained on behalf of the Council.

## **L. Compliance**

- L.1. Any identified failure to comply with any of the requirements under these Contract Procedure Rules may result in the matter being referred to the relevant Chief Officer.

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## DEFINITIONS

**“Approved List”** means a list of Tenderers, established in accordance with Sections 17 – 22 of the Local Government Act 1988, who have met the Council’s predetermined criteria and who are willing and able to supply Products of a particular type or description. This includes the use of Constructionline, or a similar organisation, and such lists will need to be administered in accordance with guidance, agreed with the Group Director of Corporate Services and approved by the Service Director of Procurement before being utilised.

**“Common Use”** means any Product purchased by the Council, which are required for use by more than one Service Area or Section of the Council or in schools.

**“Contract Manager”** means a person authorised under the Council’s Scheme of Delegation to manage the performance of a contract throughout its term. The duties of a Contract Manager shall begin when the contract is awarded and shall cease when it is completed or terminated.

**“Contract”** means the agreement between the Council and the Contractor comprising the conditions of contract, Specification and any defined schedules and all matters referred to in the invitation to Tender and the Contractor’s response thereto, together with acceptance by the Council.

**“Contracting Officer”** means a person authorised under the Council’s Scheme of Delegation for the purpose of carrying out the appropriate duties set out in these Contract Procedure Rules. A Contracting Officer may be appointed specifically for the purpose of a single contract or for a range of contract requirements but may not also be the Director for any contract for which he or she is the Contracting Officer.

**“Contractor”** means any person contracted to sell or buy a Product. This term applies after a contract is formed.

**“Group Director of Corporate Services and Director of Legal and Democratic Services”** include Officers specifically authorised by them.

**“Corporate Contract”** means any contract for Products in Common Use and applies particularly to contracts where exclusive use by the Council is a term of the Contract. Details of these contracts can be obtained directly from the Council’s Procurement Intranet Site or from the Service Director of Procurement.

**“Council’s Contract Management System”** means the electronic Alito system in use by the Council for managing its procurement activities, part of which includes an electronic contract register. The system also includes facilities for supplier registration and management as well as E-tendering.

**“Director”** means the Chief Executive, any Chief Officer as defined in Article 12 of the Council’s Constitution or any officer authorised by them under the Council’s Scheme of Delegation in the same or another Group or Service Area to act for them under these rules. Such authorisation shall be in writing, shall

include any limitations to the authorisation and shall be recorded. Officers may not act in the capacity of Contracting Officer and Director for any single contract.

The Service Director of Procurement (or persons within the Procurement Unit) may be authorised under the Council's Scheme of Delegation to act as Director, Contract Manager and or Contracting Officer. The Service Director of Procurement will ensure in these cases the required separation of duties as defined in these rules.

**“Executive”** means the Leader and Cabinet of the Authority.

**“Service Director of Procurement”** means the Service Director of Procurement or Head of Operational Procurement.

**“Partnering Agreement”** means an agreement between the Council and a Contractor, which is intended to govern the way in which both parties work together in the management and delivery of the Contract. The basis of the agreement would normally imply a long-term relationship based on trust and on clear mutually agreed objectives. The Partnering Agreement is not a substitute or addendum to the formal Contract.

**“Product”** includes any goods, equipment, material, works, service or benefit.

**“Proprietary Product”** means a product which has unique characteristics which alone meet the required realistic performance specification and is either sold only at fixed rates or sold by more than one source but may be purchased from the prime source at clearly better terms.

**“Specification”** means a clear statement of the Product in sufficient detail:

- to enable the contractor to submit a competitive price.
- to ensure that a Product supplied will meet the requirement of the Council.
- to define the precise output required.

**“Tender Opening Officer”** means any person authorised under the Council's Scheme of Delegation to carry out tender opening procedures set out in these Contract Procedure Rules.

**“Tender”** means an offer to sell or buy made by a Tenderer.

**“Tenderer”** means any person offering to sell or buy a Product. This term applies before a contract is formed and includes unsuccessful bidders.

**“To Tender”** means to make an offer to sell or buy.

**“Under Hand”** means under the signatures of authorised Officers.

**“Under Seal”** means under the common seal of the Council attested by the Director of Legal and Democratic Services or officers authorised by him or her. The application of the common seal to a Contract will increase the period of

limitations (for legal remedy) from 6 years to 12 years.

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## Appendix 1 Electronic Procurement Systems

### E trading

- **E Purchasing System** – an electronic ordering system that interfaces with the Council's Financial Ledger applications and generates electronic orders to suppliers from centrally maintained catalogue information.

This system has been implemented to replace the hardcopy order book function and should be utilised and adopted as the corporate system for electronic purchasing of goods and services.

- **Purchasing Cards** – should be used throughout the Council to support a wide range of purchasing requirements that cannot be supported via the Council's Purchasing System. These requirements must be identified as necessary for the enhanced provision of service delivery or as adding value to the cost efficiency of the transaction process.

Requests for a Purchasing Card must be submitted to the Corporate Procurement Unit via email and supported by a business case aligned to the above requirements (with each request being managed on its own specific criteria).

### E – Sourcing

- **Contract Management System** - the electronic Alito system or other available systems in use by the Council for managing its procurement activities, part of which includes an electronic contract register. The system also includes facilities for supplier registration and management as well as E-tendering.

Further information regarding the use of any of the above Electronic Procurement Systems is available via the Council's Procurement intranet site or from the Service Director of Procurement.