monmouthshire
sir fynwy

Constitution

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PART 1 - INTRODUCTION

2 INTRODUCTION

2.1 Purpose and Content of the Constitution

2.1.1 The Constitution is at the heart of the Council's business and describes the various bodies that make up the Council, their functions, Membership and procedural rules. It is divided between articles and rules of procedure and associated material. Articles are intended to set the overall framework and in general will not be subject to frequent change. They are about what is to be done and by whom. Procedure rules, codes of conduct and the other material located after the articles are broadly about how the articles will be put into effect. They may be subject to more frequent change.

2.1.2 Section 4 provides information for members of the public on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.

2.1.3 You can get a better understanding of what each of the Council's bodies do in the Articles of the Constitution at Part 2, including Full Council, Cabinet, Scrutiny Committees, Standards Committee and Regulatory Committees. Section 14 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions is at Part 3 and details which Council bodies, and which Officers, have authority to make which decisions.

2.1.4 The procedural rules that apply to the different Council bodies are contained in Part 4 in the sections relating to those bodies, e.g. Full Council (Standing Orders), the Cabinet (Executive Procedure Rules) and Overview and Scrutiny (Scrutiny Committee Procedure Rules). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.

2.1.5 Part 5 has the Codes of Conduct and Protocols with which Officers and Members have agreed to comply. They set the standards of behaviour.

2.1.6 A Constitution Guide is available on the website.

2.2 How the Council Operates

2.2.1 The Council comprises 46 Councillors elected every 5 years except as otherwise directed by the Welsh Government. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in Monmouthshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.

2.2.2 All Councillors have agreed 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 on the Code of Conduct.

2.2.3 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 annually. The Leader then decides the size and Membership of the Cabinet i.e. the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

2.2.4 If you need any further help please do not hesitate to contact us**:**

Monitoring Officer, County Hall, The Rhadyr, Usk. NP15 1GA.
jameswilliams@monmouthshire.gov.uk

3 SUMMARY AND EXPLANATION

3.1 Purpose of the Constitution

3.1.1 The purpose of the Constitution is to:

(a) enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;

(b) support the active involvement of citizens in the process of local authority decision making;

(c) help Councillors represent their constituents more effectively;

(d) enable decisions to be taken efficiently and effectively;

(e) create a powerful and effective means of holding decision makers to public account;

(f) ensure that no one will scrutinise a decision in which they are directly involved;

(g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

(h) provide a means of improving the delivery of services to the community.

3.2 Definitions

3.2.1 This Constitution and all its appendices is the Constitution of Monmouthshire County Council.

3.2.2 Within the Constitution the following words and phrases have the meaning set out below unless the context specifically or otherwise requires:

Budget	the overall revenue and capital budget approved by Full Council (Article 4);
Chief Officer	as defined by Local Authorities (Standing Orders)(Wales) Regulations 2006;
Councillor	a person elected to the Council to represent an area (called an electoral division) within Monmouthshire County Council;
Executive	when exercising Executive Functions; the Cabinet or a Member or Members of the Cabinet
Executive Decision	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
Executive Function	(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function;

	(b) contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions; it should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;
Forward Work Programme	the document that lists all of the decisions that the Council and the Cabinet intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;
Full Council	the body where all Councillors act to exercise functions of the Council;
Head of Democratic Services	an Officer who must be appointed by law to carry out certain functions. See Section 14 for a description of those functions. The Officer will usually have other duties and a different job title.
Strategic Leadership Team	the senior leadership and management body for Officers. It comprises the Chief Executive, all Chief Officers, the Monitoring Officer and s151 Officer. It may also include those Officers designated by the Chief Executive as desired;
Local Government (Wales) Measure 2011	also referred referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments;
Member	a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”);
Member Body	any of the following: Full Council; Cabinet; a Scrutiny Committee; Licensing & Gambling Committee; Taxi & Regulatory Committee Standards Committee (or one of its sub-committees); Planning Committee; Audit Committee; Democratic Services Committee; Investment Committee SAC Joint Advisory Group Note - references to Committee also includes Sub-Committee;
Monitoring Officer	an Officer who must be appointed by law to carry out certain functions. See Section 14 for a description of those functions. The Officer will usually have other duties and a different job title;
Non-Executive Functions	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the Cabinet;
Planning Application	any of the following: application for planning permission (including renewal); application for approval of reserved matters;

	application for listed building consent; application relating to trees; proposal to serve an urgent works notice or acquire a listed building in need of repair; application for conservation area consent; application for advertisement consent; application to vary or remove conditions on a planning condition;
Petition Scheme	a scheme prepared and published pursuant to section 42 of the Local Government and Elections (Wales) Act 2021 (and reviewed from time to time) for the purpose of setting out: - how a petition may be submitted to the Council; - how and when the Council will acknowledge receipt of a petition; - the steps the Council will take in response to a petition received by it; - the circumstances (in any) in which the Council may take no further action in response to a petition; and - how any by when the Council will make available its response to a petition to the person who submitted the petition and to the public
Policy Framework	see Section 6;
Section 151 Officer	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 14 for a description of those functions. The Officer will usually have other duties and a different job title;
Service	one of the services provided by the Council.

3.3 Interpretation of the Constitution

3.3.1 The following structure and terminology is used throughout this document:

(a) ‘Part’. The Constitution is split into major parts defined thematically. You are currently in Part 1 – Introduction, the next Part is Part 2 – Articles of The Constitution and so on;

(b) ‘Section’. The Constitution is numbered consistently and sequentially throughout into bold, capitalised Sections. You are currently in Section 3 – Summary and Explanation;

(c) ‘Subsection’. Each Section is then split into ‘Subsections’ defined in bold, lower case titles. You are currently in Subsection 3.3 – Interpretation of the Constitution;

(d) ‘Paragraph’ or ‘Para’. Each Subsection is split into ‘Paras’ which generally are untitled and simply constitute written paragraphs. You are currently in Para 3.3.2;

(e) ‘Sub-paragraph’ or ‘sub-para’. Where required, Paras are split into ‘sub-paras’ which are generally untitled and simply constitute written sentences, often as part of a list. You are currently in sub-para 3.3.2(e), and you may see some further sub-paras such as:

(i) sub-para 3.3.2(e)(i)

and so on.

3.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules. The Chair will call on the Monitoring Officer's assistance where required.

3.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

3.3.4 Wherever legislation is cited it should be interpreted as inherent to the reference that it is inclusive of any subsequent amendments including any impact of post-EU withdrawal regulations.

3.4 Protocol for Monitoring and Review of Constitution by Monitoring Officer

3.4.1 A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

(a) observe meetings of different parts of the Member and Officer structure;

(b) undertake an audit trail of a sample of decisions;

(c) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and,

(d) compare practices in this Council with those in comparable authorities, or national examples of best practice.

3.5 Changes to the Constitution

3.5.1 Approval. Subject to paragraphs 3.5.2 and 3.5.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet.

3.5.2 Minor Changes. If, in the reasonable opinion of the Monitoring Officer, a change is:

a. a minor variation; or

b. required to be made to remove any inconsistency, ambiguity or typographical correction; or

c, required to be made so as to put into effect any decision of the Council or its committees or the Cabinet;

the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to Full Council for information and within 12 months of any change.

3.5.3 Legislative Change. Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to Full Council for information and within 12 months of any change.

3.6 Suspension of the Constitution

3.6.1 Limit to Suspension. Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

3.6.2 Procedure to Suspend. A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

3.7 Publication

3.7.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.

3.7.2 The Monitoring Officer will provide a link to a copy of this Constitution to each Member of the Council upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

3.7.3 The Monitoring Officer will ensure that the Constitution is updated as necessary.

4 GETTING INFORMATION AND GETTING INVOLVED

4.1 Getting Information

4.1.1 When Meetings of the Member Bodies Will Take Place. A programme of meetings is available by contacting the Council direct or via the *Meeting Calendar* on the website.

4.1.2 Forward Work Programme. The Forward Work Programme sets out a mid-term view of what decisions will be taken by the Cabinet or Council and what issues the Scrutiny Committees will be considering and when these matters will be discussed prior to the stipulated agenda publication dates.

4.1.3 Information Available Prior to a Meeting. Five clear working days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

4.1.4 Information Available at a Meeting. On request, the Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded).

4.1.5 Information Available After a Meeting. For a period of 6 years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of 4 years.

4.1.6 Council's Accounts. Inspect the Council's accounts and make views known to the external auditor (sections 29 and 30 Public Audit (Wales) Act 2004). Under the Accounts and Audit (Wales) Regulations 2005, the accounts will be available for public inspection for 20 working days after the date appointed by the auditor.

4.1.7 Information which is confidential or exempt (as defined in the Access to Information Rules (Part 4)) will not be disclosed to members of the public at any time.

4.2 Getting Involved

4.2.1 Members of the public can get involved in the following ways:

(a) voting for Councillors if they are 16 years old or older and registered as a local elector with the Council;

(b) suggesting Items of Business for Meetings. A member of the public can seek to get a matter included in an agenda by:

(i) asking the Chair of any Member Body to add an item to the agenda;

(ii) attending a meeting of the body and suggesting that it looks at an issue when it is considering “items of future business relating to the functions of the Member Body”;

(iii) by contacting their local representative or other County Councillor;

(c) taking Part in Meetings:

(i) members of the public can attend and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Part 4;

(ii) you can also ask Formal Questions at meetings of Full Council (Part 4);

(d) views of the Public. Under the arrangements put in place by the Authority under section 62 of the Local Government (Wales) Measure 2011, to bring to the attention of the relevant Scrutiny Committees their views on any matter under consideration by the relevant Scrutiny Committee, the relevant Scrutiny Committee must take into account any views brought to their attention under these arrangements. This is done via the Public Open Forum standing agenda item in Scrutiny Committees;

(e) Petitions. As per the Petition Scheme below.

4.2.2 When are Meetings Open to the Public? Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See Access to Information Rules for definition of ‘exempt information’ and ‘public interest’.)

4.3 Petition Scheme

4.3.1 Creating or taking part in a petition is one way individuals, community groups and organisations can influence decisions that the Council take that impact on local services. A petition has the ability to:

(a) raise awareness of an issue;

(b) bring about a change Council Policy or a different way of delivering services

(c) prompt members of the Council to take further action, for example asking questions at Full Council;

(d) lead to, or influence, a debate at a meeting of the Council.

4.3.2 Before submitting a petition you should first check with you local Councillor to see if the Council is already acting on your concerns and that the Council is the most appropriate body to receive your petition.

4.3.3 How can I submit a petition? Monmouthshire County Council accepts petitions in paper format or electronically. Details on how to submit a petition can be found on the Council’s website at: https://democracy.monmouthshire.gov.uk/mgePetitionListDisplay.aspx

4.3.4 E-petitions will make the submission of a petition to the Council quicker and easier whilst allowing the petition organiser to track its progress. The submission of both paper and e-petitions to the Council are acceptable however people will only be able to sign a petition once regardless of the format they use.

4.3.5 How do petitions work? You create a petition. Only people or organisations that live, work or study within Monmouthshire are able to create a petition. If you are using a paper petition there is no set format that needs to be followed and you can devise your own petition for submission, but it must meet the requirements set out in paragraph 4.3.8, below. If you wish to create an e-petition, you can do so on the Monmouthshire County Council website.

4.3.6 When you submit a petition you will become the 'lead' petitioner and you will be required to provide the Council with basic personal information so that we can contact you.

4.3.7 If you are signing an e-petition you will be required to provide us with basic personal information, including an email address, to enable us to verify the signatures collected are genuine. When you have submitted this information you will be sent an email to the email address you have provided. The email will include a link which must be clicked on to confirm the email address is valid. Once this step is complete your signature will be added to the e-petition. Your name, but no other information, will be published on the e-petitions website.

4.3.8 What happens when the petition is complete and how is it submitted? Your petition will need to include:

(a) a title

(b) a statement explicitly setting out what action you would like the Council to take;

(c) any information which you feel is relevant to the e-petition and reasons why you consider the action requested to be necessary. You may include links to other relevant websites;

(d) a date when you would like your e-petition to live on the website. Please allow sufficient time for the Council to consider the suitability of the petition and discuss any issues with you;

(e) a date when your e-petition will stop collecting signatories. You may want to consider this date in line with the calendar of meetings to ensure the petition is submitted before the relevant meeting of the Council. We will automatically host your petition for 60 days;

(f) your name – as lead petitioner your name will be displayed with your e-petition on the Council website.

4.3.9 When an e-petition reaches its closing date, people will no longer be able to sign the petition online. The list of signatories will be collated by Democratic Services and the lead petitioner will be contacted regarding submission of the completed e-petition. In order for the Council to take action, the petition will require a minimum 25 signatories.

4.3.10 A petition submitted in accordance with the requirements of this scheme will be referred initially to the most relevant Scrutiny Committee where it will appear as an agenda item. The Committee will then discuss the issue and determine what steps to take as a result. These could include referral to:

(a) Full Council for a debate on the matter;

(b) the relevant Cabinet Member with a request to report back to the committee;

(c) a relevant working group, committee or joint committee with an appropriate terms of reference to address the matter or incorporate the views into their work;

(d) a relevant senior officer for inclusion in an ongoing piece of work, consultation or project.

4.3.11 The petition must be presented by a Councillor; typically this will be the relevant Ward Member. Where no such sponsor has been identified by the lead petitioner Democratic Services will forward the petition and the petitioner's details to the relevant Ward Councillor following the close of the petition. A Member is not obliged to present a petition; if the first Member approached to present a petition does not wish to, then any other Member may be approached.

4.3.12 What issues can my petition relate to? Your petition should be relevant to an issue that the Council has powers or duties or on which it has shared delivery responsibilities. It should also be submitted in good faith and be decent, honest and respectful. Your petition may be rejected if the Monitoring Officer considers it:

(a) contains intemperate, inflammatory, abusive or provocative language;

(b) is defamatory, frivolous, vexatious, discriminatory or otherwise offensive or contains false statements;

(c) is too similar to another petition submitted within the past six months, particularly where further action has been taken as a result of receiving the petition;

(d) discloses confidential or exempt information, including information protected by a court order or government department or discloses information that could be considered commercially sensitive;

(e) names individuals or provides information where they may be easily identified and is contradictory to data protection laws;

(f) contains advertising statements;

(g) is unclear in intent, request and purpose or is deemed intentionally vague or nonsensical;

(h) refers to an issue that is currently the subject of a formal Council complaint, consultation, public services ombudsman for Wales complaint or any legal proceedings;

(i) does not relate to an issue upon which the Council has powers or duties or on which it has shared deliver responsibilities

4.3.13 If a petition is deemed unacceptable then the lead petitioner will be notified along with the reasons for its rejection. During politically sensitive periods, such as prior to an election, politically controversial material may need to be restricted.

4.3.14 If your petition relates to an issue which is beyond the powers of the Council to address, it may be more appropriate to start a petition on the Senedd website - Petitions (senedd.wales).

4.3.14 More information on Scrutiny Committees can be found here.

4.4 Making Comments/Complaints

4.4.1 A member of the public may comment or complain about Council services by:

(a) contacting their local councillor;

(b) contacting the Member of the Cabinet responsible for the service;

(c) contacting the Officer responsible for delivering the service or their manager;

(d) using the Council's complaints procedure;

(e) contacting the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website *www.ombudsman-wales.org.uk* .

4.4.2 Comments or complaints can be made about an Officer or Member by:

(a) Officer. Contacting the Officer or the Officer's manager.

(b) Members. If the complaint is against a Member then the complaint should be referred to the Monitoring Officer (see 2.2.3) or the Public Services Ombudsman for Wales (see 4.3.1(e)).

4.4.3 Engage with Overview and Scrutiny. All members of the public who live or work in the area of the Council may bring to the attention of a Scrutiny Committee their views on any matter under consideration by that Scrutiny Committee. Scrutiny Committees must take into account any views brought to its attention by a member of the public.

PART 2 - ARTICLES OF THE CONSTITUTION

5 MEMBERS OF THE COUNCIL

5.1 Composition and Eligibility

5.1.1 Composition. The Council comprises 46 Councillors, otherwise called Members. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the Senedd.

5.1.2 Eligibility. Only registered voters of the county council or those living or working in the area will be eligible to hold the office of councillor. Full criteria is set out in legislation.

5.2 Election and terms of councillors

5.2.1 The regular election of councillors will be held on the first Thursday in May every 5 years except as otherwise directed by the Welsh Government. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

5.2.2 Key roles of all councillors. All councillors will:

(a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

(b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities;

(c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

(d) balance different interests identified within the electoral division and represent the electoral division as a whole;

(e) contribute to the continual improvement of council services through the Best Value process;

(f) be involved in decision-making;

(g) be available to represent the Council on other bodies; and

(h) maintain the highest standards of conduct and ethics.

5.3 Information Available to Members of the Council

5.3.1 Members can see any information, which is available to a member of the public. In addition, all reports (including those that are “exempt” or “confidential” by virtue of Schedule 12A Local Government Act 1972 as amended) to all decision making bodies are available to all members.

5.3.2 A Member may also see any information that they need to know in order to fulfil their role as a Member of the Council (otherwise known as “need to know”). The Chief Executive or Monitoring officer will adjudicate any such requests.

5.3.3 A Member will not make public information which is confidential or exempt (as defined in the Access to Information Procedure Rules in Part 4)) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.

5.3.4 A Member of a Scrutiny Committee may also see any document containing material relating to:

(a) any business transacted at or meeting of the Cabinet;

(b) any decision taken by an individual Member of the Cabinet.

5.3.5 A Scrutiny Committee Member is not entitled to:

(a) any document in draft form;

(b) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Committee’s Forward Work Programme.

5.3.6 No Member is entitled to see any information relating to a matter in which they have a prejudicial interest.

5.4 Getting Involved

5.4.1 Agendas. A Member of the Council has the same rights as members of the public to suggest items of business for an agenda. In addition, they also have the following rights:

(a) Members of the Democratic Services Committee may request Council considers or reconsiders an issue;

(b) Members of a Scrutiny Committee may request Cabinet or a Cabinet Member considers or reconsiders an issue.

(c) Members can submit a Notice of Motion to Council;

(d) Members can ask questions at Council.

5.4.2 Meetings. Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the Cabinet at the discretion of the Chair of the body.

5.4.3 Speaking. Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.

5.4.4 Cabinet. Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

5.5 Comments and Complaints

5.5.1 Members may comment, subject to restrictions in the Code of Conduct for Members on any aspect of Council business by:

(a) talking to Officers;

(b) talking to the Leader or Member of the Cabinet;

(c) talking to the Chair of a Scrutiny Committee.

5.5.2 If a Member wishes to complain about an Officer, the procedure set out in the Protocol on Member/Officer Relations may be used.

5.5.3 If a Member wishes to complain about another Member, the procedure set out in the protocol for Self-regulation of Member Conduct may be followed.

5.6 Conduct

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

5.7 Allowances

5.7.1 Councillors will be entitled to receive allowances in accordance with the Member Remuneration Schedule set out in Part 6 of this Constitution.

6 THE FULL COUNCIL

6.1 Introduction

6.1.1 Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

6.2 Meanings

6.2.1 Policy Framework. The policy framework means the following plans and strategies:

(a) Well-being Plan;

(b) Social Services Area Plan;

(c) Well-being Statement and Objective;

(d) Corporate Plan;

(e) Medium Term Financial Plan;

(f) Asset Management Strategy;

(g) Local Development Plan;

(h) Strategic Equality Plan;

(i) Welsh Language Strategy;

(j) Welsh in Education Strategic Plan;

(k) Chief Officers Annual Reports;

(l) Armed Forces Covenant;

(m) Corporate Parenting Strategy;

(n) Safeguarding Policy.

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

6.2.2 The Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these, save where capital schemes are fully grant or s106 funded. (See the Budget and Policy Framework Procedure Rules in Part 4 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

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

6.3 Functions of the Full Council

6.3.1 Only the Full Council will exercise the following functions:

(a) adopting and changing the Constitution;

(b) approving or adopting the Corporate Plan, Wellbeing Plan, Policy Framework, the budget and any application to the Senedd in respect of any Housing Land Transfer;

(c) subject to the urgency procedure contained in the Access to Information Procedure Rules 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 and removing the Leader;

(e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;

(f) changing the name of the area or conferring the title of freedom of the County;

(g) making or confirming the appointment of the Chief Executive and other Chief Officers;

(h) making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;

(i) all Local Choice Functions set out in this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;

(j) all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;

(k) appointing representatives to outside bodies unless the appointment has been delegated by the Council or is exercisable only by the Cabinet;

(l) considering Chief Executive reports prepared pursuant to section 54(2)(b) of the Local Government and Elections (Wales) Act 2021, within 3 months of them being made;

(m) considering annual reports received from the Standards Committee, within 3 months of them being made; and

(n) keeping under review the extent to which:

(i) it is exercising its functions effectively;

(ii) using its resources economically, efficiently and effectively; and

(iii) its governance arrangements are effective for securing the matters set out in (i) and (ii) above;

(o) performing the corporate joint committee functions set out in law, including the making of a corporate joint committee application and the giving of consent to corporate joint committee regulations being made;

(p) considering the relevant elements of the performance regime introduced by the Local Government Act 2021 s89-94.

6.4 Membership

6.4.1 All Members of the Council shall be Members of Full Council.

6.4.2 Substitution is not possible at meetings of the Council.

6.5 Council meetings

6.5.1 There are three types of Council meeting:

(a) the annual meeting;

(b) ordinary meetings;

(c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

6.6 Responsibility for functions

6.6.1 The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

7 CHAIRING THE COUNCIL

7.1 Role and function of the Chair of the council

7.1.1 The Councillor elected annually by the Council as its chair will be called the "Chair".

7.1.2 The Chair will cease to be Chair if they resign, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as Chair after an election until their successor has been appointed.

7.1.3 The Chair of the Council and, in their absence, the Vice Chair will have the following roles and functions:

(a) Ceremonial Role. The Chair of the Council:

(i) is the civic leader of Monmouthshire County Council;

(ii) promotes the interests and reputation of the Council and Monmouthshire County Council as a whole and acts as an ambassador for both; and

(iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

7.1.4 Responsibilities of the Chair:

(a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary in consultation with the Monitoring Officer;

(b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;

(c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive and committee Chair to account;

(d) to promote public involvement in the Council's activities;

(f) to attend such civic and ceremonial functions as the Council and they determine appropriate; and

(g) to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

8 SCRUTINY COMMITTEES

8.1 Introduction

8.1.1 The Council is required by law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

8.1.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

8.2 Scrutiny Committees

8.2.1 IThe Council has appointed four Scrutiny Committees which between them will:

(a) review or scrutinise decisions made or actions taken in connection with the discharge of any of the functions of the Executive, whether by Cabinet or an ; an individual or body exercising those functions under delegated powers;

(b) make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;

(c) consider any matter which affects the Council's area or its inhabitants; and

(d) exercise the right to call in of decisions made but not yet implemented by the Cabinet and Officers in accordance with the Council's rules in relation to call-in.

8.2.2 Role, Scope and Membership. The role, scope and Membership of the Scrutiny Committees are described in the table below:

Committee	**Membership**	**Role and Scope**
Performance and Overview Scrutiny	- 9 - Up to 5 co-opted	To scrutinise the ongoing performance of all Council services, ensuring that the Cabinet is held to account. To scrutinise the Council's delivery against its corporate objectives, corporate risks and to conduct budget monitoring for all services.
People Scrutiny	- 9 - Up to 5 co-opted	To scrutinise policy and services delivered to adults, children and young people that promotes their health, education and well-being
Place Scrutiny	- 9 - Up to 5 co-opted	To scrutinise policy and services delivered to residents that promotes community safety and well-being and supports sustainable, resilient communities. To ensure that policy and services are responsive to the needs of businesses and visitors and promote economic activity.
Public Services Scrutiny	- 9 - Up to 5 co-opted	To constructively challenge (where powers allow) the work and effectiveness of strategic partnerships (including the Public Service Board) and other public service providers to ensure public accountability of collaborative services, value for money and improved outcomes for people in Monmouthshire. To influence the decisions, policy and practice of public service providers by gathering evidence to make recommendations on effective multi-agency action to improve public service delivery.- to carry out other functions in relation to the board that are imposed on it by the Act.

8.3 Specific Functions

8.3.1 Policy Development and Review. The Committees may:

(a) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;

(b) conduct research, community and other consultation in the analysis of policy issues and possible options;

(c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;

(d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and

(e) consider the impact of policies to assess if they have made a difference.

8.3.2 Scrutiny. The Committees may:

(a) review and scrutinise the decisions by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;

(b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

(c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;

(d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

(e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committees and local people about their activities and performance; and

(f) question and gather evidence from any person (with their consent).

8.3.3 Crime and Disorder Functions and the Public Services Scrutiny Committee. This Committee:

(a) may review and scrutinise decisions made or other actions taken in connection with the discharge of crime and disorder functions by Responsible Authorities under Sections 5 & 6 of the Crime & Disorder Act 1998. The Committee may make reports or recommendations to full Council or the Cabinet with respect to the discharge of crime and disorder functions, in which case it must provide a copy to each of the Responsible Authorities and those co-operating persons and bodies referred to in the Police & Justice Act 2006;

(b) must consider any local crime and disorder matter (as defined by Section 19 of the Police & Justice Act 2006 (included on the agenda for the meeting where the matter has been referred to the Committee by a member of the Council). It must consider whether to make a report or recommendations to full Council and/or the Cabinet with respect to that local crime and disorder matter, having regard to any representations made by the member concerned. If the Committee decides not to make a report or recommendations it must notify the member concerned of its decision and the reasons for it. If the Committee does make a report or recommendations to full Council and/or Cabinet then it must provide a copy of the report or recommendations to the member concerned and such of the Responsible Authorities and co-operating persons or bodies, as it thinks appropriate;

(c) whenever it provides a copy of the report or recommendations to a Responsible Authority or a co-operating person or body, must remind that authority/body of its statutory duty to have regard to the report or recommendations in exercising its functions, to consider the report or recommendations and to respond to the Committee indicating what (if any) actions that person or body proposes to take.

8.3.4 Annual Report. The Committees may report annually to the Full Council on their workings.

8.3.5 Head of Democratic Services. One of the roles of the Head of Democratic Services under section 8 of The Local Government (Wales) Measure 2011 is to promote the role of the Council's Scrutiny and to promote support and guidance to Council Members and Officers generally about the functions of the Scrutiny Committees. The Monitoring Officer is the statutory Head of Democratic Services.

8.3.6 Membership. All Councillors except Members of the Cabinet may be Members of the Scrutiny Committees. However, no Member may be involved in scrutinising on decisions in which they have been directly involved.

8.3.7 Co-Optees. Each Committee shall be entitled to recommend to Council the appointment of a maximum of 5 people as non-voting co-optees. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of the The Local Government (Wales) Measure 2011, have regard to guidance given by the Welsh Ministers and comply with directions given by them.

8.3.8 Education Representatives. The Performance and Overview Scrutiny Committee shall include in its Membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the Senedd.

8.3.9 Crime and Disorder Representatives. In discharging its crime and disorder functions, the Public Services Scrutiny Committee may co-opt officers, employees or members of Responsible Authorities or Co-operating Persons or Bodies (as defined by section 5 of the Crime and Disorder Act 1998.) Co-optees cannot be members of the Council's Executive and no co-optee is entitled to vote, unless the Committee allows it. Co-optees may be appointed for a particular matter or type of matter and membership may be withdrawn at any time by the Committee.

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

8.3.11 Role of the Chair and the Scrutiny Committees. The role of the Chair of the Scrutiny Committees will be essential in implementing the new method of working. The Chairs will liaise with the Cabinet and supervise the Work Programme and identify cross cutting themes arising from the Committees. In summary, therefore, the Chair will:

(a) be accountable for delivering the new way of working for scrutiny;

(b) will meet regularly to monitor Work Programmes; and

(c) will liaise with the Cabinet on issues affecting the Scrutiny Work Programme.

8.3.12 Work Programme. The Committees will be responsible for setting their own Work Programme and in doing so they should take into account wishes of Members who are not Members of the largest political group on the Council. It may also consider urgent and unforeseen matters not included in the Work Programme.

8.3.13 Meetings. The Performance and Overview Committee and Public Services Scrutiny Committee will meet 5 times a year while the other 2 Committees will meet 6 times a year. Extraordinary meetings may be called from time to time in order to deal with call-ins (as per the Scrutiny Committee Procedure Rules) where the Chair of a Committee agrees it is necessary for that Committee to consider the called in decision before the Scrutiny Committee's next programmed meeting. The quorum of a committee will be 3 Members.

8.3.14 Joint Scrutiny Committees. Under s58 of The Local Government (Wales) Measure 2011, regulations may be made to permit 2 or more local authorities to appoint a joint Scrutiny Committee. This is set out in the Local Authority (Joint Overview and Scrutiny) (Wales) Regulations 2012.

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

9 THE EXECUTIVE (CABINET)

9.1 Introduction

9.1.1 The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

9.1.2 Cabinet meetings shall he held in accordance with the adopted Cabinet Meeting Procedure Rules at Part 4 of the constitution.

9.2 Form and Composition of the Cabinet

9.2.1 The Cabinet will consist of:

(a) the Leader of the Council (the "Leader"); and

(b) at least 2 but not more than 9 other Councillors appointed to the Cabinet by the Leader.

9.3 Leader

9.3.1 Election. The Leader will be a Councillor elected to the position of Leader by the Council.

9.3.2 Term of Office. The Leader is appointed on an annual basis at the annual meeting of the Council until:

(a) they resign from the office by writing to the Chair; or

(b) they are suspended from being a Councillor or from being Leader or from being a member of the Cabinet under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer a Councillor; or

(d) they are removed from office by resolution of the Council; or

(e) the day of the next regular election.

9.3.3 Role of the Leader. The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet. The Leader will be one of the Council's representatives on the Public Services Board and will be the representative at any Combined Joint Committee (CJC). Further information is contained in the Executive Procedure Rules.

9.4 Deputy Leader

9.4.1 The Leader will appoint up to 2 Deputy Leaders, one of whom to act as Leader in the Leader's absence. Deputy Leaders will hold that position until:

(a) they resign from the office by writing to the Leader; or

(b) they are suspended from being a Councillor or from being Leader or from being a member of the Cabinet under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer a Councillor; or

(d) the day of the next regular election.

The Leader may remove the Deputy Leaders from Office at any time.

9.4.2 The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act. For the avoidance of doubt the Leader may, at their absolute discretion and at any time remove and/or appoint any member of the Council as deputy leader for this purpose.

9.5 Other Cabinet Members

9.5.1 Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

(a) they resign from that office by writing to the Leader; or

(b) they are removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or

(c) they are suspended from being a Councillor or from being a member of the Cabinet under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(d) they are no longer a Councillor; or

(e) the day of the next regular election.

9.5.2 The Leader may at any time appoint a Cabinet Member to fill any vacancies.

9.6 Delegation of Functions

9.6.1 The Leader may exercise Executive Functions themselves or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

(a) the Cabinet as a whole;

(b) a Committee of the Cabinet (comprising executive Members only);

(c) an individual Cabinet Member;

(d) a joint committee;

(e) another local authority or the executive of another local authority;

(f) a delegated Officer;

(g) an Area Committee.

9.6.2 Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will draw up a written record of permanent executive delegations made by the Leader where not covered by this Constitution already. This will contain the following information about Executive Functions in relation to the coming year:

(a) the names, addresses and electoral divisions of the people appointed to the executive by the Leader;

(b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;

(c) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;

(d) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;

(e) 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.

9.6.3 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 joint arrangements or an Officer;

(b) 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;

(c) where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

9.6.4 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 Section 9 of this Constitution;

(b) the Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Monitoring 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 or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when they have served it on its chair.

9.7 Assistants to the Executive

9.7.1 Other Councillors may, from time to time, be designated by the Leader as Assistants to the Executive. Such Councillors will not be:

(a) a Member of the Cabinet;

(b) the Chair or Vice-Chair of the Council.

9.7.2 Assistants to the Executive will not participate in Executive Decision making, but may work closely with a Cabinet Member. They will not be a Member of the Scrutiny Committee(s) relating to the specific responsibilities of the Cabinet Member they are assisting or any other areas to which they are assigned.

9.7.3 An Assistant to the Executive may support the Cabinet Member through the delegation of tasks as agreed for their area of responsibility, including attending/chairing meetings; speaking/opening events; reading and commenting on papers; meeting Officers; agreeing press releases/comments and carrying out interviews; representative the Council on appropriate groups. An Executive Support Member will not, however, have delegated powers and will not be entitled to vote at Cabinet Meetings or Cabinet Committee Meetings nor deputise for the Cabinet Member when called to appear at aScrutinyCommittee.

9.7.4 Assistants to the Executive will be entitled to attend, and speak at, any meeting of the Cabinet or a Cabinet Committee.

9.8 Job Sharing by Executive Leaders and Members

9.8.1 Any election or appointment to the Cabinet (including the Leader) may include the election of 2 or more Councillors to share office.

9.8.2 Where 2 or more Members have been elected or appointed to share the same office on the Cabinet the maximum number of members of the Cabinet, including the Leader[s], will be:

(a) 12, where at least 2 of the members have been elected or appointed to share office; or

(b) 13, where at least 3 of the members have been elected or appointed to share office.

9.8.3 The members of the Cabinet who share the same office will have one vote between them in respect of any matter on which they have a right to vote because they are a member of the Cabinet.

9.8.4 Where any meeting is attended by more than one of the members who share the same office and those members are attending in their capacity as a member of the Cabinet, they together count only as one person for the purpose of determining whether the meeting is quorate.

9.9 Rules of Procedure and Debate

9.9.1 The proceedings of the Cabinet shall take place in accordance with the Cabinet Meeting Procedure Rules set out in Part 4.

10 REGULATORY COMMITTEES

10.1 Regulatory and other committees

10.1.1 The Council will appoint committees in accordance with the below table:

Committee	**Membership**
Planning	16

Licensing & Gambling Committee	12
Taxi & Regulatory Committee	12
Standards	3 Members of Council (other than the Leader) 1 Town/Community Council co-optee 5 Independent Members (co-optees with no Council nexus)
Democratic Services	12
Audit	8 Members of Council 4 lay members
Investment Committee	Leader Deputy Leader Cabinet Member for Resources Leaders of the 2 next largest Groups
Standing Advisory Council on Religion, Values and Ethics (SAC)	SAC shall consist of representation from: - Christian denominations and other religions and religious denominations, and non-religious philosophical convictions, the number of members appointed to the group to represent a religion, denomination or non-religious philosophical conviction being broadly reflective, so far as is consistent with the efficient discharge of the group's functions, of the proportionate strength of the religion, denomination or non-religious philosophical conviction in the area; - Such associations representing teachers as, in the opinion of the authority, ought to be represented; and - The local education authority. It may also appoint co-opted members if required although these members have no voting rights. It is for the local authority to appoint the members of the three groups. Each group has a single vote on any matter to be decided by SAC It is open to the local authority to appoint the chairperson, or to allow a SAC to appoint its own chair from its members. Composition: Local authority - 6 places representing Monmouthshire County Council Religions, denominations and non-religious philosophical convictions – 13 places: Representing the Church in Wales (1) Representing the Roman Catholic Church (1) Representing the Free Church Council (4) Representing the Bahai'i Faith (1) Representing the Buddhist Faith (1) Representing the Hindu Faith (1) Representing the Muslim Faith (1) Representing the Jewish Faith (1) Representing the Sikh Faith (1) Representing non-religious philosophical convictions (1) Representing the Teachers Associations 7 places Co-opted Members 2 places The representative for non-religious philosophical convictions shall not participate or vote when SAC determines legacy SACRE matters. Membership of WASACRE

	Monmouthshire SAC is a member body of the Welsh Association of SACREs. Four SAC representatives are nominated for attendance at WASACRE but these may be substituted as required. The RE Adviser to SAC shall act for the local authority at WASACRE meetings. Supply cover and travel expenses will be paid to teacher representatives attending meetings. Religious representatives and those representatives representing non-religious philosophical convictions may claim expenses from their respective organisations. Any member who has not attended three consecutive meetings without apology will lose the right to their place. Supply cover will be paid for teachers' attendance at meetings.
Joint Advisory Group	9 County Council Members Employee representatives nominated by the TUs (including teaching employees); numbers will be determined by the TUs Chair - Cabinet Member responsible for personnel Vice Chair – Cabinet Member responsible for lifelong learning Chief Officer People, Performance & Partnerships or nominated representative as advisor Officers and Officials as required by Members of the Committee
Appointments Committee	5 At least one member, but not more than half the total membership must be a Cabinet member (The Local Authorities (Standing Orders) (Wales) Regulations 2006_

10.2 The Governance and Audit Committee

10.2.1 The Council will appoint an audit committee to discharge the functions described in Part 3 of this Constitution and in accordance with sections 81-87 of The Local Government (Wales) Measure 2011 and s115-118 The Local Government and Elections Act 2021.

10.2.2 The Committee shall comprise of two-thirds Councillor Members and one-third members who are not a Member of the Council (lay members). No more than one member of the Committee may be a member of the Cabinet (not be the Leader) or an Assistant to the Executive, although the Committee may have no Cabinet Members or Assistants to the Executive among its membership.

10.2.3 The Council shall appoint Members to the Governance and Audit Committee in accordance with the political balance rules.

10.2.4 The Chair of the Governance and Audit Committee and Deputy Chair are appointed by it. The person appointed Chair of the Governance and Audit Committee must be a lay member. The person appointed as Deputy Chair cannot be a Member of the Cabinet or an Assistant to the Executive.

10.2.5 Members of the Governance and Audit Committee may vote on any matter that falls to be decided by the Committee.

10.3 The Democratic Services Committee

10.3.1 The Council will appoint a Democratic Services Committee to discharge the functions described in Part 3 of this Constitution.

10.3.2 The Committee shall comprise of Councillor Members but no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

10.3.3 The Chair of the Democratic Services Committee is appointed by Full Council and must not be a Cabinet Member.

10.4 Other Committees and Sub-Committees

10.4.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include a Planning and Licensing Committee.

10.4.2 Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the appointment Committee's terms of reference.

10.5 Rules of Procedure and Debate

10.5.1 The Council Procedure Rules in Part 4 will apply.

11 THE STANDARDS COMMITTEE

11.1 Composition

11.1.1 Membership. The Standards Committee will be composed of 9 members. Its membership will include:

(a) 5 independent members, who are not either a councillor or an officer or the spouse of a councillor or an officer of this council or any other relevant authority appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);

(b) 3 county councillors other than the Leader and not more than one member of the executive;

(c) one member of a town or community council wholly or mainly in the Council's area (a 'community committee member').

11.1.2 Term of office:

(a) independent members are appointed for a period of not less than 4 nor more than 6 years and may be reappointed for one further consecutive term not exceeding 4 years;

(b) members of the local authority who are members of the Standards Committee will have a term of office of no more than 5 years or the period until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further term;

(c) a community committee member will have a term of office of no more than 5 years or the period until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further term.

11.1.3 Quorum. A meeting of the standards committee shall only be quorate when:

(a) at least 3 members, including the Chair, are present, and

(b) at least half the members present (including the Chairman) are independent members.

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

11.1.5 Community committee members. A community committee member shall not take part in the proceedings of the standards committee when any matter relating to their town or community council is being considered.

11.1.6 Chairing the Committee:

(a) only an independent member of the standards committee may be the Chair;

(b) the Chair will be elected by the members of the standards committee for a period not exceeding one year. The Chair is eligible for re-election;

(c) the election of a Chair will be the first item of business for the standards committee at the commencement of each municipal year.

11.2 Role and Function

11.2.1 The Standards Committee will have the following roles and functions:

(a) promoting and maintaining high standards of conduct by councillors and co-opted members;

(b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;

(c) advising the Council on the adoption or revision of the Members' Code of Conduct;

(d) monitoring and from time to time reviewing the operation of the Members' Code of Conduct and protocols which apply to members of the Council, employees, contractors and other parties or organisations associated with Council activity;

(e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;

(f) granting dispensations to councillors and co-opted members 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 Public Services Ombudsman for Wales;

(h) mentoring and supporting the Council's Monitoring Officer in the discharge of their role;

(i) receiving and investigating (where statute permits) reports and complaints relating to the Members' Code of Conduct and protocols approved by the Council from time to time;

(j) the exercise of (a) to (i) above in relation to the town and community councils wholly or mainly in its area and the members of those town and community councils;

(k) monitoring compliance by leaders of political groups on the council with their duties to:

(i) take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

(ii) co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions.

(l) advising, training or arranging to train leaders of political groups on the council about matters relating to their duties under 11.2.1 (k)

11.3 Annual Report

11.3.1 As soon as reasonably practicable after the end of each financial year, the standards committee must make an annual report to Full Council in respect of that year.

11.3.2 The annual report must describe how the committee's functions have been discharged during the financial year.

11.3.3 In particular, the report must include a summary of:

(a) what has been done to discharge the general and specific functions conferred on the committee;

(b) reports and recommendations made or referred to the committee;

(c) action taken by the committee following its consideration of such reports and recommendations;

(d) notices given to the committee;

11.3.4 The annual report must include the committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under 11.2.1(k);

11.3.5 The annual report may include recommendations to the authority about any matter in respect of which the committee has functions.

11.3.6 Council must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which it receives the report.

12 AREA COMMITTEES AND FORUMS

12.1 Area Committees

12.1.1 In accordance with s18 of the Local Government Act 2000, the Executive may arrange for the discharge of Executive functions to be the responsibility of an Area Committee.

12.1.2 An Area Committee is a committee of the authority where:

(a) it is established to discharge functions in respect to part of the area of the authority;

(b) that part consists of the whole of one or more electoral divisions of the authority;

(c) all the members of the authority who are elected for that electoral division, or those electoral divisions, are entitled to be members of the committee;

(d) no members of the authority, other than those mentioned in paragraph (c), may be members of the committee:

(e) the area of that part does not exceed one-half of the total area of the authority; and

(f) the population of that part, as estimated by the authority, does not exceed one-half of the total population of the area of the authority as so estimated.

12.1.3 Upon being established by the Executive, it will be for the Area Committee to establish its terms of reference and procedures within the framework provided by the Executive decision. This will include, but not be limited to:

(a) rules on the voting rights and procedures for the committee;

(b) rules relating to the co-option of members other than the identified County Councillors to the committee and their voting rights;

(c) meeting procedure rules;

(d) rules setting out the establishment of sub-committees if required;

(e) invitation and involvement of non-committee members such as interested parties, press and public;

(f) meeting frequency and other administrative matters.

12.2 Area Forum

12.2.1 Engagement and consultation is carried out by the Council in myriad ways and at every level of interaction between the organisation and citizens.

12.2.2 It might be that in order to facilitate a discussion around a matter (for example, the Local Development Plan) that has geographic relevance along the same defining criteria as set out in 12.1.2, an area forum be called together. Such a forum can only be established with the approval and leadership of the relevant ward members.

12.2.3 Such forums do not have the same legal definition as an Area Committee but may be formed to:

(a) help the Council shape major proposals affecting the area and to advise the Council about the implications for the area of its objectives, plans and policies;

(b) ensure properly co-ordinated services on a local level;

(c) encourage effective collaboration with public, private and voluntary sector partners locally to help the Council meet the aspirations of local people;

(d) provide a forum for views of local communities and to encourage discussions and debate on matters of particular relevance to the area.

12.3 Other Area Engagement

12.3.1 Nothing set out in this section will act as a barrier to the establishment of or engagement by the Council with other geographically defined fora. This may include Community Councils forming clusters, community groups or other models where a Council project would benefit from local engagement.

13 JOINT ARRANGEMENTS

13.1 Arrangements to promote well being

13.1.1 The Council or the executive, in order to promote the economic, social or environmental well-being of its area, may:

(a) enter into arrangements or agreements with any person or body;

(b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and

(c) exercise on behalf of that person or body any functions of that person or body.

13.2 Joint arrangements

13.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

13.2.2 The cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

13.2.3 Subject to 13.2.4 below, the executive may appoint executive members and non-executive members to a joint committee and the political balance requirements shall not apply to the appointment of such members;

13.2.4 The executive may appoint members to a joint committee from outside the executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

13.2.5 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

13.2.6 Details pertaining to the arrangements regarding to Combined Joint Committees will be taken from the Local Government and Elections Act 2021 and all subsequent regulations.

13.3 Access to information

13.3.1 The Access to Information Rules in Part 4 of this Constitution apply.

13.3.2 If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

13.3.3 If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

13.4 Delegation to and from other local authorities

13.4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

13.4.2 The Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

13.4.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

13.5 Contracting Out

13.5.1 The Council (for functions which are not executive functions) and the Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

14 OFFICERS

14.1 Management structure

14.1.1 The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

14.1.2 Statutory Roles. The Council will designate the following posts with the statutory roles as shown:

Post	Statutory Designation
Chief Executive	Chief Executive (s.54 Local Government & Elections (Wales) Act 2021)
Chief Officer Law & Governance	Monitoring Officer (s.5 Local Government & Housing Act 1989) and Head of Democratic Services (s.8 Local Government (Wales) Measure 2011)
Strategic Director Resources / Deputy Chief Executive	S151 Officer (s.151 Local Government Act 1972)

14.1.3 Such posts will have the functions described at 14.2-14.5 below.

14.1.4 Structure. The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of senior officers.

14.2 Functions of the Chief Executive

14.2.1 Discharge of functions by the Council. The Chief Executive will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

14.2.2 The Chief Executive must keep the following matters under review:

(a) the manner in which the exercise by the Council of its different functions is co-ordinated;

(b) the council's arrangements in relation to:

(i) financial planning;

(ii) asset management; and

(iii) risk management;

(c) the number and grades of staff required by the Council for the exercise of its functions;

(d) the organisation of the Council's staff;

(e) the appointment of the Council's staff; and

(f) the arrangements for the management of the Council's staff (including arrangements for training and development).

14.2.3 If the Chief Executive considers it appropriate to do so, they must make a report to the Full Council setting out their approach to these matters. As soon as possible after preparing a report, the Chief Executive must arrange for a report to be sent to each Member of the Council.

14.2.4 The Chief Executive shall be one of the Council's two representatives at meetings of the Public Services Board.

14.2.5 Restrictions on functions. The Chief Executive may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of s151 Officer if a qualified accountant.

14.3 Functions of the Monitoring Officer

14.3.1 Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

14.3.2 Ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and s151 Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an executive function, if they consider any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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

14.3.4 Receiving reports. The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

14.3.5 Conducting investigations. The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards Committee.

14.3.6 Proper officer for access to information. The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

14.3.7 Advising whether decisions of the Executive are within the budget and policy framework. The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

14.3.8 Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

14.3.9 The Monitoring Officer will be a 'Qualified Person' for the purposes of the Freedom of Information Act for issues including the determination of exemptions.

14.4 Restrictions on posts.

14.4.1 The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

14.5 Functions of the s151 Officer

14.5.1 Ensuring lawfulness and financial prudence of decision making. After consulting with the Chief Executive and the Monitoring Officer, the s151 Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

14.5.2 Administration of financial affairs. The s151 Officer will have responsibility for the administration of the financial affairs of the Council.

14.5.3 Contributing to corporate management. The s151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

14.5.4 Providing advice. The s151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

14.5.5 Give financial information. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

14.5.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework. The s151 Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

14.5.7 Restrictions on Posts. The s151 Officer cannot be the monitoring officer or the Head of Democratic Services.

14.6 Functions of the Head of Democratic Services

14.6.1 Provide support and advice to the authority in relation to its meetings. The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the scrutiny committees and Democratic Services Committee.

14.6.2 Provide support and advice to committees of the authority and the members of those committees. Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Scrutiny Committees or Democratic Services Committee.)

14.6.3 Provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, not including advice about a matter being or to be considered at that meeting.

14.6.4 Promote the role of the authority's Scrutiny Committees.

14.6.5 Provide support and advice in relation to the functions of the authority's Scrutiny Committees to each of the following:

(a) members of the authority;

(b) members of the executive of the authority;

(c) officers of the authority.

14.6.6 Make reports and recommendations in respect of any of the following:

(a) the number and grades of staff required to discharge democratic services functions;

(b) the appointment of staff to discharge democratic services functions;

(c) the organisation and proper management of staff discharging democratic services functions;

(d) such other functions as may be prescribed by law.

14.6.7 Restrictions on Post. The Head of Democratic Services cannot be the Chief Executive or the s151 Officer.

14.7 Duty to provide sufficient resources to the Monitoring Officer, s151 Officer and Head of Democratic Services

14.7.1 The Council will provide the Monitoring Officer, s151 Officer and Head of Democratic Services with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

14.8 Conduct

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

14.9 Employment

14.9.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

14.10 Information Available to Officers

14.10.1 The Monitoring Officer, the s151 Officer and the Chief Executive may see any papers or records held by any part of the Council or its Officers. Other Officers may see any information held by the Council provided:

(a) they need to see the information to do their job; and

(b) that information is processed lawfully in accordance with the Data Protection Act 2018 and GDPR.

15 DECISION MAKING

15.1 Responsibility for decision making

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

15.2 Principles of decision making

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

(a) proportionality (i.e. the action must be proportionate to the desired outcome);

(b) due consultation and the taking of professional advice from officers;

(c) respect for human rights;

(d) in accordance to the access to information procedure with a presumption in favour of openness;

(e) clarity of aims and desired outcomes;

(f) on the basis of merit and in the public interest; and

(g) taking into consideration all relevant statutes including the Equality Act 2010 and the Wellbeing of Future Generations (Wales) Act 2015.

15.2.2 An explanation of the reasons for the decision, a record of any personal interest declared and any dispensation to speak granted by the authority's standards committee and details of consultation will be included in the record of each executive decision.

15.3 Decision Making by Full Council

15.3.1 Decisions relating to the functions listed in para 6.2.1 will be made by the full Council and not delegated.

15.3.2 The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.4 Decision making by the Cabinet

15.4.1 The Cabinet will follow the Cabinet Meeting Procedure Rules set out in Part 4 of this Constitution when considering any matter.

15.5 Decision making by Scrutiny committees

15.5.1 Scrutiny committees will follow the Scrutiny Committee Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.6 Decision making by other committees and sub-committees established by the Council

15.6.1 Council committees and sub-committees will follow Committee Meeting Procedure Rules set out in Part 4 of the constitution.

15.7 Decision making by Council bodies acting as tribunals

15.7.1 The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

16 FINANCE, CONTRACTS AND LEGAL MATTERS

16.1 Financial management

16.1.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

16.2 Contracts

16.2.1 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

16.3 Legal proceedings

16.3.1 The Chief Officer, Law & Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Law considers that such action is necessary to protect the Council's interests. The Head of Law has delegated powers to authorise Officers to appear in Court on the Council's behalf.

16.4 Authentication of documents

16.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Law or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

16.4.2 Any contract with a value exceeding £25,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed in accordance with the Council's Contract Procedure Rules at Part 4 or made under the common seal of the council.

16.4.3 In addition to any other person who may be authorised by resolution of the Council, the Proper Officer for the purposes of authentication of documents under the Local Government Acts shall be:

(a) the Chief Executive;

(b) the Monitoring Officer;

(c) any Chief Officer of the Council concerned with the matter to which the document relates; or,

(d) any Officer authorised in writing by such Chief Officer.

16.5 Common Seal of the Council

16.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by one of: an elected Member, the Monitoring Officer or some other person authorised by them.

17 REVIEW AND REVISION OF THE CONSTITUTION

17.1 Duty to Monitor and Review the Constitution

17.1.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. This is set out in Part One.

17.1.2 The s151 Officer shall be responsible for keeping under review the Financial Regulations set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. The s151 Officer shall report any amendments made to Part 4 to Council within 12 months of minor changes for noting.

18 SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

18.1 Suspension of the Constitution

18.1.1 Limit to suspension. The Articles (Part 2) of this Constitution may not be suspended. Any of the Procedure Rules (Part 4) contained in the Constitution may be suspended by the full Council to the extent permitted within those Rules and the law.

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

18.1.3 Rules capable of suspension. The following Rules may be suspended in accordance with 18.1.1:

(a) the Rules of Procedure relating to meetings of the Council, the Executive, Committees and Sub- committees;

(b) Financial Procedure Rules;

(c) Contract Procedure Rules.

18.2 Interpretation

18.2.1 The ruling of the Chair of council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Part 1.

18.3 Publication

18.3.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.

18.3.2 The Monitoring Officer will give a printed or (upon request) an electronic copy of this Constitution to each Member of the Council upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

18.3.3 The Monitoring Officer will ensure that the Constitution is updated as necessary.

PART 3 – RESPONSIBILITY FOR FUNCTIONS

19 INTRODUCTION TO FUNCTIONS

19.1 Purpose

19.1.1 Part 3 – Responsibility for Functions is designed to set out who is responsible for making decisions in Monmouthshire County Council. It should be read in conjunction with the guidance in Section 15 Decision Making.

19.2 Who can be Decision Makers?

19.2.1 Under this constitution, there are a number of different decision makers:

(a) Full Council;

(b) Committee or Sub-Committee of the Council;

(c) the Executive Leader;

(d) the Executive (Cabinet);

(e) a Committee of Cabinet;

(f) an individual Cabinet Member;

(g) a Joint Committee;

(h) a corporate joint committee;

(i) an Officer.

19.2.2 The Council must issue and keep up to date a record of which individual has responsibility for particular types of decisions. This is the purpose of Part 3.

19.3 Executive Councils

19.3.1 Monmouthshire County Council is an Executive authority with a Leader elected by the Council (as opposed to, for example, having a directly elected Mayor). This is the most common form of Local Government in Wales.

19.3.2 Under this system, decisions and functions fall by default to the Executive as established by Part II of the Local Government Act 2000. However, this does not make the Executive supreme, and subsequent legislation such as the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and its subsequent amendments provide further detail on what functions have to sit with the Executive, what functions must not sit with the Executive, and what functions are left to individual Local Authorities to decide where they wish them to sit.

19.4 Functions

19.4.1 Given the legislative structure referred to at 19.3.2, Functions fall into the following categories.

19.4.2 Functions of the Full Council. The Council is the supreme decision-making body and may, with some exceptions, exercise any of the functions vested in the Council by Law. It may also delegate many of those functions to a Committee, Sub-Committee or Officer.

19.4.3 Non-Executive Functions. These are functions which, by law, may not be the responsibility of the Cabinet. In some cases, only the Full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee (who may further sub-delegate) or an Officer.

19.4.4 'Local Choice' Functions. There are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion. Again, these functions may be delegated to a Committee or an Officer.

19.4.5 Executive Functions. As per 19.3.2, all other functions not defined as falling under the above categories are Executive functions that may be delegated to individual Cabinet Members, Committees or Officers by the Leader.

19.5 Other Bodies

19.5.1 Advisory Bodies. The Council and/or the Leader can also set up Advisory Committees and Joint Advisory Committees.

19.5.2 Scrutiny Committees. Scrutiny Committees are responsible for the overview and scrutiny function. They cannot exercise other functions and make decisions.

19.5.3 Officer Delegations. Officer delegations are also contained in this Section of the Constitution.

19.5.4 Joint Committees. Committees established in agreement with other authorities or bodies with a view to having decision making powers.

19.6 Removal of Delegation

19.6.1 Where a function has been delegated, the body that delegated the function may withdraw the delegation generally or in any case and may exercise the function itself.

19.6.2 Where a function has been delegated, the decision maker is not required to exercise the delegation and may refer any matter to the body that made the delegation or any other body that has power to exercise the function.

19.7 Who May Exercise Officer Delegations?

19.7.1 Where a function has been delegated to an Officer(s) ("delegated Officer(s)"), the decision may be taken in the name of (but not necessarily personally by) such delegated Officer(s) ("authorised Officer(s)") in accordance with arrangements made from time to time by such delegated Officer(s) for this purpose. The Officer with delegated powers can delegate to a third party unless that Officer is specifically restricted from doing so relevant to that specific power.

19.7.2 Where a function has been delegated, the body that delegated the function may withdraw the delegation generally or in any case and may exercise the function itself.

19.7.3 Where a function has been delegated, the decision maker is not required to exercise the delegation and may refer any matter to the body that made the delegation or any other body that has power to exercise the function.

20 FULL COUNCIL

20.1 Functions Only to be Exercised by Full Council

20.1.1 In accordance with sub-para 6.3.1 only the Full Council will exercise the following functions:

(a) adopting and changing the Constitution;

(b) approving or adopting the Corporate Plan, Policy Framework, the budget and any application to the Senedd in respect of any Housing Land Transfer;

(c) subject to the urgency procedure contained in the Access to Information Procedure Rules, 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 and removing the Leader;

(e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;

(f) changing the name of the area or conferring the title of freedom of the County;

(g) making or confirming the appointment of the Chief Executive and other Chief Officers;

(h) making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;

(i) all Local Choice Functions set out in this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;

(j) all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;

(k) appointing representatives to outside bodies unless the appointment has been delegated by the Council or is exercisable only by the Cabinet.

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

21 COMMITTEES OF COUNCIL

21.1 Committees

21.1.1 Paragraph 10.1.1 lists the Committees established by Council. Their responsibilities are:

Committee	Responsibilities
Planning	1.Planning and conservation Functions relating to town and country planning and development management as specified in Schedule 1 to the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 ('the Functions Regulations') save in relation to footpaths and bridleways 2. Powers relating to the preservation of trees, the protection of important hedgerows and the power to make limestone pavement order. 3. Review proposed development in accordance with the Council's Local Development Plan.
Licensing and Regulatory	All other functions and powers specified in Schedule 1 to the Functions Regulations, save in relation to the duty to determine licensing policy in accordance with s.6 of the Licensing Act 2003, to approve the Authority's Statement of Accounts, to determine the affordable borrowing limit, to make arrangements for the proper administration of financial affairs, the approval of an annual investment strategy, the power to make Standing Orders, to appoint staff, to appoint Proper Officers and designate Monitoring Officer and to consider adverse reports from the Public Services Ombudsman for Wales, all of which shall be reserved to full Council. All functions and powers specified in Schedule 4 to the Functions Regulations other than those listed herein as reserved to full Council or the Executive. To consider and approve or decline the making of any opposed under section 25 of Part III of the Highways Act 1980 (5) (creation of highways); section 116 – 120 of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc.); and section 53 of the Wildlife and Countryside Act 1981(11) (duty to keep definitive map and statement under continuous review) Along with the power to issue a site license in no-routine cases under the Mobile Homes (Wales) Act 2013. s
Standards	As set out in Article 9.3 Other functions: Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000. Other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act.

Democratic Services	To exercise the function of the local authority under section 8(1)(a) The Local Government (Wales) Measure 2011 (designation of head of democratic services). To review the adequacy of provision by the authority of staff, accommodation and other resources to discharge democratic services functions, and To make reports and recommendations to the authority in relation to such provision. To fully support the non-executive role of councillors. To undertake pieces of work aimed at improving the democratic function, in line with the ethos of the Local Government Measure 2011. To draw up a job description for elected members and improve clarity, transparency and public engagement. To review the ICT policy for members. To consider amendments to the constitution (other than those falling within paragraph 3.5.2), prior to consideration by a meeting of Council
Governance and Audit	Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted. Review and approve the annual statement of accounts, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit. Maintain an overview of the Council's constitution in respect of contract procedure rules and financial regulations. Make recommendations, as appropriate, to Cabinet and Council on any matters reported through the Governance and Audit Committee.
Investment	To make decisions on the acquisition, management and disposal of investment assets as prescribed in the Asset Investment Policy and the Asset Management Strategy. This involves the scrutiny and approval/refusal of business cases relating to the acquisition of land and property assets as well as wider investment opportunities or decisions in support of wider Council policies and in line with agreed evaluation criteria while being subject to annual performance reviews.
SAC	To advise the local authority, in accordance with section 391(1A)(a) of the Education Act 1996, upon matters connected with: (i) religious worship in community schools. (ii) the provision of teaching and learning, under the Curriculum and Assessment (Wales) Act 2021, either in respect of the mandatory element of Religion, Values and Ethics (within the meaning of that Act) ("RVE"), or under section 60 of that Act (post-compulsory education in maintained schools: Religion, Values and Ethics), as the authority may refer to SAC or as SAC may see fit. To provide particular advice in respect of the above matters around the methods of teaching, the choice of materials and the provision of training for teachers (section 391(2), Education Act 1996). To carry out, in accordance with section 391(1A)(b) of the Education Act 1996, the functions conferred on SAC by section 394 of the same Act

	(determination of cases in which requirement for Christian collective worship is not to apply). Where the representative groups so demand (other than the group consisting of persons appointed to represent the local authority), to require the local authority, in accordance with section 391(3) of the Education Act 1996, to review and establish the RVE agreed syllabus via an agreed syllabus conference in accordance with paragraph 3 of Schedule 31 to the same Act. In accordance with Welsh Government guidance, SAC should request a review of the RVE agreed syllabus at least once every 5 years. To publish in each year a report as to the exercise of its functions and any action taken by its representative groups in terms of requesting a review of the RVE agreed syllabus during the last preceding year (section 391(6)-(7), Education Act 1996). A copy of that report must be sent to the Department for Education and Skills, Welsh Government To handle legacy advisory functions formerly the responsibility of the Monmouthshire Standing Advisory Council on Religious Education ("SACRE"), relating to the RE syllabus for those school years in which the RVE agreed syllabus has not yet been implemented. To meet at least once a term (i.e. 3 meetings per academic year), but meetings can be arranged as required. The duty to convene a SAC implies a duty to fund the body satisfactorily. The local authority shall provide a clerk and sufficient funds for it to perform its functions.
Joint Advisory Group	The function of the Joint Advisory Group will be to afford regular and full consultation, and where appropriate, negotiation, on all matters affecting employees of the County Council to make recommendations to the Cabinet and any other committee deemed to be appropriate. The agenda will be divided into 3 sections: - Part 1-Items of joint interest to teaching and non-teaching unions. - Part 2-Items of interest only to teaching unions. - Part 3-Items of interest only to non-teaching unions. The order of Parts 2 and 3 will alternate at each meeting. For items of joint interest (Part 1) the quorum of the Advisory Group shall comprise two members of the County Council and two representatives each of both the Teachers and LGE unions (total –six) For items under Parts 2 and 3, the quorum shall comprise two members of the County Council and two representatives only of the relevant group of unions (i.e. teaching or non-teaching)(total-four) No recommendation shall be made by the Group unless it is approved by a majority of the members present on each side of the Joint Advisory Group.
Appointments Committee	To discharge the functions of the Council in respect of the appointment and dismissal of Chief Officers and Deputy Chief Officers (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006) other than the Chief Executive and Chief Officers who are part of the Council's Strategic Leadership Team, in accordance with the Council's policies and procedures.

22 LOCAL CHOICE FUNCTIONS

22.1 What are they?

22.1.1 As introduced at 19.3.2, an Executive led Council must abide by the rules set out in the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 as amended (there is a 2009 Regulation too for example).

22.1.2 These regulations define what matters must and mustn't sit with the Cabinet. What is left are known as 'Local Choice Functions', ie. it is up to that particular authority to decide what decision making should sit where. The table below sets out those matters for MCC.

22.1.3 Table:

Function	**Body**	**Delegation**
Any functions under a local Act other than a function specified or referred to in Schedule 1 of the Local Authorities executive arrangements (Functions and Responsibilities) (Wales) Regulations 2007 as amended	Executive	Relevant Cabinet Member
The determination of an appeal against any decision made by or on behalf of the authority (where a right of appeal exists)	Council	Appeals Panel
Functions in relation to the revision of decisions made in connection with claims for housing benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000	Council	Monitoring Officer
The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002	Executive	Monitoring Officer
The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals)	Executive	Monitoring Officer
The making of arrangements pursuant to section 95(2) of, the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Executive	Monitoring Officer
The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996	Council	
The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999	Executive following consultation with relevant Scrutiny Committee	
Any function relating to contaminated land	Landowner responsibility with Executive, otherwise Licensing and Regulatory Committee	Relevant Cabinet Member
The discharge of any function relating to the control of pollution or the management of air quality	Landowner responsibility with Executive, otherwise	Relevant Cabinet Member

	Licensing and Regulatory Committee	
The Service of an abatement notice in respect of statutory nuisance	Executive	
The passing of a resolution that Schedule 2 to the Noise and statutory Nuisance Act 1993 should apply in the council's area	Executive	
The inspection of the authority's area to detect any statutory nuisance	Executive	
The investigation of any complaint as to the existence of a statutory nuisance	Executive	
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interest in land	Executive	
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Executive and all non-executive committees in relation to their functions	All Chief Officers as appropriate
The appointment of any individual: (a) to any office or position representative of the Council other than that to which they have been appointed by the electorate or as already covered as a specific function of the AGM (eg Chair); (b) to any body other than: (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body and the revocation of any such appointment	Council	
Power to make payment or provide other benefits in cases of maladministration etc	Council	
The discharge of any function by an authority acting as a harbour authority	Licensing and Regulatory Committee	
Functions in respect of the calculation of council tax base in accordance with any of the following: (a) the determination of an item for 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; (c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.	Executive	Relevant Cabinet Member
Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6	Licensing and Regulatory Committee	
Functions in respect of gambling in accordance with any of the following:	Council	

(a) a resolution not to issue casino licenses in accordance with section 166 of the Gambling Act 2005 (c.19); (b) prescribing of fees in accordance with section 212 of the Gambling Act 2005; (c) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005; (d) authorised persons in accordance with section 304 of the Gambling Act 2005; (e) prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005; (f) three-year licensing policy in accordance with section 349 of the Gambling Act 2005;		
The determination of school organisation proposals under the School Standards and Organisation (Wales) Act 2013	Executive	Relevant Cabinet Member
The regulation of sexual entertainment venues as per the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009	Licensing and Regulatory Committee	

23 EXECUTIVE

23.1 What are they?

23.1.1 These are the functions to be carried out by the Executive (Cabinet) on behalf of the authority. They are subject to the restrictions and obligations placed upon the Executive by the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 as amended.

23.2 The Functions

23.2.1 References are made throughout this Constitution to matters that must be dealt with by Cabinet; these are not repeated here. The above legislation, and the general purpose of an Executive-led Council, is that matters not reserved to Council, allocated elsewhere via the Local Choice Functions table or prohibited from sitting with the Executive by legislation default to being an Executive matter and any desired delegation thereafter.

23.2.2 The list below therefore is not definitive nor exhaustive and, where doubt exists, the Monitoring Officer should be consulted.

23.3 Delegation of Functions

23.3.1 Responsibility is delegated to each Executive Member for functions within the scope of their portfolio, provided a matter is:

(a) within the policy framework or corporate policy;

(b) is not in conflict, or does not compromise any existing or proposed policy;

(c) has no corporate impact (does not apply to decisions within corporate portfolios);

(d) is within approved budgets or within virement discretion:

(e) is not considered (by the executive member or the Leader) to be too sensitive or controversial to be decided “within-portfolio”;

and subject:

(f) in all cases to the Leader being able to require any proposed decision to be taken by the Executive itself (where they judge this appropriate);

(g) to the executive taking the final decision on joint arrangements, arrangements to provide well-being-partnership arrangements and delegations to other local authorities;

(h) to the Executive itself making policy framework and byelaw recommendations to Council.

23.3.2 Providing the above criteria are met, cross-portfolio decisions may be made by individual Executive Members in respect of their responsibilities provided there is agreement between the Executive Member concerned on the cross-portfolio decisions to be taken. In the absence of this, the decisions will fall to the Executive.

23.3.3 Cabinet may delegate matters to an appropriate Officer as long as it is a matter within the remit of the Executive.

23.4 Executive Functions List

23.4.1 The following list needs to be read in conjunction with the rest of Section 23:

(a) to take any urgent decisions which are contrary or not wholly in accordance with the approved Budget or contrary to the Policy Framework;

(b) to develop a medium term financial strategy, with priorities and targets, over a rolling three year period;

(c) to prepare, agree and, if appropriate, consult on the Authority’s plans, policies and strategies which do not form part of the Policy Framework;

(d) to initiate and guide reviews of the Authority’s Policy Framework;

(e) to lead the integration of strategic objectives across the Authority;

(f) to agree responses to consultation papers from the Government (including White and Green papers), from the Welsh Government, LGA, WLGA and all other bodies in respect of strategic policy;

(g) to determine the response to reports from Scrutiny Committees;

(h) to receive financial forecasts including the medium term financial strategy and the monitoring of financial information and indicators;

(i) to recommend to the Council the annual budget, including the Capital and Revenue Budgets and the level of Council Tax;

(j) to ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time and between annual budgets. This will include recommending to Council any changes to policy that will materially

reduce or increase the services of the Authority or create significant financial commitments in future years;

(k) to agree and oversee the Authority's overall policy in relation to grants to external bodies and to agree the Authority's strategy for the payment of grants;

(l) to approve the purchase, sale or appropriation of land and buildings in any case where arrangements have not been made for discharge of the function by an officer;

(m) to approve the letting or taking of a lease, tenancy or license of land and/or premises in any case where arrangements have not been made for discharge of the function by an officer;

(n) to authorise the making of compulsory purchase orders except for compulsory purchase orders made in respect of single houses under Part II of the Housing Act 1985 and or the Acquisition of Land Act 1981;

(o) to consider, at least annually, the level of reserves, provisions and balances held by the Authority and to make recommendations to Council where appropriate;

(p) to approve writing-off of debts in any case where arrangements have not been made for discharge of the function by an officer;

(q) to approve the write-off of stocks, stores and other assets in any case where arrangements have not been made for discharge of the function by an officer;

(r) to approve revenue and capital budget virements or any inter-service virements where the purpose of the budget has been amended or in any case where arrangements have not been made for discharge of the function by an officer and within the Policy and Budgetary Framework and Financial procedure Rules;

(s) to agree to the provision of new primary and secondary schools, nursery and special schools, and to provide sites for new, substituted or transferred voluntary schools;

(t) to approve the publication of proposals for the closure or significant change or significant enlargement of schools and to enact the closure or change or enlargement of any schools once the agreement of the Welsh Government has been given when required;

(u) to approve any arrangements for joint service provision with the National Health Service;

(v) to approve the making of bids to the Welsh Government and other bodies for capital funding (except where these are within the Policy and Budgetary Framework);

(w) to authorise the implementation of any capital project within the approved capital programme or fully funded via grant or s106 capital;

(x) to consider the reports of external review bodies on matters of strategic service delivery;

(y) to determine any matter delegated to an officer, where that officer considers it more appropriate for it to be dealt with by the Cabinet and it is not reserved to Full Council or prohibited for Executive decision by law;

(z) to receive reports from appropriate officers of the Council, and/or Cabinet Members, on significant matters requiring consideration/decision, and/or proposals for new or amended policy and its implementation;

(aa) to have discretion to seek the advice or comments, of a Scrutiny Committee or other relevant body, in relation to significant matters before making a decision.

24 OFFICERS

24.1 Introduction

24.1.1 The day-to-day operation of the Authority relies on myriad decisions on a vast spectrum of matters. In order to function properly, efficiently and effectively, the majority of these decisions sit with Officers appropriately trained, experienced and empowered to make them.

24.1.2 The following sections set out the general and specific (post by post) delegations of functions of Council and Cabinet to Officers in operation. It should be interpreted widely and in accordance with the parameters established in the general functions rather than narrowly.

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

24.1.4 Any new functions which become the Council's responsibility will be included within this Scheme and the delegated authority of the Officer given or acquiring responsibility for those functions shall be automatically extended without the need for the full Council, or where appropriate the Leader, to amend the Scheme and if any doubt should arise as to which Officer is responsible for the function the Chief Executive shall decide.

24.1.5 Any powers or duties delegated to an officer may be exercised by their deputy or other persons duly authorised by that officer.

24.2 Definitions

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

24.2.2 "Chief Officer" has the meaning within the Local Authorities (Standing Orders) (Wales) Regulations 2006 (as amended).

24.2.3 'Key Decision' means a decision which involves the exercise of an executive function by a Chief Officer which is likely to:

a) result in the Council incurring expenditure or making savings which are significant, or;

b) be significant in terms of its effects on the well-being of individuals living or working in the Council's area.

24.2.4 'Operational Decisions' are decisions taken by Chief Officers which are not Key Decisions,

24.2.5 A sufficient record must be made of all Key and Operational Decisions.

24.2.6 Key Decisions taken by Officers under this General Scheme of Delegation shall be published on the Council's website within 2 clear working days following the decision being taken.

24.2.7 A Key Decision will come into force and may be implemented on the expiry of five clear working days after the publication unless the decision is called-in to a relevant scrutiny committee;

24.2.8 Operational Decisions will be recorded by the relevant service area.

24.2.9 Day to day routine management decisions are not subject to the above recorded decision procedures.

24.2.10 References to any Act or Regulation shall include any statutory extension or modification, amendment or re-enactment of the same.

24.2.11 References to an Act shall include any regulations made under it.

24.3 Obligations

24.3.1 Officers should keep appropriate Cabinet Members properly informed of activity arising within the scope of these delegations.

24.3.2 Officers should, where appropriate, consult with or inform any local Member(s) that may affected by a decision.

24.3.3 Officers should inform or consult with their line manager as appropriate.

24.3.4 Officers should also inform those listed above of any significant delays to agreed schemes or projects.

24.3.5 When taking, or considering taking, delegated decisions all officers must have regard to the following questions and whether they need to inform/consult as above:

(a) Does the decision involve significant expenditure to the service budget, or wider Council budget?

(b) Does the decision affect the reputation of the service and/or Council?

(c) Is the decision significant with regard to one or more wards?

(d) Does the decision carry a significant risk to the service or wider Council?

(e) Does the decision impact reputationally or financially on service users, partner organisations or committees outside the Council?

24.4 Overall Limitations

24.4.1 This scheme does not delegate to officers:

(a) any matter reserved to full Council;

(b) any matter which by law may not be delegated to an officer;

(c) any matter expressly withdrawn from delegation by this scheme or at any time by the Cabinet.

24.4.2 Officers cannot make decisions which:

(a) make, amend or are not in accordance with the budget and policy framework;

(b) review Council performance;

(c) set or change policy and associated service standards set by the Council or the Cabinet;

(d) set overall service budgets;

(e) respond to formal central government consultation in respect of strategic policy;

(f) make by-laws;

(g) make compulsory purchase orders;

(h) are contrary to statutory requirements or restrictions and such decisions remain the responsibility of the Council/the Cabinet/Committees as appropriate.

24.4.3 Any exercise of delegated powers shall be subject to:

(a) any statutory restrictions;

(b) the Council's Constitution;

(c) the Council's budget and policy framework;

(d) any other policies;

(e) the Code of Conduct for Members;

(f) the Code of Conduct for Employees.

24.4.4 In exercising delegated powers officers shall:

(a) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by the Contracts and Financial Procedure Rules;

(b) have regard to any report by the Chief Executive or the Monitoring Officer under s4-5 of the Local Government and Housing Act 1989 or of the s151 Officer under s114 of the Local Government Finance Act 1988;

(c) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the Monitoring Officer; and

(d) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

24.5 Further Provisions

24.5.1 Delegated authority includes management of the human and material resources made available for their functions and departments within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.

24.5.2 Delegated authority includes the power to issue and serve statutory and other notices, to institute formal cautions, to recommend the institution of legal proceedings before courts or tribunals, to take default action under all legislation relevant to their functional area and to authorise Officers to appear on behalf of the Council in tribunals, review boards and inquiries, also to sign all necessary documents and authorise entry to land in pursuance of statutory powers, provided always that this is in accordance with the functional responsibilities of the officer concerned.

24.5.3 Delegated authority includes the power to determine applications and authorise payments and implement national agreements.

24.5.4 It shall always be open to an officer to consult with the Cabinet, or a non-executive committee on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet or a committee (as appropriate).

24.5.5 Key Decisions taken by officers under the Council's scheme of delegation shall be published on the Council's website within 2 clear working days following the decision being taken.

24.5.6 A Key Decision will come into force and may be implemented on the expiry of five clear working days after the publication of the decision, unless the decision is subject to a 'call-in'.

24.5.7 Operational Decisions are not subject to the call-in procedure and will be implemented with immediate effect.

24.5.8 In exercising delegated powers, officers shall consult with such other relevant officers as may be appropriate and shall have regard to any advice given.

25 GENERAL DELEGATIONS

25.1 Introduction

25.1.1 The following delegations must be read in conjunction with the previous section which set out the overall basis, limitations, and further provisions which apply to this scheme of delegations.

25.1.2 All subsequent delegations are provided always that the decision is:

(a) within budget;

(b) in accordance with the Council's policy framework;

(c) in accordance with the Council's Financial and Land Procedure Rules and Contracts Procedure Rules;

(d) in accordance with their Service Business Plan; and

(e) not a matter specifically reserved for Full Council, a Committee of the Council, the Executive or a Statutory Officer.

25.1.3 The qualification within 25.1.2 will not apply to urgent decisions or decisions taken either side of a Local Government Election where there is no elected Member body available to act.

25.1.4 Where there is any doubt as to interpretation the Monitoring Officer will decide.

25.2 Delegations to Chief Executive and Chief Officers within the Strategic Leadership Team

25.2.1 General:

(a) to make any decisions relating to any matter within their area of responsibility ('General Delegation'), including, for the avoidance of doubt, any matter specifically delegated in this Scheme of Delegations to a Head of Service or Manager.

(b) to take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services;

(c) to deal with urgent business relating to the work of a department that cannot reasonably await the next appropriate Executive, Council, Committee or Sub-Committee meeting, or the requirements of the Executive and Scrutiny Committee procedure rules;

(d) in the year of local government elections, delegated authority for council and executive functions for decisions that need to be taken as a matter of urgency between the day of the election and the annual meeting of council. Any decisions taken during this period will be reported to the annual meeting of council or the first meeting of the cabinet of the new council if the decision taken is an executive function.

25.2.2 People, Peformance & Partnerships:

(a) to manage the human resources within their area of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial procedures;

(b) to consider and approve, as appropriate, in consultation with the Chief Officer People, Performance & Partnerships and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff (aged 55 or over) in the following circumstances:

(i) in the interests of the efficiency of the service;

(ii) who request voluntary retirement;

(c) to approve courses for staff;

(d) to approve carry-over of leave in accordance with the Council's policy;

(e) to deal with applications for leave without pay;

(f) to pay honoraria subject to notification to the Chief Officer People, Performance & Partnerships

(g) to appoint temporary staff in cases of special need or urgency.

25.2.3 Financial:

(a) to procure works, goods, services and/or supplies and manage all aspects of the contract (except where the Contracts Procedure Rules make contrary provision) where the estimated contract value does not exceed £5,000,000; and in all cases, subject to consultation with the Cabinet Member for Finance and any other Cabinet Member with relevant portfolio responsibility and compliance with Financial Procedure Rules, Contracts Procedure Rules and the Policy and Budget Framework and provided that in the event of an objection from the Cabinet Member/s, the decision shall be referred to Cabinet;

(b) within Service Areas to vire sums not exceeding £250,000 provided under specific public revenue budget heads to other purposes (revenue only), subject to compliance with the Financial Procedure Rules;

(c) to exercise the rights and responsibilities of the Council as shareholder or member of a company or other body, where no other specific provision has been made.

(d) to make applications or submit bids for funding or financial assistance or assistance in kind, to any person or body and take all necessary steps to accept this assistance;

(e) to make ex gratia payments for loss or damage to property of up to £1,000 subject to consultation with the s151 Officer;

(f) To make grants and donations (excluding under Welsh Church Fund) within the terms of the relevant grants scheme or other conditions imposed by the Council/Executive up to the relevant aggregate budget;

(g) to incur revenue expenditure within estimates subject to compliance with contract procedure rules and financial regulations of the Council;

(h) to incur capital expenditure provided:

(i) the project is included in the approved capital programme;

(ii) the project does not exceed the approved budget;

(iii) the contract procedure rules and financial regulations of the Council have been complied with;

(i) in consultation with the s151 Officer to make applications for grants from central government or any other external source;

25.2.4 Assets:

(a) to make any applications under the planning legislation to the Authority as Local Planning Authority in relation to development of land for which the Chief Officer is responsible including Planning Applications to develop any land held by the Authority or for the development of any land by the Authority whether on its own or jointly;

(b) to manage any operational land or premises or assets and to secure such maintenance, repair or renewal of the same and including letting the same either temporarily or in accordance with Council policy and securing the removal of trespassers.

(c) to write off or sell surplus or obsolete equipment, vehicles and plant valued over £1000 by a process determined in accordance with the s151 Officer;

(d) to give directions under s77 of the Criminal Justice and Public Order Act 1994 (Power of local authority to direct unauthorised campers to leave land).

26 SPECIFIC DELEGATIONS

26.1 Chief Executive

26.1.1 To be exercised following consultation with Appropriate Members:

(a) approval of activities as 'approved duties';

(b) to deal with any urgent business relating to the work of more than one Council directorate.

26.1.2 Other delegations:

(a) to take any action necessary in connection with an emergency or disaster in the County;

(b) the approval and issue of all official publicity, press statements and official publications;

(c) to execute a power delegated to any officer when that officer is unable or unwilling to act and, where appropriate, delegate to a third officer;

(d) to maintain a list of politically sensitive posts by adding or deleting posts as they consider appropriate and to issue certificates under Section 3(3) of the Local Government and Housing Act 1989.

26.2 Deputy Chief & Strategic Director - Resources

26.2.1 To be exercised following consultation with Appropriate Members:

(a) in relation to County Farms:

(i) approval of all wayleave and easement agreements of apparatus over, under and through County Farm land;

(ii) sale of small areas of surplus County Farm land (up to valuation of £20,000);

(iii) sale of land and buildings approved by Council as part of the County Farms strategy for disposal;

(iv) notification of tenants who are more than a quarter in arrears with the payment of their farm rent;

(v) all matters relating to end of tenancy valuations;

(vi) letting of land on short term agreement i.e. for less than 3 years;

(vii) enforcement of County Farms strategies and policies;

(viii) review of all County Farms and Cottage rents for reporting to Members;

(ix) shortlisting, interviewing and appointment of new tenants;

(b) The above is also be applicable for other land owned by the County Council including Welsh Church Trust and Education Trust land;

(c) recreation and industry:

(i) to grant rent reduced or rent free periods, subject to the Council's appropriate policy;

(ii) To serve notices to quit on tenants or lessees of industrial units.

(d) in consultation with other Chief Officers as appropriate and the local ward member, to dispose at valuation of miscellaneous parcels of land and/or property up to £20K (other than County Farm land);

(e) to assess and charge rents on new and existing dwellings acquired or provided by the Council;

26.2.2 Other delegations:

(a) to apply for regional development grants under the Industry Act 1972;

(b) to deal with applications for occupation of the Council's industrial units;

(c) to undertake (and apply) reviews of rent of the Council's industrial units;

(d) responsible for the overall day to day management of the farming estate and other agricultural land owned by the County Council;

(e) authorise farm improvements undertaken by tenants who require Landlord's Consent/Permission;

(f) oversee the annual programme of farm improvements to be carried out by the Landlord as part of its planned maintenance and reinvestment;

(g) oversee the transfer and management of the milk quota between tenants;

(h) preparation and annual revision of the County Farms Asset valuation;

(i) conservation and woodland management;

(j) preparation and agreement of Service Level Agreements with other Departments of the County Council;

(k) land drainage and water supply improvements;

(l) agreement to apply for planning permission where required;

(m) acquisition of office equipment and supplies;

(n) agreeing to staffing and training needs;

(o) Health and Safety issues;

(p) to assess and charge rents on new and existing dwellings acquired or provided by the Council;

(q) to deal with applications for the hire of office premises in accordance with the policy of the Council;

(r) to approve the assignment of leases;

(s) to instruct valuers on rent review or lease renewal and to accept that valuation;

(t) to accept the valuer's valuations where the Council has agreed to sell or purchase land at a valuer's valuation and to report thereon to Council;

(u) to serve notices of review of rent and notices to quit;

(v) to approve the grant of leases and/or easements to utility companies for the purposes of establishing substations and laying cables etc. on Council land and to report thereon to Council;

(w) to pay Council employees and to properly account for all statutory and non-statutory additions and deductions.

26.3 Chief Officer Communities and Place

26.3.1 To be exercised following consultation with Appropriate Members:

(a) to make unopposed temporary Prohibition Orders and Notices under Section 14 of the Road Traffic Regulation Act 1984;

(b) tree preservation:

(i) to make provisional tree preservation orders under s.201 of the Act;

(ii) applications for consent for the cutting down, topping, lopping or destruction of trees under Sections 198 and 211 of the Act;

(c) to exercise the Council's functions under Part IX of the Housing Act 1985 (Demolition and Closing Orders);

(d) to authorise the preparation and submission of tender bids, quotations, etc., for works offered by bodies other than the Council of a value estimated greater than £400,000 per annum.

26.3.2 Other Delegations:

(a) Conservation:

(i) to approve grants for historic buildings under Historic Town Schemes;

(ii) conservation and woodland management.

(b) Tree Preservation:

(i) to serve notices under Section 207 of the Act to plant replacement trees and to subsequently monitor;

(ii) to confirm tree preservation orders where no objections were made or where all objections have been withdrawn.

(c) Entry onto Land. To authorise persons to enter land under:

(i) Sections 196A, 214B and 324 of the Town and Country Planning Act 1990;

(ii) Section 95 of the Building Act 1984;

(iii) Section 293 of, and paragraph 7 of Sched. 12A to, the Highways Act 1980;

(iv) Section 71 of the Road Traffic Regulation Act 1984;a

(v) Highways Act 1980;

(vi) Wildlife and Countryside Act 1981;

(vii) Countryside and Rights of Way Act 2000. Leisure Services;

(d) Housing:

(i) to deal with and take all decisions in relation to homelessness applications;

(ii) to authorise payment in respect of accommodation provided other than by the Council in circumstances of homelessness;

(iii) to administer housing schemes under which the Council sells and purchases properties so as to provide low-cost housing;

(iv) to approve and refuse applications for housing renovation grants;

(v) the service of notices, certificates of disrepair, etc., under the Rent Acts;

(e) Neighbourhood Services:

(i) to respond on behalf of the Council to HGV operator's licence applications;

(ii) where necessary to authorise the preparation and submission of tender bids, quotations, etc., for work offered by the Council;

(iii) where necessary, to authorise the preparation and submission of tender bids, quotations, etc., for works offered by bodies other than the Council of a value estimated up to £400,000 per annum.

(f) Highways:

(i) issuing of permissions and licences in accordance with the provisions of the Highways Act 1980, the New Road and Street Works Act 1991, the Land Drainage Act 1976 and the Public Health Act 1936;

(ii) the serving of notices, but not their enforcement, in accordance with the provisions of the Highways Act 1980, the New Roads and Street Works Act 1991, the Land Drainage Act 1976 and the Public Health Act 1936;

(iii) authorise the making of agreements under section 38 of the Highways Act 1980;

(iv) enforcement of car parking orders;

(v) to respond to planning applications on behalf of the Council as Highway Authority;

(vi) to authorise applications to the magistrates' court to divert or extinguish highways, under section 116 of the Highways Act 1980;

(vii) to authorise persons to enter land and/or premises for the purpose of:- - undertaking surveys pursuant to section 289 of the Highways Act 1980 and maintaining, altering or removing certain structures and works pursuant to section 291 of the Highways Act 1980;

(g) Waste:

(i) to authorise officers under the Environmental Protection Act 1990 to serve notices under sections 46 and 47, issue fixed penalty notices under sections 34, 47ZA and 88 and to investigate alleged contraventions of sections 33 and 34;

(ii) to authorise officers to serve fixed penalty notices for contraventions of the Dogs (Fouling of Land) Act 1996;

(h) Energy and Decarbonisation:

(i) to enter into agreements, commission, procure and otherwise deliver the policy framework including but not limited to the REFIT programme, power purchase agreements, loan and other schemes and grant funding.

26.4 Strategic Director Social Care and Health

26.4.1 Social Services functions to be exercised following consultation with Appropriate Members:

(a) to make decisions to exempt persons from the usual fostering limit in accordance with paragraph 4 of Schedule 7 to the Children Act 1989;

(b) to cancel an eviction in the event of a change in circumstances;

(c) to approve the registration of HOMES applications within Council policy;

(d) to determine all succession and assignment cases in accordance with Council policy;

(e) to take action under the National Assistance Act 1948 to remove persons in need of care to hospital;

(f) to determine whether repayment of housing renovation grants should be sought (where this is a discretionary matter);

(g) the ability to purchase appropriate property or land for the purposes of 26.4.2(a)(iv) in conjunction with delegation made to the Cabinet Member and Deputy Chief Executive & Strategic Director – Resources in the Council decision 27 Jan 22.

26.4.2 Other Social Services delegations:

(a) Children:

(i) to maintain the Child Protection Register;

(ii) to undertake assessments of the need for care and support, determine eligibility and make arrangements for meeting those assessed needs of children in accordance with the Council's statutory duties under the Social Services and Well-Being (Wales) Act 2014;

(iii) to safeguard and promote the well-being of looked after children in accordance with Section 78 of the Social Services and Well-Being (Wales) Act 2014;

(iv) to exercise the Council's functions under Part 6 of the Social Services and Well-Being (Wales) Act 2014 to secure sufficient accommodation and maintenance for looked after children and to maintain and review care and support plans;

(v) to exercise the functions of the Council under Sections 120 and 121 of the Social Services and Well-Being (Wales) Act 2014 in relation to children

accommodated by health and education authorities or in residential care homes or mental nursing homes;

(vi) to exercise all duties and functions of the Council under the Children and Young Persons Act 1969;

(vii) to exercise the powers and duties of the Council under Part III of the Children Act 1989 (Local Authority Support for Children and Families);

(ix) to commence such proceedings as are appropriate under Sections 25, 31, 34, 35, 39, 43, 44 and 49 of the Children Act 1989 and otherwise to exercise the powers and duties of the Council under Parts 4 (Care and Supervision) and 5 (Protection of Children) of the Act;

(x) to exercise the duties of the Council under Section 7 of the Children Act 1989 to report to the court on the welfare of children in private proceedings;

(xi) to exercise the duties of the Council under Section 16 of the Children Act 1989, to provide advice, assistance and befriending under the terms of the Family Assistance Order;

(xii) to recover, vary or waive the charges for any service provided by the Council under Part 3 of the Children Act 1989 and part 6 of the Social Services and Well-being (Wales) Act 2014;

(xiii) to make contributions towards the maintenance of children placed with a person as a result of a Residence Order in accordance with paragraph 15 of Schedule 1 to the Children Act 1989;

(xiv) to approve payment where appropriate of the legal expenses of applicants for orders under Section 8 of the Children Act 1989 in respect of children in care to the extent that they are not met by the Legal Aid Fund;

(xv) to consent to the change of names of children who are the subject of a Care Order in favour of the County Council subject to the requirements of Section 33 of the Children Act 1989;

(xvi) to appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 to the Children Act 1989;

(xvii) to guarantee apprenticeship and similar deeds under paragraph 18 of Schedule 2 to the Children Act 1989 and to guarantee tenancy agreements entered into on behalf of children to whom the Council have a responsibility under the provisions of the Children Act 1989;

(xviii) to give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949;

(xix) to approve and sign applications for passports for children and young persons in the care of the Council;

(xx) to arrange for a child in care to live abroad subject to the approval of the court in ` accordance with paragraph 19 of Schedule 2 to the Children Act 1989;

(xxi) to respond to the Local Education Authority who has consulted the Council under Section 36(8) of the Children Act 1989;

(xxii) to approve the applications of children and young persons in the care of the Council who wish to joint HM Forces;

(xxiii) to exercise the powers of the Council under Section 125 of the Social Services and Well-Being (Wales) Act 2014 in relation to the death of children looked after by local authorities;

(xxiv) to exercise the functions of the Council under Part VI (Community Homes) of the Children Act 1989 in relation to the provision of accommodation for children in community homes;

(xxv) to take such action as may be necessary to implement the payments of the various foster care allowances for the time being approved by the Council within current budgetary limits and in consultation with the Director of Finance and IT to increase the allowances annually;

(xxvi) to sanction payments of the cost of the initial clothing and equipment required by children looked after by the Council who are placed in boarding schools and other establishments within current budgetary limits;

(xxvii) to approve applications to go on school expeditions, including expeditions abroad, by children looked after by the Council, including expenditure on equipment and pocket money within current budgetary limits;

(xxviii) to make ex gratia payments in respect of damage or injury resulting from the action of children looked after by the Council;

(xxix) to make payments to promote contact between parents and children looked after by the Council in accordance with Section 96 of the Social Services and Well-Being(Wales) Act 2014;

(xxx) to assess the contributions to be paid towards board and lodging by working children provided that the amount remaining of weekly personal pocket money and clothing allowance should not be less than the amount currently approved under the payment of foster care allowances;

(xxxi) to exercise the powers of the Council to make applications under Section 18 of the Adoption Act 1976;

(xxxii) to make applications under the Criminal Injuries Compensation Board Scheme for compensation in respect of children in care.

(b) Adoption:

(i) to set up an adoption panel in accordance with Regulation 56 of the Adoption Agencies Regulations 1983 and to make such decisions and notifications as to the adoption of children as are specified in those Regulations;

(ii) to approve the institution of adoption proceedings by foster parents;

(iii) to approve the payment of legal expenses of prospective adoptive parents for children who are being placed for adoption by the Council as an adoption agency;

(iv) to grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976;

(c) Guardian ad Litem Panel:

(i) to maintain a panel of Guardians ad Litem in accordance with the Guardians ad Litem and Reporting Officers (Panels) Regulations 1991;

(ii) to pay the fees and expenses of individual members of the panel in accordance with the Regulations;

(d) Registration Functions:

(i) to exercise the powers conferred on the Council under Part IX (Private Arrangements for Fostering Children) of the Children Act 1989 in respect of arrangements for the care of privately fostered children;

(ii) in consultation with an authorised officer of the appropriate Health Authority, to approve the registration of nursing agencies under Section 2 of the Nurses Agencies Act 1957;

(iii) to exercise the functions of the Council under Sections 85, 86 and 87 of the Children Act 1989. (Notification of children accommodated in certain establishments);

(e) Adult Services:

(i) to undertake assessments of the need for care and support, determine eligibility and make arrangements for meeting those assessed needs of adults and carers in accordance with the Council's statutory duties under the Social Services and Well-Being (Wales) Act 2014;

(ii) to exercise the Council's functions under Part 4 of the Social Services and Well-Being (Wales) Act 2014 to maintain and review care and support plans to meet the assed needs of adults and carers;

(iii) to exercise the Council's functions under Section 15 of the Social Services and Well-Being (Wales) Act 2014 in providing or arranging preventative services, to include delaying the need for care and support, minimizing the effect on disabled persons of their disabilities and preventing people from suffering from abuse and neglect;

(iv) to be responsible for discharging the Council's safeguarding role in relation to adults at risk in accordance with part 7 of the Social Services and Well-Being (Wales) Act 2014;

(v) to waive the assessment charge for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in the register to be provided for this purpose;

(vi) to authorise and approve the maintenance costs for the admission of any person to any residential accommodation;

(vii) to authorise the following facilities for any registered disabled person within the approved budget and within approved policies: attendance at a centre providing appropriate development opportunities, the provision of special facilities, minor alterations and adaptations to premises including the installation of appropriate equipment, (the works to be supervised by the appropriate professional staff), contribute where assessed as appropriate to the cost of adaptations to premises where the client is not eligible for a grant;

(viii) to act as receiver in all matters in which it is appropriate for an officer of the Council to so act;

(ix) to accept guardianship application and to make an order for discharge of patients subject to guardianship under the Mental Health Act 1983;

(x) to appoint officers to act as approved social workers under the Mental Health Act 1983;

(xi) to make appropriate applications to the Court of Protection for receivership orders;

(xii) to exercise the Council's functions in relation to badges for disabled persons as drivers or passengers;

(xiii) within the approved policies and estimates of the Council to discharge the duties towards people with disabilities imposed upon the Council by the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970 and the Disabled Persons (Services Consultation Representation) Act 1986;

(xiv) within the provisions of the National Health Service and Community Care Act 1990 to arrange for provision of appropriate care service to those persons assessed as having needs that fall within the Council's agreed priorities subject always to appropriate contract and financial regulations, the approved estimates and policies of the Council;

(f) Complaints:

(i) within the arrangements for the hearing of representations and complaints in accordance with Part 10 of the Social Services and Well-Being (Wales) Act 2014 to respond to and determine responses to recommendations of Complaint Review Panels (including application of financial redress) as considered appropriate within the framework of the Council's policies on remedies to complaints, financial regulations and, where necessary, in consultation with the Monitoring Officer.

26.4.3 Regulatory and licensing functions to be exercised following consultation with Appropriate Members:

(a) urgent matters with regard to safety at sports grounds;

(b) to take enforcement action to gain improvement to private water supplies under section 80 of the Water Industry Act 1991;

(c) to issue prior consents under section 61 of the Control of Pollution Act 1974 (construction noise);

(d) to authorise the issue of the following licences and, where necessary, enforce the legislation relating to licences:

(i) for the breeding of dogs;

(ii) for caravan sites;

(iii) for milk and dairies;

(iv) for pet animals (other than dogs);

(v) under the Animal Boarding Establishment Act 1963 for riding stables;

(vi) for scrap metal dealers;

(vii) for hairdressers;

(viii) under the Poultry Meat (Hygiene) Regulations;

(ix) for performing animals;

(x) for dangerous wild animals;

(xi) for zoos;

(e) to make an order under section 70 of the Criminal Justice and Public Order Act 1994;

(f) in consultation also with the local member, where appropriate, to authorise the issue of licences and permits etc., under, and where necessary enforce, the following Acts or the legislation relating to the specified matters:

(i) Cinema Act 1985;

(ii) Theatres Act 1968;

(iii) Sunday Entertainments Act 1932 (as amended);

(iv) Theatrical Employers Registration Acts 1925 and 1928;

(v) Lotteries and Amusements Act 1976;

(vi) Gaming Act 1968;

(vii) Street Collection Permits;

(viii) Game Dealers Licences;

(ix) Licences for House to House Collections;

(x) Public Collections under the Charities Act 1992;

(xi) Late Night Refreshment Houses Act;

(g) to serve Street Litter Control Notices under Part IV of the Environmental Protection Act 1990.

26.4.4 Other Regulatory and licensing functions:

(a) Environmental Health:

(ii) to serve any notice or requisition for information under any Act relating to any environmental health or private sector housing matter and requiring the owner or occupier of, or any person having an interest in, or managing any land or premises, to give information to the Council and to authorise such other officers as are appropriate to serve such notice or requisition;

(ii) to determine applications for licences for game;

(iii) to authorise the removal of abandoned vehicles including the recovery of costs;

(iv) to take action under the Public Health (Control of Disease) Act 1984 in relation to the control of communicable diseases and in particular to authorise officers (in addition to the Environmental Health Manager):

(1) on behalf of the Proper Officer to require information from a person in the case of a notifiable disease or food poisoning (s18); On behalf of the Proper officer, to issue a notice in writing to request a person to discontinue work (s20);

(2) on behalf of the Proper Officer, to exclude from school a child liable to convey a notifiable disease (s21);

(3) on behalf of the Proper officer, to require a list of pupils at a school having a case of notifiable disease (s22);

(4) to exclude children from places of entertainment or assembly (s23);

(5) to prohibit certain work on premises where a notifiable disease exists (s28);

(6) to cleanse or disinfect premises and destroy articles (s31);

(7) to sign any notice, order or other document which the authority are authorised or required by or under the Act to give, make or issue (s59);

(8) power of entry (s61);

(v) to register:

(1) persons and premises under s14 and s15 of the Local Government (Miscellaneous Provisions) Act 1982 relating to acupuncture, tattooing, ear piercing and electrolysis, and

(2) persons and premises under s19 of that Act (Sale of Food by Hawkers);

(vi) to approve furnaces and chimney heights under the Clean Air Acts;

(vii) to enforce the provisions of s16 and s19 of and Schedule 2 to the Food and Protection Act 1985 (including the appointment of authorised officers) and the Control of Pesticides Regulations 1986;

(viii) to authorise officers generally or specially for the purposes of the Food Safety Act 1990;

(ix) to enforce the provisions of the Health and Safety at Work etc., Act 1974;

(x) to exercise the Council's powers under s19 (1) of the Health and Safety at Work etc. Act 1974 in relation to the appointment of inspectors;

(xi) to exercise the Council's functions under s16 (6) of the Environmental Protection Act 1990 in relation to the appointment of inspectors;

(xii) to deal with applications under Schedule 2 to the Noise and Statutory Nuisance Act 1993 and to determine the level of fee chargeable for an application dependent upon the circumstances of each case;

(xiii) to take urgent action in relation to matters of animal health;

(xiv) to exercise the Council's functions under legislation relating to food and drugs, food hygiene, offices shops and railway premises;

(xv) to serve notices and, where necessary, arrange for work to be carried out in default and recover costs incurred in relation to the drainage of existing buildings including private sewers;

(xvi) to authorise persons to enter land and/or premises under any of the following Acts (as amended or incorporated by post-Brexit instruments):

(1) Riding Establishments Acts 1964 and 1970;

(2) Public Health (Control of Disease) Act 1984;

(3) Water Industry Act 1991;

(4) Local Government (Miscellaneous Provisions) Act 1976 and 1982;

(5) Caravan Sites and Control of Development Act 1960 as amended by Local Govt. (Misc. Provisions) Act 1982;

(6) Control of Pollution Act 1974;

(7) Refuse Disposal (Amenity) Act 1978;

(8) Environment Act 1995;

(9) Sunday Trading Act 1994;

(10) Prevention of Damage by Pests Act 1949;

(11) European Communities Act 1972 and regulations made there under;

(12) Antisocial Behaviour Act 2003, part 8 (High Hedges): Section 74 (Powers of entry);

(13) Public Health Act 1936;

(14) Public Health Act 1961;

(15) Health and Safety at Work etc., Act 1974;

(16) Building Act 1984 (for drainage purposes);

(17) Local Government (Miscellaneous Provisions) Act 1982 (for purposes of public entertainment licensing, acupuncture, tattooing, ear-piercing and electrolysis);

(18) Food Safety Act 1990;

(19) Environmental Protection Act 1990;

(20) Housing Act 2004;

(21) Animal Welfare Act 2006;

(22) Public Health (Wales) Act 2017

(xvii) to authorise officers under the Dangerous Dogs Act 1991;

(xvii) in respect of statutory nuisances, to serve notices and to take action in default and to authorise Environmental Health Officers to serve notices under s80 Environmental Protection Act 1990 and to take action under section 81 to abate a nuisance;

(xviii) to authorise officers for the purpose of Paragraph 2A of Schedule 3 to the Environmental Protection Act 1990 (entry to or opening vehicles, etc.);

(xix) to obtain information about the emission of pollutants and other substances into the air under s79(2) of the Control of Pollution Act 1974

(xx) to serve notices requiring information about air pollution under s80 of the Control of Pollution Act 1974;

(xxi) to serve notices under s93 of the Control of Pollution Act 1974;

(xxii) to take action under s20 of the Local Government (Miscellaneous Provisions) Act 1976 for the provision of sanitary accommodation;

(xxiii) to administer the provisions of Part 1 of the Environmental Protection Act 1990 (schedule B processes) including the appointment of officers as inspectors, under s16 of the Act, for the purposes of enforcement of Part 1 of the Act. The Council's powers in relation to authorisations and enforcement generally under Part 1 of the Environmental Protection Act 1990 is delegated to officers duly appointed as inspectors under Part 1 of the Act, in line with such authority as may be approved by the Chief Officer Communities and Place;

(xxiv) to authorise officers under Part II of the Clean Neighbourhoods & Environment Act 2005;

(xxv) to authorise officers under the Refuse Disposal Amenity Act 1978;

(xxvi) to authorise officers to serve a Litter Clearing Notice under Part IV of the Environmental Protection Act 1990;

(xxvii) to authorise officers under Part IV of the Environmental Protection Act 1990;

(xxviii) to authorise officers to serve Fixed Penalty Notices under section 47ZA of the Environmental Protection Act 1990;

(xxix) to authorise officers under Part 6 Chapter 1 of the Clean Neighbourhoods & Environment Act 2005;

(xxx) to exercise the Council's functions as contained in the Water Industry Act 1991 in relation to private water supplies;

(xxxi) to authorise officers under the European Communities Act 1972 and regulations made thereunder, including the Food Labelling Regulations 1996, the General Food Regulations 2004, the Official Feed and Food Controls (Wales) Regulations 2007, the Imported Food Regulations 1997 and the Products of Animal Origin (Third Country Imports (Wales) Amendment) Regulations 2007 and to appoint and authorise officers under the Food Hygiene (Wales) Regulations 2005 and the Food Hygiene (Wales)(No. 2) Regulations 2005;

(xxxii) to authorise officers under the provisions of Part 1, Chapter1 of the Health Act 2006 with discretion to serve fixed penalty notices in accordance with that Act, any subordinate legislation and related guidance;

(xxxiii) to authorise officers to take action, including the service of notices under the following provisions of the Public Health 1936:

(1) s45 to remedy defective sanitary conveniences;

(2) s50 to remedy overflowing and leaking cesspools;

(3) s83 to remedy filthy or verminous premises;

(xxxiv) to authorise officers to take action, including the service of notices under s17 of the Public Health 1961 (repair of stopped up drains);

(xxxv) to authorise officers for the purpose of enforcement of the Dogs (Fouling of Land) Act 1996, including the issue of a fixed penalty notice in relation to dog fouling offences;

(xxxvi) to authorise officers to take enforcement action under the Pollution Prevention and Control Act 1999 and regulations made thereunder including those functions under the Environmental Permitting (England and Wales) Regulations 2007; including the granting, variation and revocation of Environmental Permits, the service of Enforcement Notices and Suspension Notices and the Power to prevent or remedy pollution, and the Power to require the provision of information;

(xxxvii) to authorise officers to discharge the local authority's functions under the Water Industry Act 1991, including the service of notices under s80 and enforcement action under any Regulations made thereunder;

(xxxviii) to authorise officers to serve notices under s60 of the Control of Pollution Act 1974;

(xxxix) to authorise persons to serve notices under s4 of the Prevention of Damage by Pests Act 1949 requiring steps to be taken for the destruction of rats or mice or otherwise for keeping the land free from rats and mice and, subject to the approval of the Environmental Health Manager, to take action in default (s5);

(xxxx) to authorise Food Law Enforcement Officers considered by the Head of Public Protection to be competent to discharge the general duties and powers of the Authority under the Food Hygiene Rating (Wales) Act 2013 and any regulations made thereunder;

(xxxxi) along with the Head of Public Protection, the Principal Environmental Health Officer, and the Principal Licensing Officer authorised to act as authorised officers for the purposes of Sections 98 to 107, Public Health (Wales) Act 2017; and to have the following powers under that legislation:

- Section 61(1) - Power to designate an individual performing a special procedure to be licensed.
- Section 65(2) - Power to issue a refusal notice for a special procedure licence
- Section 65(3) - Power to issue a Special Procedures Licence where all the applicable licensing criteria is met.
- Section 66(3)&(6) - Power to issue a refusal notice for a special procedure licence (in the case of a relevant offence)
- Section 67 - Power to renew a Special Procedures Licence where all the applicable licensing criteria is met.
- Section 68 - Power to issue a revocation notice for a special procedure licence
- Section 70(1) - Power to issue an approval certificate for a premises or vehicle.
- Section 70(1) - Power to renew an approval certificate for a premises or vehicle.
- Section 70(1) - Power to refuse an approval certificate for a premises or vehicle.
- Section 72(4) - Power to take reasonable steps for bringing a voluntary termination notice to the attention of appropriate persons.
- Section 77(2) - Power to issue a stop notice.

- Section 78(1) - Power to issue a remedial action notice in respect of a Special Procedures Licence.
- Section 79(1) - Power to issue a remedial action notice in respect of an Approved Premises Certificate.
- Section 80(2) - Power to issue a completion certificate in respect of a Special Procedure Licence or an Approved Premises Certificate.
- Section 97 - Power to carry out enforcement action and consultation in respect of intimate piercing.
- Schedule 3 Paragraph 15(3) - Power to issue a warning notice.

(xxxxii) to appoint authorised officers under the Sunbeds (Regulation) Act 2010 and any associated regulations:

(1) to enter any premises at which the officer has reason to believe that a sunbed business is being carried on;

(2) to carry out on those premises such inspections as the officer considers necessary for the purpose of the proper exercise of the officer's functions;

(3) where the officer considers it necessary for that purpose, to require the production of any book, document or record (in whatever form it is held) and inspect it, and take copies of or extracts from it;

(4) to take possession of any book, document or record which is on the premises (in whatever form it is held) and retain it for as long as the officer considers necessary for that purpose;

(5) to require any person to give such information, or afford such facilities and assistance, as the officer considers necessary for that purpose;

(6) to may make such purchases and secure the provision of such services as the officer considers necessary for the purpose of the proper exercise of the officer's functions and to undertake any such other powers as may be considered by the Head of Public Protection to be appropriate under any subsequent regulation made under the Act;

(xxxxii) to authorise officers under the Anti-Social Behaviour, Crime and Policing Act 2014 to:

(1) to issue Community Protection Notices (CPN) (s43);

(2) to take remedial action in default of CPN (s47);

(3) to issue fixed penalty notices (s52 and 68);

(4) to issue a Closure Notice (s76 and 77);

(b) Trading Standards:

(i) to exercise the registration and enforcement functions of the Council contained in the Explosives Act 1875;

(ii) to provide under the Weights and Measures Act 1985 local standards and other weights, measures and testing equipment;

(iii) to exercise the enforcement functions of the Council as weights and measures authority;

(iv) to authorise officers to enter land, inspect and undertake enforcement action and/or take action in the public interest as appropriate pursuant to the following legislation (as amended or incorporated by post-Brexit instruments):

Accommodation Agencies Act 1953
Administration of Justice Act 1970
Agriculture (Miscellaneous Provisions) Act 1968
Agriculture Act 1970 as it applies to Animal Feeding Stuffs and Fertilisers;
Animal Boarding Establishments Act 1963
Animal Health Acts 1981
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Anti-Social Behaviour Crime & Policing Act 2014
Cancer Act 1939
Charities Acts 1992 and 2006
Children and Families Act 2014
Children and Young Persons (Protection from Tobacco) Act 1991
Clean Air Acts 1956 – 1993
Clean Neighbourhood and Environment Act 2005
Climate Change Act 2008
Commons Registration Act 1965/2006
Companies Act 2006
Consumer Credit Act 1974 & 2006
Consumer Protection Act 1987
Consumer Rights Act 2015
Control of Horses (Wales) Act 2014
Copyright Designs and Patents Act 1988
Courts and Legal Services Act 1990
Countryside and Rights of Way Act 1990
Criminal Justice Act 1982, 1988 and 1991
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1984
Crossbows Act 1987
Dangerous Wild Animals Act 1976
Development of Tourism Act 1969
Dogs Act 1906
Education Reform Act 1988
Energy Act 1976
Enterprise Act 2002
Environment Act 1995
Environmental Protection Act 1990
Estate Agents Act 1979
European Communities Act 1972
Explosives Act 1875
Factories Act 1961
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Financial Services Act 2012
Firearms Act 1968
Fireworks Act 2003
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Gambling Act 2005
Hallmarking Act 1973
Health Act 2006

Health and Safety at Work Act 1974
Highways Act 1980
House to House Collections Act 1939
Housing Act 2004
Intoxicating Substances (Supply) Act 1985
Knives Act 1997
Legal Services Act 2007
Licensing Act 2003
Local Government Byelaws (Wales) Act 2012
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Local Government Acts 1972 – 2003
Malicious Communications Act 1988
Medicines Act 1968
Mock Auctions Act 1961
Motorcycles Noise Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
National Lotteries Act 1993
Natural Environment and Rural Communities Act 2006
Offensive Weapons Act 1996
Olympic Symbol (Protection) Act 1995
Performance of Animals (Regulations) Act 1925
Pet Animals Act 1951
Petroleum (Consolidation) Act 1928
Psychoactive Substances Act 2016
Police Reform and Social Responsibility Act 2011
Prices Act 1974 and 1975
Proceeds of Crime Act 2002
Protection of Animals (Amendment) Act 2000
Regulation of Investigatory Powers Act 2000
Riding Establishments Acts 1964 to 1970
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Acts 1974 – 1988
Scrap Metal Dealers Act 2013
Slaughter of Poultry Act 1967
Sunbeds (Regulation) Act 2010
Sunday Trading Act 1994
Tattooing of Minors Act 1969
Theft Acts 1968 and 1978
Timeshare Act 1992
Tobacco Advertising and Promotion Act 2002
Town Police Clauses Act 1847
Trade Descriptions Act 1968
Trade Marks Act 1994
Trading Schemes Act 1996
Unsolicited Goods and Services Acts 1971 and 1975
Vehicles (Crime) Act 2001
Video Recordings Acts 2010
Weights and Measures Act 1985

(v) having obtained the agreement of the Monitoring Officer, to lay information in respect of offences under the Acts listed above and the following:

Enterprise Act 2002
Tobacco Advertising and Promotion Act 2002
Criminal Justice and Police Act 2001
Vehicle Crimes Act 2001
Licensing (Young Persons) Act 2000
Protection of Animals (Amendment) Act 2000
Knives Act 1997
Offensive Weapons Act 1996
Olympic Symbol (Protection) Act 1995

Clean Air Act 1993
National Lottery Act 1993
Malicious Communications Act 1988
Protection of Children (Tobacco) Act 1986
Energy Conservation Act 1981
Forgery and Counterfeiting Act 1981
Unsolicited Goods and Services Act 1975
Administration of Justice Act 1970
Development of Tourism Act 1969
Licensing Act 1964
Mock Auctions Act 1961
Protection of Animals (Anaesthetics) Act 1954
Accommodation Agencies Act 1953
Pet Animals Act 1951
Dogs Act 1906 and Dogs (Amendment) Act 1928

and any other legislation within the ambit of the Trading Standards section;

. (vi) to appoint for enforcement purposes:

(1) inspectors under the Agriculture Act 1970 as it applies to animal feeding stuffs and fertilisers;

(2) inspectors under the Animal Health Acts 1981 and 1984;

(3) officers under the Consumer Protection Act 1987;

(4) officers under the Environmental Protection Act 1990 as it applies to sale, labelling etc. of pesticides and dangerous substances;

(5) officers under the Health and Safety at Work etc. Act 1974 (the 1974 Act):

a. to exercise the powers of an Inspector specified in sections 20, 21, 22, 25 and in England and Wales section 39 of the 1974 Act;

b. any health and safety regulations;

c. the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified, as in force from time to time;

(vii) officers under the Licensing Act 2003;

(viii) officers under Part II of the Clean Neighbourhoods & Environment Act 2005;

(ix) officers under the Refuse Disposal Amenity Act 1978;

(x) Environmental Health Officers to serve a Litter Clearing Notice under Part IV of the Environmental Protection Act 1990;

(xi) officers under Part IV of the Environmental Protection Act 1990;

(xii) officers to serve Fixed Penalty Notices under s47ZA of the Environmental Protection Act 1990;

(xiii) officers under Part 6 Chapter 1 of the Clean Neighbourhoods & Environment Act 2005
Licensing;

(c) Licensing:

(i) no delegations have been made to specific officers under the Gambling Act 2005;

(ii) in relation to the hackney carriage and private hire licensing functions, to approve applications for drivers' licences where they are unproblematic and/or reveal minor traffic offences and/or the applicants had not received any additional convictions/endorsements since the previous licences were issued;

(iii) to determine (including imposition of conditions) application for a Pleasure Boat Licence pursuant to s94 Public Health Amenities Act 1907;

(e) Private Sector Housing:

(i) to serve notices in respect of unfit houses under s189 and s264 of the Housing Act 1985;

(ii) to serve repair notices under s190 of the Housing Act 1985;

(iii) to authorise work in default of compliance with notices served under s190 of the Housing Act 1985;

(iv) to exercise the Council's functions as contained in Part XI of the Housing Act 1985 in relation to houses in multiple occupation;

(v) to exercise the powers conferred on Councils under the Housing Act 2004 Part 1;

(vi) to carry out inspections of any residential premises to see if a Category 1 or Category 2 hazard exists;

(vii) to take appropriate enforcement action where a Category 1 or Category 2 hazard exists, this includes:

(1) serving an Improvement Notice. (Housing Act 2004 s11 - s12);

(2) making a Prohibition Order (Housing Act 2004 s20 - s21);

(3) serving a Hazard Awareness Notice. (Housing Act 2004 s28 - s29);

(4) taking emergency remedial action. (Housing Act 2004 Section 40);

(5) making an Emergency Prohibition Order. (Housing Act 2004 s43);

(viii) to suspend Improvement Notices and to review such Improvement Notices. (Housing Act 2004 s14);

(ix) to revoke or vary Improvement Notices and to suspend and review suspended Improvement Notices. (Housing Act 2004 s16);

(x) to suspend Prohibition Orders and to review such Prohibition Orders. (Housing Act 2004 s23);

(xi) to revoke or vary Prohibition Orders and to suspend and review suspended Prohibition Orders. (Housing Act 2004 s25);

(xii) to serve an Overcrowding Notice. (Housing Act 2004 s139);

(xiii) to revoke or vary Overcrowding Notice. (Housing Act 2004 s144);

(xiv) to take enforcement action under Schedule 3 (works in default). - To exercise the powers conferred on Councils under the Housing Act 2004 Part 2);

(xv) to operate and manage any HMO licensing scheme;

(xvi) to compile and maintain a public register of licensed H.M.Os. (Housing Act 2004 s232);

(xvii) to impose conditions relating to the management of a HMO (Housing Act 2004 s67);

(xviii) to serve or decide not to serve a Temporary Exemption Notice. (Housing Act 2004 s62);

(xix) to require a fee for HMO licensing;

(xx) to grant or refuse a HMO licence. (Housing Act 2004 s.64);

(xxi) to vary or revoke a HMO licence. (Housing Act 2004 s69 - 70);

(xxii) to apply to A Residential Property Tribunal to make a Rent Repayment Order and to serve a Notice of Intended Proceedings. (Housing Act 2004 s73);

(xxiii) to make an Interim and Final Management Order. (Housing Act 2004 s102 and s113);

(xxiv) to authorise officers to enter premises to carry out work under Housing Act 2004 s131, Schedule 3 para. 3 (4) and Schedule 7 para. 25;

(xxv) to require the production of documents under Section 235;

(xxvi) to enter premises for the purposes of survey and examination under s.239;

(xxvii) to apply to a Justice of the peace for a warrant to authorise entry;

(xxviii) to authorise officers for enforcement purposes. (Housing Act 2004 s243);

(xxix) to carry out relevant functions under the Housing Act 2004, such delegation to include the authorisation of Environmental Health Officers including:

(1) to exercise the powers conferred on Councils under the Housing Act 2004 - Part One;

(2) to carry out inspections of any residential premises to see if a Category 1 or Category 2 hazard exists;

(3) to take appropriate enforcement action where a Category 1 or Category 2 hazard exists, this includes:

a. serving an Improvement Notice. (Housing Act 2004 s11 - s12);

b. making a Prohibition Order. (Housing Act 2004 s20 - s21);

c. serving a Hazard Awareness Notice. (Housing Act 2004 s28 – s29);

d. taking emergency remedial action. (Housing Act 2004 s40);

e. making an Emergency Prohibition Order. (Housing Act 2004 s43);

(4) to suspend Improvement Notices and to review such Improvement Notices. (Housing Act 2004 s14);

(5) to revoke or vary Improvement Notices and to suspend and review suspended Improvement Notices. (Housing Act 2004 s16);

(6) to suspend Prohibition Orders and to review such Prohibition Orders. (Housing Act 2004 s23);

(7) to revoke or vary Prohibition Orders and to suspend and review suspended Prohibition Orders. (Housing Act 2004 s25);

(8) to serve an Overcrowding Notice. (Housing Act 2004 s139);

(9) to revoke or vary Overcrowding Notice. (Housing Act 2004 s144);

(10) to take enforcement action under Schedule 3 (works in default);

(11) to exercise the powers conferred on Councils under the Housing Act 2004 - Part 2);

(12) to operate and manage any HMO licensing scheme;

(13) to compile and maintain a public register of licensed HMOs. (Housing Act 2004 s232);

(14) to impose conditions relating to the management of a HMO (Housing Act 2004 s67);

(15) to serve or decide not to serve a Temporary Exemption Notice (Housing Act 2004 s62);

(16) to require a fee for HMO licensing;

(17) to grant or refuse a HMO licence (Housing Act 2004 s64);

(18) to vary or revoke a HMO licence (Housing Act 2004 s69 - 70);

(19) to apply to A Residential Property Tribunal to make a Rent Repayment Order and to serve a Notice of Intended Proceedings (Housing Act 2004 s73);

(20) to make an Interim and Final Management Order (Housing Act 2004 s102 and s113);

(21) to authorise officers to enter premises to carry out work under Housing Act 2004 s131, Schedule 3 paragraph 3 (4) and Schedule 7 paragraph. 25;

(f) General:

(i) to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

(g) Licensing Act 2003:

(i) to consider and, where appropriate, agree the following applications:

(1) application for personal licence with unspent convictions;

(2) application for a Minor Variation;

(3) request to be removed as designated premises supervisor;

(ii) to consider and, where appropriate, agree the following applications where no police or other relevant representation is made:

(1) application for personal licence;

(2) application to dis-apply the requirement for a designated premises supervisor at community premises;

(3) application for premises licence/club premises certificate;

(4) application for provisional statement;

(5) application to vary premises licence/club premises certificate;

(6) application to vary designated premises supervisor;

(7) application for transfer of premises licence;

(8) application for interim authorities;

(iii) the authority to grant, refuse or vary licenses in respect of riding establishments;

(iv) under the Mobile Homes (Wales) Act 2013, to issue site licences with conditions, as necessary; to serve the site owner a fixed penalty notice and/or compliance notice; to take emergency action; and the power to enter the site;

(v) under the Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008) and Regulations made under the 1984 Act to enter premises (Sections 61and 62) and to sign any notice, order or other document which the authority are authorised or required by or under this Act to give, make or issue (Section 59);

(vi) under the Health Protection (Local Authority Powers) (Wales) Regulations 2010:

(1) to serve, if satisfied a child is or may be infected or contaminated and therefore presents or could present significant harm to human health, a notice to require that the child be kept away from school (Reg. 2);

(2) to serve notice to require the Head teacher of a school to provide a list of names, addresses and contact telephone numbers of children attending school (Reg. 3);

(3) to arrange disinfection or decontamination of things, premises on request of the owner (Reg. 4);

(4) to arrange disinfection or decontamination of things on request of person with custody or control (Reg. 5);

(5) to arrange disinfection or decontamination of premises on request of the owner (Reg. 6);

(6) to arrange disinfection or decontamination of premises on request of tenant (Reg. 7);

(7) to serve a notice to request co-operation for health protection purposes (Reg. 8);

(8) to serve a notice to restrict contact with dead bodies (Reg. 9);

(9) to serve a notice to restrict access to dead bodies (Reg. 10);

(10) to relocate, or cause to be relocated a dead body that is or may be infected or contaminated (Reg. 11);

(vii) under the Health Protection (Part 2A Orders) (Wales) Regulations 2010:

(1) to make an application to a Justice of the Peace for an order under Part 2A of the Act for Health Measures (Regulation 3):

a. health measures in relation to persons (under s45G(2a-k) or (4) of Part 2A of 1984 Act);

b. health measures in relation to things (under s45H(2a-e) or (4a&b) of Part 2A of 1984 Act);

c. health measures in relation to premises (under s45I(2a-d) or (4) of Part 2A of 1984 Act);

(2) to make reasonable enquiries as to the existence and location of persons in relation to an application for an order, namely:

a. the person subject to the application for an order and

b. persons to whom the local authority must give notice of an application for an order, (as specified in paragraphs (4) to (7) Regulation 3);

(3) to determine information, as deemed necessary, to enable provision of the evidence required for a Part 2A application in relation to persons (Regulation 4);

(viii) under the Petroleum Consolidation Act 1928 to grant or vary petroleum licences;

(ix) under the Regulatory Enforcement and Sanctions Act 2008:

(1) to enter into Primary Authority partnerships, considered on a case by case basis;

(2) to agree the provision of services to businesses;

(x) to approve applications and issue licences under the Scrap Metal Dealers Act 2013 in cases where no relevant information needs to be considered. This power to approve applications and issue licences may be exercised by a deputy or other persons duly authorised by the Principal Licensing Officer, including Senior Licensing Officers.

26.5 Strategic Director – Learning Skills & Economy

26.5.1 Delegations to be exercised following consultation with Appropriate Members:

(a) School Term Dates. In the case of County, Voluntary Controlled and Special Schools, including residential schools, (as from 1 September 1999, community, foundation and voluntary schools and community and foundation special schools) to determine school term dates after consultation with the Teachers' Associations;

(b) regarding admissions:

(i) to keep standard numbers under review and to implement any necessary changes, where these are agreed by the governing body;

(ii) to respond to any proposals from governing bodies to increase standard numbers;

(iii) to set admission limits which exceed the standard number where this is considered appropriate;

(c) to consider proposed statements of special educational need where it is proposed that consideration is to be given to placement at a school establishment outside the area of the Council;

(d) to determine and authorise the payment of discretionary awards and grants including any awards from charitable trust funds which the Council administers;

(e) to agree, on safety grounds, that home to school arrangements be provided in any particular case in excess of the Council's mileage policy.

26.5.2 Other delegations:

(a) admissions:

(i) to administer arrangements for admissions to nursery schools and classes in accordance with policies agreed by the Council;

(ii) to administer arrangements for the admission of individual pupils to primary and secondary schools, including designated areas and other relevant factors and to present the case on behalf of the Council to admission appeal panels;

(ii) to exercise the functions of the Council in relation to pupils excluded from school and to present the case on behalf of the Council to exclusion appeal panels;

(b) attendance at school:

(i) to ensure that appropriate transport arrangements are made in accordance with the Council's policies;

(ii) to exercise the powers and duties of the Council in respect of children excluded from school and to make suitable arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school;

(iii) to exercise the functions of the Council relating to the non-attendance of pupils at school;

(iv) to undertake the powers and duties of the Council under Section 36 of the Children Act 1989 regarding Education Supervision Orders;

(c) curriculum:

(i) to monitor the implementation of the requirements in respect of the school curriculum, including religion, values and ethics, in conjunction with SAC, if appropriate, as set out in the Education Act 1996;

(ii) investigate complaints in accordance with s409 of the Education Act 1996;

(d) Special Educational Needs:

(i) to arrange for children to be assessed in accordance with the requirements of the Education Act 1996, to determine the ` special educational provision which should be made for them and to maintain and review statements of special educational need;

(ii) to represent the Council at Special Educational Needs Tribunals in connection with the assessment of special educational needs;

(iii) to ensure that the requirements of the Code of Practice on Special Educational Needs or other regulations are complied with;

(e) staffing as respects primary, secondary and special schools:

(i) to appoint:

(1) persons selected by governing bodies to fill vacant posts as head teachers or deputy head teachers;

(2) persons recommended or accepted for appointment by governing bodies to fill other teaching posts;

(3) persons recommended by governing bodies for appointment to non-teaching posts unless the person does not meet any qualification requirements applicable to the post;

(ii) in the case of aided schools to exercise any advisory rights relating to the appointment of head teachers, deputy head teachers or other teaching or ancillary staff conferred by agreement or legislation;

(iii) to nominate persons to fill vacancies in other teaching posts in schools where governing bodies have notified their intention to fill those vacancies;

(iv) to appoint persons selected by governing bodies as their Clerks;

(v) to implement determinations of governing bodies of schools relating to the determination of potential dismissals and any subsequent appeals against such dismissals, which are within the Council’s powers to determine;

(vi) to exercise the powers of the Council as local education authority in respect of the Licensed Teacher Scheme;

(vii) to appoint supply teachers from funds held centrally;

(viii) to exercise the powers and duties under the School Teacher (Appraisal) Regulations 1991 in respect of head teachers;

(f) Finance:

(i) to design and keep under review the Council's scheme of delegation in accordance with the Council's policies and any statutory requirements;

(ii) to determine and authorise the payment of boarding awards, grants towards tuition fees and expenses at schools where fees are payable, mandatory awards, maintenance allowances and tuition fees for correspondence courses and requests for the refund of grants in accordance with the policy of the Council;

(iii) to approve the payment of recoupment charges for pupils at establishments located outside the area of the Council;

(g) Copyright. To enter into such agreements with licensing agencies as are necessary to ensure the Council's establishments comply with all relevant statutory provisions;

(h) to exercise the Council's duties pursuant to section 12C of the Children and Young Persons Act 1969.

26.6 Chief Officer People, Performance & Partnerships

26.6.1 Delegations to be exercised following consultation with Appropriate Members:

(a) all policy matters relating to employees and volunteers within Monmouthshire County Council.

(b) to act as consultee on all people-related matters when required by this Constitution or policies;

(c) to determine and approve people-related policies in consultation with SLT as required;

26.7 Chief Officer Law and Governance (Monitoring Officer)

26.7.1 Other Delegations:

(a) to take all steps incidental to completing or obtaining the confirmation of any order or other formal proceedings made by the Council;

(b) to serve any notice or requisition for information under any Act requiring the owner or occupier of or any person having an interest in or managing any land or premises to give information to the local authority;

(c) the maintenance of the Land Charges Register and responses to local searches;

(d) to take out grants of representation to a deceased's estates as creditor, beneficiary or trustee;

(e) to settle the amount of compensation for damage to land which the Council is liable to pay in consequence of works carried out or other action taken on behalf of the Council up to a maximum of £1,000 in any one case and to report thereon to Council;

(f) to obtain Counsel's opinion and to brief Counsel;

(g) to sign on behalf of the Council any document necessary to give effect to any resolution of the Council, or of any Committee or Sub-Committee acting within powers delegated by the Council;

(h) to institute or defend civil proceedings and intervene in or appear in proceedings before any court, the Lands Tribunal, an industrial tribunal, a Coroner, or any other statutory tribunal or inquiry, or arbitrator, where the interests of the Council, whether on its own behalf or on behalf of an authority for which the Council is agent, are involved, and to reach agreement as to settlement of such proceedings where appropriate;

(i) to accept service of any proceedings;

(j) to institute criminal proceedings in respect of offences against legislation (including bye-laws) which the Council is authorised to enforce, and institute or defend appeals arising out of such proceedings;

(k) in accordance with the provisions of s101 of the Local Government Act 1972, the Monitoring Officer may, in the circumstances mentioned in the paragraph below, authorise another local authority to initiate and conduct the prosecution of offences committed in the County Council's area;

(l) the circumstances are that the Monitoring Officer is satisfied that:

(i) the offences in question are related to offences alleged to have been committed in that other authority's area;

(ii) it is expedient for the prosecution to be initiated and conducted by that other authority;

(m) to defend any criminal proceedings brought against the Council and to institute or defend appeals arising out of such proceedings;

(n) under section 78 of the Criminal Justice and Public Order Act 1994, to make complaints to the Magistrates Court and to take any action authorised by the Court;

(o) to authorise persons to survey and enter land in connection with proposed compulsory acquisitions;

(p) to settle all claims made on the Council not exceeding £1,000 where provision is not clearly made (in consultation with the appropriate Chief Officer and s151 Officer);

(s) to make determinations as a qualified person in accordance with s36 of the Freedom of Information Act 2000.

26.8 Section 151 Officer

26.8.1 Delegations to be exercised following consultation with Appropriate Members:

(a) to exercise discretions relating to Community Charge, Council Tax and National Non-Domestic Rates where the Council has not established a policy on how such discretions might be exercised.

26.8.2 Other Delegations:

(a) to manage the Council’s treasury function in accordance with the Treasury Management Strategy established annually;

(b) to write-off debts in accordance with the Council’s Sundry Debtor Policy;

(c) to agree charges for council services which may be made available to outside bodies;

(d) to enter into finance or operational leasing arrangements or other off balance sheet arrangements to give effect to decisions to acquire vehicles, plant, equipment, etc.;

(e) to administer the Council's scheme for loans for car purchase and car leasing;

(f) to determine the manner in which and conditions on which invoices or accounts should be issued;

(g) to make declarations as to rates of interest under Paragraph 3 of Schedule 16 to the Housing Act 1985;

(h) to administer the schemes in relation to Housing Benefit and Council Tax Benefit; taking such decisions and giving such notices and all other action as may be necessary for their efficient administration;

(i) to conduct the first review, in conjunction with the Head of Audit or Strategic Director – Resources such benefit schemes;

(j) to administer the statutory provisions relating to Community Charge, Council Tax and National Non-Domestic Rates;

(k) to exercise discretions relating to Community Charge, Council Tax and National Non-Domestic Rates where the Council has established a policy on how such discretions might be exercised;

(l) to manage the fund administered by the Council in accordance with the scheme made under Section 19 of the Welsh Church Act 1914;

(m) to sign cheques, bailiff warrants, bonds, securities and loans; provided that cheques in excess of £50,000 shall be countersigned by either the Head of Audit or Chief Officer Resources;

(n) to pay all accounts and to receive all income;

(o) to deal with all insurance issues including risk management;

(p) to manage arrangements with the Council's bankers;

(q) to sign all statutory financial returns, accounts, grants and subsidy claims;

(r) to instruct valuers for purposes of capital accounting, in consultation with the Monitoring Officer;

(s) to approve housing guarantees and advances for house purchase and improvements (and to consider applications for consent under deeds of mortgage);

(t) to act as principal point of contact with the Council's external auditors.

26.9 Chief Officer – Customer, Culture & Wellbeing

26.9.1 Delegations to be exercised in consultation with the appropriate Member:

(a) to make unopposed temporary Prohibition Orders and Notices under Section 14 of the Road Traffic Regulation Act 1984;

(b) to authorise applications to the magistrates' court to divert or extinguish public rights of way under section 116 of the Highways Act 1980;

(c) where, following the relevant statutory period no objections have been received or where such objections have been withdrawn, to confirm the orders specified in the above paragraph;

(d) where following non-statutory pre-order consultation there is no objection, to make the following orders, namely:

(i) Public Path Orders under s257 – 258 of the Act (to enable development to be carried out in accordance with planning permission granted);

(ii) Modification Orders and Reclassification Orders under s53 - 54 of the Wildlife and Countryside Act 1981;

(iii) Public Path Extinguishment and Diversion Orders under s118 - 120 of the Highways Act 1980;

(iv) orders under the Cycle Tracks Act 1984 and Cycle Track Regulations 1984:

(e) to determine not to proceed with or to decline any such order or application;

(f) to grant authorisations under Section 33 of the Road Traffic Act 1988;

(g) to make special events orders under the Road Traffic Regulation Act 1984 and the Road Traffic Regulation (Special Events) Act 1994:

(h) to authorise permissive path agreements or enter other access agreements;

(i) to authorise public path creation agreements under section 25 of the Highways Act 1980;

(j) to create public paths under sections 26 of the Highways Act 1980;

(k) to authorise the dedication or creation of a public path on any Council owned land (in consultation with the Head of Estates);

(l) to authorise the deaccessioning and disposal of selected items from the collections of Monmouthshire Museums in accordance with the Museum Collections Development Policy.

26.9.2 Other Delegations:

(a) Public Rights of Way:

(i) to give notices under Section 14(2) of the Road Traffic Regulation Act 1984 in cases of emergency;

(ii) to serve notices and where necessary arrange for work to be carried out in default and recover costs incurred in relation to the assertion, protection and restoration of public rights of way;

(iii) to authorise temporary works, diversion and remedial works under sections 135, 135a & 135b of the Highways Act 1980;

(iv) to authorise works, and to make agreements for the execution of works, to assert and protect the rights of the public to the use and enjoyment of any public path;

(v) to make observations on orders proposed to be made by the Brecon Beacons National Park Authority and adjacent local authorities;

(vi) to authorise erection of stiles etc. on footpaths and bridleways under section 147 of the Highways Act 1980;

(b) entry onto land. To authorise persons to enter land under:

(i) sections 196A, 214B and 324 of the Town and Country Planning Act 1990;

(ii) s64 of the Land Drainage Act 1991;

(iii) s293 of, and paragraph 7 of Sched. 12A to, the Highways Act 1980;

(iv) s71 of the Road Traffic Regulation Act 1984;

(v) Wildlife and Countryside Act 1981;

(vii) Countryside and Rights of Way Act 2000.

(c) to authorise persons to exercise any power or duty that is necessary or to take enforcement on public rights of way and recover costs related to the above delegations.

26.10 Proper Officers

26.10.1 In relation to the references and provisions mentioned in the first column of the Schedule hereto:

(a) the officer specified in the second column of the schedule is hereby appointed the proper officer, and

(b) the officer specified in the third column of the schedule is hereby appointed to act as proper officer when the first-mentioned officer is absent or otherwise unable to act;

(c) where no officer is specified in the third column, the first-mentioned officer is authorised to appoint a deputy as they consider fit

26.10.2 Any reference to a "Proper Officer" within this Constitution which is not defined in the Schedule hereto, shall mean the Chief Executive and when they are absent or otherwise unable to act, shall mean the Chief Officer Resources.

26.10.3 Proper Officer Schedule:

	Function	**Proper Officer**	**Deputy**
1.	Any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the following officers which, by virtue of any provisions of the said Act, is to be construed as a reference to the proper officer of the Council:		
	a. Clerk or Town Clerk	Chief Executive	Strategic Director - Resources
	b. Engineer or Surveyor	Chief Officer Communities and Place	
	c. Public Health Inspector	Strategic Director – Social Care and Health	
	d. Housing Officer.	Chief Officer Resources	
2.	The following provisions: a. In the National Assistance (Amendment) Act 1951 - s.1		

	b. In the Registration Service Act 1953	s151 Officer	
	c. In the Local Government Act 1972:	Strategic Director SCH	Monitoring Officer
	i. s83 (1)-(4). Witness and receipt of declarations of acceptance of office;		
	ii. s84. Receipt of declaration of resignation of office;	Chief Executive	Monitoring Officer
	iii. s88(2). Convening of meeting of Council to fill casual vacancy in the office of Chair;	Chief Executive	
	iv. s89(1)(b). Receipt of notice of casual vacancy from two local government electors;	Monitoring Officer	
	v. s96(1). Receipt of notices of pecuniary interest.	Chief Executive	
	vi. s96(2). Keeping record of disclosures of pecuniary interest under Section 94, and of notices under Section 96(1);	Monitoring Officer	
	vii. s.100B(2). Exclusion of reports likely to be considered in private session;	Monitoring Officer	
	viii. s100B(7)(c). Supply of papers to press;	Relevant Chief Officer	
	ix. s100C(2). Inspection of minutes and other documents;	Chief Executive	
	x. s100D(1)(a). Compilation of lists of background papers;	Chief Executive	
	xi. s100D(5)(a). Identification of background papers;	Relevant Chief Officer	
	xii. s100F(2). Identification of papers disclosing certain exempt information (rights of members to inspect);	Relevant Chief Officer	
	xiii. s115(2). Receipt of money due from officers;	Relevant Chief Officer	
	xiv. s146(1)(a)&(b). Declarations and certificates with regard to securities;	s151 Officer	
	xv. s191. Functions with respect to ordnance survey;	s151 Officer	
	xvi. s204(3). Receipt of applications for Licence under Schedule 2, Licensing Act 1964;	Chief Officer Communities and Place	
	xvii. s210(6)(7). Officer for the purpose of certain charities;	Monitoring Officer	
	xviii. s225(1)&(2). Deposit of documents, and on behalf of a community without a Community Council;	Monitoring Officer	
	xix s.229(5). Certification of photographic copies of documents;	Monitoring Officer	
	xx. s234(1)(2). Authentication of documents;	Monitoring Officer	
	xxi. s236(9)(10). Officer to send copies of bylaws;	Monitoring Officer	
	xxii. s238. Certification of byelaws;		

	xxiii. Schedule 12 paragraph (2)(b). Signature of summonses to Council meetings;	Monitoring Officer Monitoring Officer	
	xxiv. Schedule 14 paragraph 25(7). Certification of resolutions under paragraph 25;	Chief Executive	
	xxv. Schedule 16 paragraph 28. Receipt on deposit of lists of protected buildings.	Monitoring Officer	
	d. In the Local Government Act 1974:	Monitoring Officer	
	i. s30(5). Publication of reports of Local Commissioner.		
	e. In the Local Government (Miscellaneous Provisions) Act 1976:	Monitoring Officer	
	i. s41. Certification of copies of resolutions orders, reports, minutes, and instruments of appointment or authorization.		
	f. In the Public Health (Control of Infectious Diseases Act) 1984.	Monitoring Officer	Head of Public Protection
	g. In the Local Government and Housing Act 1989:	Chief Officer SCH	
	i. s2(4). Receipt on deposit of first and revised lists of politically restricted posts.		
	h. In the Local Government (Committees and Political Groups) Regulations 1990.	Chief Executive	
3.	i. In the Local Authorities (Members' Interests) Regulations 1992.	Chief Executive	
4.	Where a Council function has been delegated to a specified officer and that function requires or otherwise involves action by the proper officer then for those purposes the proper officer shall be	Monitoring Officer The Officer to whom the function is delegated	
5.	Until the Council determines otherwise, the Chief Executive is appointed the proper officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express proper officer appointment has for the time being been made.		
6.	Notwithstanding anything to the contrary above, where any order, notice or other document requires the seal of the Council to be attached then the proper officer for the authentication of such order, notice or other document shall be:	Monitoring Officer	
	In accordance with the Representation of the People Act 1983 and all associated legislation, the Electoral Registration Officer and the Acting Returning Officer shall be:	Chief Executive	

26.11 Scheme of Delegation to Officers – Planning Service

26.11.1 The officer delegation scheme aims to achieve an effective balance between:

(a) efficiency of determination on the majority of non-contentious applications that have limited community impact;

(b) simplicity; and

(c) the member/community aspect by ensuring member involvement on contentious applications through committee or the Delegation Panel and local ward member request for applications to be presented to committee.

26.11.2 The Delegation Panel consists of the Chair, Vice Chair and Opposition Spokesperson of Planning Committee. The Panel does not determine applications or enforcement matters. Its role is to assess whether officers should determine those applications presented to it or to refer them to Planning Committee for determination.

26.11.3 Definitions:

(a) "The Act" means the Town and Country Planning Act 1990 as amended and the Planning (Wales) Act 2015;

(b) "Local Ward Member" means the member for the electoral division in which the application site is located;

(c) "Planning Application" means:

(i) applications for Planning Permission and approval of reserved matters;

(ii) applications for Listed Building Consent;

(iii) applications for Conservation Area Consent;

(iv) applications for Express Consent to Display Advertisements;

(v) applications for Certificates of Lawfulness of Existing Use or Development under Section 191 of the Act (jointly with the Head of Law);

(vi) applications for Certificates of Lawfulness of Proposed Use or Development under Section 192 of the Act (jointly with the Head of Law);

(vii) applications to retain works or uses already carried out;

(viii) applications to remove or modify conditions of planning permissions or to make minor material amendments to an approved scheme under Section 73 of the Town and Country Planning Act;

(ix) applications for an approval required by a development order;

(x) proposals by statutory undertakers;

(xi) notices of Proposed Development by Government Departments;

(xii) hedgerow removal notices under the Hedgerow Regulations 1997;

(xiii) applications for any type of tree preservation orders under the relevant legislation;

(xiii) applications for non-material amendments to a planning permission;

(d) "Planning Permission" means development as defined by the Town and Country Planning Act 1990 being the carrying out of building, engineering, mining or other operations in, on over or under land, or the making of any material change in the use of any buildings or other land;

(e) “reserved matters” means any matters which have been reserved following the grant of outline Planning Permission.

26.11.4 The following officers: Chief Officer Communities and Place; Head of Planning, Placemaking, Housing, Highways and Flood; Head of Planning; Development Services Manager; and Development Management Area Managers; are permitted to make decisions on all Planning Applications and planning matters with the exception of those matters listed in in the subsequent sub-sections:

(a) Planning Applications. To determine or make observations subject to 26.9.4.c on all applications unless:

(i) the officer recommendation is contrary to a development plan policy or proposal or other planning policy of the Council;

(ii) the application is to be recommended for approval and any of the following circumstances apply:

(1) unresolved written objections on material planning grounds have been received from 5 or more separate households or organisations, (excluding Town or Community Councils); or

(2) it is contrary to the advice of a statutory consultee; or

(3) the community or town council has objected on material planning grounds and wishes to address Planning Committee;

(4) the application is by or on behalf of the Council and unresolved objections on material planning grounds have been received; or

(5) the application is for development on Council-owned land or in which the Council has a direct interest and unresolved objections on material planning grounds have been received;

(6) the application is submitted by an employee of the Council who works within the Planning Section or one who has close involvement in the planning application process or a member or co-opted member of the Council or by a close relative of such an employee or member or where the application relates to land in which any of them have an interest and unresolved objections on material planning grounds have been received;

(7) the local ward member has requested in writing that the application is presented to Planning Committee giving planning reasons for that request. In such circumstances, the referring ward Member should attend Planning Committee to represent those reasons;

(c) in consultation with the Delegation Panel to determine or make observations on applications except for those relating to householder development, advertisement applications and applications for Listed building and Conservation Area Consent where the application is to be recommended for approval and:

(i) unresolved written objections on material planning grounds have been received from 1 – 4 separate households or organisations, excluding Town and Community Councils or the Community or Town Council has objected on material planning grounds and does not wish to address Planning Committee; or

(ii) the application is one to which 26.9.4.b.ii.(d) or (e) relates and no unresolved objections on material planning grounds have been received; or

(iii) the Local Ward Member has requested in writing the application is referred to the Delegation Panel giving planning reasons for that request;

(iv) the application is by or on behalf of the Council and there are no material planning objections to the proposed development;

(v) the application is for development on Council-owned land or in which the Council has a direct interest and there are no material panning objections to the proposed development;

(vi) the application is submitted by an employee of the Council who works within the Planning Section or one who has close involvement in the planning application process or a member or co-opted member of the Council or by a close relative of such an employee or member or where the application relates to land in which any of them have an interest and there are no material planning objections to the proposed development;

(d) to determine:

(i) the Council's case where there is an appeal against non-determination of an application;

(ii) the discharge of planning conditions requiring the specific approval of the Local Planning Authority;

(iii) to enter into obligations under Section 106 of the Act jointly with the Head of Law, where it has been decided that planning permission should be granted subject thereto;

(iv) that an application is a departure from the development plan;

(v) whether an Environmental Assessment is required and scoping the content of that Assessment;

(vi) whether an Appropriate Assessment is required under the Conservation (Natural Habitats etc.) Regulations 2010 (as amended);

(vii) Local Impact Reports for Development of National Significance;

(viii) whether an application is valid, issue an Invalid Notice and determine the Council’s case where there is an appeal against such a Notice;

(e) to make observations on planning consultations received from Brecon Beacons National Park and adjoining authorities;

(f) to decline to determine an application for planning permission under the powers of Section 70A of the Act and Section 32 (where an enforcement notice has been served prior to the submission of the application);

(g) to make all necessary decisions on procedural matters in connection with the processing of applications and appeals.

26.11.5 For the avoidance of doubt applications for householder development, advertisement consent, and Listed Building and Conservation Area Consent, shall be determined by officers unless the Local Ward Member has requested in writing the application is referred to Planning Committee or the Delegation Panel, giving planning reasons for that request. All other applications are delegated to officers to determine, including discharge of condition applications, Non Material Amendments, applications for an approval required by a development order, proposals by statutory undertakers, Notices of Proposed Development by Government Departments and Hedgerow removal notices under the Hedgerow Regulations 1997.

26.11.6 Enforcement of Planning Control. Those Officers listed at 26.10.4 are permitted, in consultation with the Delegation Panel, to determine that it is either not expedient, or is expedient to take action and to issue the following notices and thereafter to take all necessary steps to remedy the breach:

(a) Enforcement Notices and Stop Notices under Section 174 of the Act;

(b) Listed Building Enforcement Notices under Section 38 of the Listed Building and Conservation Areas Act 1990;

(c) to take prosecution proceedings and/or injunctions and/or action under the Proceeds of Crime Act, in consultation with the Head of Law;

(d) notices under Section 215 of the Act.

26.11.7 Those Officers listed at 26.10.4 are permitted to determine that it is expedient to take action and to issue the following notices and to take all necessary steps to remedy the breach:

(a) Planning Contravention Notices under Section 171C of the Act (to require information);

(b) Breach of Condition Notices under Section 187A of the Act;

(c) Enforcement Notices where planning permission has been refused for the development;

(d) Listed Building Enforcement Notices under Section 38 of the Listed Building and Conservation Areas Act 1990;

(e) Breach of Condition Enforcement Notices;

(f) Hedgerow Replacement Notices under the Hedgerow Regulations 1997;

(g) Enforcement Warning Notices under Section 43 of the Act;

(h) Temporary Stop Notices under Section 171E of the Act;

(i) to consider offers and representations made under Section 171C (4) of the Act (responses to Planning Contravention Notices);

(j) to remove or obliterate unauthorised advertisements, placards and posters under Sections 224 and 225 of the Act.

(k) to take any enforcement action in relation to sustainable drainage systems, including enforcement powers under the Sustainable Drainage (Enforcement) (Wales) Order 2018 and related legislation.

26.11.8 Heritage. Those Officers listed at 26.10.4 are permitted, in consultation with the Delegation Panel, to:

(a) serve building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in cases of emergency;

(b) authorise urgent works under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990;

(c) approve grants for historic buildings under Historic Town Schemes.

26.11.9 Entry onto Land. Those Officers listed at 26.10.4 are permitted to authorise persons to enter land under:

(a) sections 196A, 214B and 324 of the Act;

(b) s95 of the Building Act 1984;

(c) s293 of, and paragraph 7 of Schedule 12A to, the Highways Act 1980;

(d) s71 of the Road Traffic Regulation Act 1984.

26.11.10 Miscellaneous. Those Officers listed at 26.10.4 are permitted to respond to Welsh Government consultations on planning policy or development management or related matters.

26.11.11 Building Control: The Head of Building Control is authorised to:

(a) deal with applications under the Building Act 1984 and related legislation including relaxation, dispensation and enforcement;

(b) serve notices and take any necessary action in respect of demolition works, dangerous buildings, walls, stands, trees, places, hoardings and other structures.

PART 4 – RULES OF PROCEDURE

27 COUNCIL PROCEDURE RULES (Standing Orders)

27.1 Application

27.1.1 The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council and, where applicable, to other meetings conducted within the Council.

27.2 Annual Meeting of the Council

27.2.1 Timing and Business. In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. The annual meeting will:

(a) elect a person to preside if the Chair and Vice Chair of the Council are not present;

(b) elect the Chair of the Council;

(c) elect the Vice Chair of the Council;

(d) approve the minutes of the last meeting;

(e) receive any announcements from the Chair and/or the Chief Executive;

(f) elect the Leader of the Council at the initial annual meeting of the Council;

(g) be informed by the Leader of the number of Members to be appointed to the Cabinet;

(h) appoint the Scrutiny Committees, a Standards Committee and such other committees and sub-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);

(i) determine which political group shall nominate the chair of each Scrutiny Committee appointed under (viii) above, having regard to the guidance issued under the Local Government (Wales) Measure 2011;

(j) receive from the Leader the scheme of delegations (as set out in Part 3 of this Constitution);

(k) approve a programme of ordinary meetings of the Council for the year; and

(l) consider any business set out in the notice convening the meeting.

27.2.2 Selection of Councillors on Committees and Outside Bodies. At the annual meeting, the Council meeting will:

(a) decide which committees and sub-committees to establish for the municipal year;

(b) decide the size and terms of reference for those committees;

(c) decide the allocation of seats to political groups in accordance with the political balance rules;

(d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

27.3 Ordinary Meetings

27.3.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

(a) elect a person to preside if the Chair and Vice Chair are not present;

(b) receive any declarations of interest from Members;

(c) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;

(d) receive any announcements from the Chair, Leader, members of the Cabinet or the Chief Executive;

(e) receive a report from the Leader and receive questions and answers on the report;

(f) receive a report from the Cabinet and receive questions and answers on the report;

(g) receive reports from the Council's committees and receive questions and answers on those reports;

(h) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(i) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Scrutiny Committees;

(j) consider motions;

(k) deal with questions from Members;

(l) approve the minutes of the last meeting.

27.4 Extraordinary Meetings

27.4.1 Calling Extraordinary Meetings. The Proper Officer and/or Monitoring Officer may call Council meetings in addition to ordinary meetings. Those listed below may request the Proper Officer to call additional Council meetings:

(a) the Council by resolution;

(b) the Chair of the Council;

(c) any 5 Members of the Council if they have signed a requisition presented to the Chair of the Council who has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.

27.4.2 Business. The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc., except that the Chair may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

27.5 Appointment of members of committees and sub-committees

27.5.1 The Council or Committee may appoint members to a committee or sub-committee as the case may be:

(a) by naming the members so appointed; or

(b) by reference to such numbers of members as a specified political group or groups shall from time to time nominate.

27.5.2 When members are appointed under the above the political group in question shall notify the Chief Executive in writing of the names of the members who may nominate.

27.5.3 A political group may from time to time change its membership of a committee by giving notice in writing to the Chief Executive.

27.5.4 The decisions of a political group are to be taken as those expressed to the Chief Executive:

(a) in writing by the leader or other representative of the group concerned;

(b) in a written statement signed by a majority of the members of the group;

and in the event that different decisions of a political group are notified, the decision notified in accordance with 27.5.4(b) shall prevail.

27.5.5 This rule of procedure applies to appointments to committees, sub-committees and other informal groupings of members but not to appointments or nominations on external bodies.

27.6 Time, Place and Duration of Meetings

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

27.7 Notice of and Summons to Meetings

27.7.1 The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules (below). At least 5 clear working days before a meeting, the Proper Officer will send a summons signed by them to every Member of the Council. 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.

27.8 Chair of Meeting

27.8.1 The person presiding at the meeting may exercise any power or duty of the Chair. Following consultation with the Monitoring Officer, the decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any Procedure Rule shall be final and no debate may ensue thereon.

27.8.2 Accordingly, if it appears appropriate, the Chair may, at their sole discretion waive compliance with the rules of debate to facilitate the transaction of business at the meeting.

27.9 Quorum

27.9.1 The quorum of a meeting of Council will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they don’t fix a date, the remaining business will be considered at the next ordinary meeting.

27.10 Remote Attendance

27.10.1 Remote attendance at meetings of the council are permitted. Any member attending a meeting remotely must be enabled to speak to and be heard by each other and to see and be seen by each other.

27.10.2 Members who are attending remotely and wish to speak on an item must indicate this using the method required by the Chair. This is to ensure that the Chair is able to call members to speak in turn and that members attending in person and remotely have an equal opportunity to participate.

27.10.3 Members who are attending remotely and wish to raise a point of order, a point of personal explanation, or move a motion without notice, may do so by bringing this to the attention of the chair.

27.10.4 Members should be present (either in person or remotely) for the entirety of the introduction and debate on an item of business in order to vote. Those who attend a meeting remotely must have their cameras on and be visible onscreen in order to be recorded present at the meeting. If a member is not present for the whole of the introduction or debate on an item of business, they may be excluded from a vote on that item of business if, in the opinion of the chair, that member missed information or part of the debate that was material to the decision before Council.

27.10.5 The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

27.11 Questions by the Public

27.11.1 General:

(a) Members of the public may ask questions of Members of the Cabinet at ordinary
meetings of the Council;

(b) The total time allocated for questions by the public should be limited to 15 minutes.

27.11.2 Order of Questions. Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

27.11.3 Notice of Questions. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midnight 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

27.11.4 Number of Questions. 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.

27.11.5 Scope of Questions. The Head of Democratic Services may reject a question if it:

(a) is not about a matter for which the Council has a responsibility or which affects the County;

(b) is defamatory, frivolous or offensive;

(c) is substantially the same as a question which has been put at a meeting of the Council in the past 6 months;

(d) requires the disclosure of confidential or exempt information.

27.11.6 Record of Questions. The Head of Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.

27.11.7 Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

27.11.8 Asking the Question at the Meeting. The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

27.11.9 Supplementary Question. A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds set out above.

27.11.10 Written Answers. Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

27.11.11 Reference of Question to the Cabinet or a Committee. Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

27.12 Questions by Members

27.12.1 On Reports of the Cabinet or Committees. A Member of the Council may ask the Leader or the Chair of a Committee any question without notice directly arising from an item of the report of the Cabinet or a Committee, when that item is being received or is under consideration by the Council.

27.12.2 Questions on Notice at Full Council. Subject to 27.12.4, a Member of the Council may ask:

(a) the Chair;

(b) a Member of the Cabinet;

(c) the Chair 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 Council.

27.12.3 Questions on Notice at Committees and Sub-Committees. Subject to 27.12.4, a Member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

27.12.4 Notice of Questions. A Member may ask a question if:

(a) they have given at least 7 working days' notice in writing of the question to the Head of Democratic Services (calculated on the basis of a working day running from midnight to midnight); or

(b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Head of Democratic Services at least 2 hours before the meeting.

27.12.5 Order of Questions. Questions of which notice has been given will be listed on
the agenda in the order determined by the Chair of the Council, committee or sub-committee.

27.12.6 Content of Questions. Questions must, in the opinion of the Chair:

(a) contain no expressions of opinion;

(b) relate to matters on which the Council has or may determine a policy;

(c) not relate to questions of fact.

27.12.7 Response. An answer may take the form of:

(a) a direct oral answer at the meeting;

(b) where the desired information is in a publication of the Council or other published work, a reference to that publication;

(c) where the reply cannot conveniently be given orally, a written answer circulated within 5 working days to the questioner.

27.12.8 Supplementary Question. A Member asking a question under these rules may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

27.12.9 Length of Speeches. A Member asking a question under these rules shall not speak other than in exercise of their right to ask a supplementary question and a Member answering such a question may speak for no longer than 3 minutes unless the Chair consents to a longer period.

27.13 Reports

27.13.1 Cabinet Member Reports presented to the Council will be followed by such questions and debate as desired by the other Members present, within these rules, and as permitted by the Chair.

27.13.2 Amendments to Reports. An amendment to a report before Council may not be moved unless notice of the amendment has been emailed by the proposer, and seconded by email, to the Democratic Services Manager by 9:00am on the Working Day before the meeting. Amendments to statutory reports to note (eg the annual CYP or SCH reports), may not be amended.

27.13.3 The Chair may waive 27.13.2 at their discretion upon receipt of a proposal for an amendment in Council that is supported by the relevant Cabinet Member.

27.14 Motions on Notice

27.14.1 Notice. Except for motions which can be moved without notice and in cases of urgency, written notice of every motion must be delivered to the Head of Democratic Services not later than midnight on the seventh working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

27.14.2 Motion Set Out in Agenda. Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

27.14.3 Scope. Motions must:

(a) be about matters for which the Council has a responsibility or which affect the wellbeing of the administrative area of the Council;

(b) not contain words that are defamatory, frivolous or offensive;

(c) not require disclosure of confidential or exempt information;

(d) not seek to commit the Council, its members or officers, to unlawful action.

27.14.4 Motion to Remove the Leader:

(a) a motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of Councillors on the Council and which includes Councillors from at least 2 political groups;

(b) in order for such a motion to be carried it must have the support of at least 2 thirds of those Members voting at the time the question was put;

(c) a motion to remove the Leader cannot be moved more than once in any rolling 12-month period.

27.14.5 Urgent Motions. Notice of an urgent Motion is still required and must be delivered to
the Head of Democratic Services no later than 2 hours before the start of the relevant meeting. Urgent motions may be accepted if:

(a) the Monitoring Officer determines that the matter satisfies the definition of urgency; and

(b) the Chair agrees to address the matter in the meeting.

27.15 Motions without Notice

27.15.1 The following motions may be moved without notice subject to the Chair's discretion as set out in 27.22:

(a) to appoint a Chair 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 in 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 adoption of 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) that the question be now put;

(k) to adjourn a debate;

(l) to adjourn a meeting;

(m) to suspend a particular Council Procedure Rule;

(n) to exclude the public and press in accordance with the Access to Information Procedure Rules;

(o) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and

(p) to give the consent of the Council where its consent is required by this Constitution.

27.16 Rules of Debate

27.16.1 No Speeches are permitted in relation to motions until a motion is 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.

27.16.2 Right to Require Motion in Writing. Unless notice of the motion has already been given, the Chair may require it to be written down and copied to them before it is discussed.

27.16.3 Seconder's Speech. When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

27.16.4 Content and Length of Speeches. Speeches must be directed to the item of business under discussion or to a personal explanation or point of order no speech may exceed ten minutes without the consent of the Chair.

27.16.5 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 they last spoke;

(c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);

(d) in exercise of a right of reply;

(e) on a point of order; and

(f) by way of personal explanation.

27.17 Amendments to Motions

27.17.1 An amendment to a motion must be relevant to the motion and will either be:

(a) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(b) to leave out words;

(c) to leave out words and insert or add others; or

(d) to insert or add words;

as long as the effect of 27.16.1 (a) to (d) is not to negate or completely rewrite the motion.

27.17.2 Where an amendment is proposed, the mover of the original motion may accept the amendment. If such an amendment is accepted by the mover of the original motion, the motion shall be amended without debate and without the amendment being put to a vote. Any further amendments moved must be put to a vote.

27.17.3 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.

27.17.4 If an amendment is not carried, other amendments to the original motion may be moved.

27.17.5 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.

27.17.6 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

27.18 Alteration of Motion

27.18.1 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

27.18.2 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

27.18.3 Only alterations which could be made as an amendment may be made.

27.19 Withdrawal of Motion

27.19.1 A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

27.20 Right of Reply

27.20.1 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.

27.20.2 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.

27.20.3 The mover of the amendment has no right of reply to the debate on their amendment.

27.21 Motions which may be Moved During Debate

27.21.1 When a motion is under debate, no other motion may be moved except the following procedural motions subject to the Chair's discretion as set out in 27.22:

(a) to withdraw a motion;

(b) to amend a motion;

(c) to proceed to the next business;

(d) that the question be now put;

(e) to adjourn a debate;

(f) to adjourn a meeting;

(g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

(h) to not hear further a Member named under Rule 27.32.3 or to exclude them from the meeting under Rule 27.32.4.

27.22 Closure Motions

27.22.1 A Member may move, without comment, the following motions at the end of a speech of another Member;

(a) to proceed to the next business;

(b) to ask that the question be now put;

(c) to adjourn a debate; or

(d) to adjourn a meeting.

27.22.2 If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

27.22.3 If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting the motion to the vote.

27.22.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

27.23 Point of Order

27.23.1 A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

27.24 Personal Explanation

27.24.1 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 Chair on the admissibility of a personal explanation will be final.

27.25 State of the County Debate

27.25.1 Calling of Debate. The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chair.

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

27.25.3 Chairing of Debate. The debate will be chaired by the Chair.

27.25.4 Results of Debate. The results of the debate will be 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 considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

27.26 Previous Decisions and Motions

27.26.1 Motion to Rescind a Previous Decision. A motion or amendment to rescind a decision made at a meeting of Council within the past 6 months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least eleven Members, except in the case of new information becoming available..

27.26.2 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 6 months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least 11 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

27.27 Voting

27.27.1 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.

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

27.27.3 Method of Voting. Unless a recorded vote is demanded under Rule 27.26.4 the Chair will take the vote by show of hands or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

27.27.4 Recorded Vote. If 9 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

27.27.6 When the outcome is 2 or fewer votes or will require the Chair to consider casting a deciding vote, a roll-call will be carried out in the same style of a recorded vote so the result is beyond question. The number of votes for each option will be noted in the minutes.

27.27.7 Voting on Appointments. If there are more than 2 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.

27.28 Minutes

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

27.28.2 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.

27.28.3 Form of Minutes. Minutes will contain all motions and amendments in the form and order the Chair put them.

27.29 Record of Attendance

27.29.1 The Democratic Services Officer in attendance will create a record of attendance for inclusion in the minutes.

27.30 Presentation of Petitions

27.30.1 Petitions must be received in accordance with the Council's petition scheme at Part 1 of the Constitution.

27.30.2 Where a petition has been referred by a Scrutiny Committee to a meeting of Council for a debate, the Councillor presenting the petition shall have a maximum of 10 minutes to speak to the petition during which the member must read out, or summarise the petition, and indicate the number of signatories.

27.30.3 Council may debate the petition, and following such a debate, Council may either refer the petition to an appropriate body or individual to consider, or it may take no action in relation to the petition.

27.31 Exclusion of Public

27.31.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules of this Constitution or Rule 27.32.

27.32 Members' Conduct

27.32.1 Speaking at Meetings. When a Member speaks at Full Council they may stand if they wish but the practicalities of the need to use the microphones can mean that to remain seating is likely to be more practicable). The meeting should be addressed through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

27.32.2 Chair Speaking. When the Chair speaks during a debate, any Member speaking at the time must stop and sit down if stood. The meeting must be silent.

27.32.3 Member not to be Heard Further. If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

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

27.32.5 General Disturbance. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

27.33 Disturbance by Public

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

27.33.2 Clearance of Part of Meeting Room. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

27.34 Filming and Use of Social Media During Meetings

27.34.1 Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.

27.35 Suspension and Amendment of Council Procedure Rules

27.35.1 Suspension. All of these Council Rules of Procedure except 27.27.5 and 27.28.2 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.

27.35.2 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.

27.35.3 Adjustment. At the discretion of the Chair, any of the Council Rules of Procedure will be subject to 'reasonable adjustment' by suspension or amendment and without notice as appropriate, to prevent a disabled elected member or member of the public being placed at a disadvantage in terms of their proper participation in any aspect of Council procedures.

27.36 Appointment of Substitute Members on Council Bodies

27.36.1 The substitution rules will not apply to meetings of the Cabinet, the Standards Committee, the Planning Committee or the Governance and Audit Committee.

27.36.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.

27.36.3 The Head of Democratic Services will allow a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group and the request is received no later than one hour before the meeting.

27.36.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.

27.36.5 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.

27.36.6 Substitute Members may attend meetings in that capacity only:

(a) to take the place of the ordinary Member for whom they are designated substitute;

(b) where the ordinary Member will be absent for the whole of the meeting; and

(c) where the ordinary Member or that Member's political group has notified the Head of Democratic Services of the intended substitution at least one hour before the start of the relevant meeting.

27.37 Procedure Rules for Family Absence for Members

27.37.1 Different Types of Family Absence. A Member may be entitled to family absence subject to compliance with the Family Absence for Members of Local Authorities (Wales) Regulations 2013 and the Local Government (Wales) Measure 2011 as amended by the Local Government and Elections Act 2021, as follows:

(a) maternity absence – if the Member satisfies prescribed conditions as to maternity, on equivalent terms to the policy applied to any employee of MCC;

(b) new-born absence – for the parent of a child other than the mother, on equivalent terms to the policy applied to any employee of MCC;

(c) adopter's absence – for the adopter of a child, on equivalent terms to the policy applied to any employee of MCC;

(d) new adoption absence - for the partner of an adopter, on equivalent terms to the policy applied to any employee of MCC; and

(e) parental absence – for a Member who becomes responsible for a child (and does not meet the conditions for new-born absence, adopter's absence or new adoption absence), on equivalent terms to the policy applied to any employee of MCC.

27.37.2 Prescribed Conditions. The Regulations prescribe the conditions Members must satisfy to be entitled to each type of family absence, make provisions regarding the durations, start, cancellation and end of periods of family absence, and set out the administrative process for dealing with family absences. A copy of the Regulations can be obtained from the Head of Democratic Services and must be referred to by any Member considering taking family absence.

27.37.3 Requirement for Member to give Written Notice. A Member intending to take family absence is required to give written notice to the Head of Democratic Services, specifying the type of family absence the Member intends to take and the intended start date, as well as certain other specified information in respect of particular types of family absence. Any changes to, or cancellation of, family absence must similarly be notified to the Head of Democratic Services. Members should refer to the Regulations for the prescribed information which must be included in the notice, and advice is available in this respect from the Head of Democratic Services.

27.37.4 Records and Notification of Family Absence. The Head of Democratic Services will keep a record of all notifications and periods of family absence taken and will inform the Chair of Council, the Chair of the Democratic Services Committee, and the leaders of each political group, and other recognised group, of the authority. The Head of Democratic Services may also inform any other persons, as they consider necessary, for example, fellow ward Members.

27.37.5 Cancellation of Family Absence by Council:

(a) if the Head of Democratic Services reasonably suspects that a Member may not be entitled to the family absence notified, they may cancel or end a Member's family absence in accordance with the Regulations;

(b) in the event of a decision to cancel family absence, the Head of Democratic Services will give written notice to the Member concerned setting out the decision to cancel or bring to an end the period of family absence, and the date from which the Member must return from family absence. If the Member then fails to resume duties, the Council may withhold the Member's remuneration.

27.37.6 Members' Right to Appeal against Cancellation:

(a) a Member may, within 28 days from being notified of a cancellation of family absence, complain in writing to the Head of Democratic Services regarding the cancellation;

(b) the Head of Democratic Services will refer any complaint duly made regarding cancellation to the Chair of Council (or Presiding Member);

(c) the Member's complaint will be considered by a politically balanced Panel, drawn from the Democratic Services Committee, which may either confirm the decision of the Head of Democratic Services, or substitute its own decision as to the Member's entitlement to family absence in accordance with the Regulations;

(d) the decision of the Panel is final.

27.37.7 Performance of Duties – At Member's request

(a) the following provision is subject consideration by the Democratic Services committee as to whether:

(i) to describe the circumstances in which a Member on maternity or parental leave may continue to perform some duties if so desired, such as "where the Member has a well-known particular interest in a matter of business or if urgent business affecting their local area is being considered"; and

(ii) to provide whether any duty conferred on Members should be performed during a period of family absence.

(b) a Member on maternity absence or parental absence may, subject to sub-paragraphs (c) to (h):

(i) attend particular meetings;

(ii) attend particular descriptions of meetings;

(iii) perform particular duties; or

(iv) perform duties of a particular description.

(c) the Member must obtain the permission of the Chair of Council (or Presiding Member) before attending any meeting or performing any duty;

(d) the Chair of Council (or Presiding Member) will inform the leaders of each political group of the Council before granting permission under (c);

(e) a Member may complain in writing to the Head of Democratic Services regarding a refusal under (c);

(f) the Head of Democratic Services will refer a complaint under (e) to the Chair of Council (or Presiding Member);

(g) the Family Absence Appeals Panel ("the Panel") will determine a complaint made under paragraph (e);

(h) the Panel may:

(i) confirm the decision of the Chair of Council (or Presiding Member) under (c); or

(ii) substitute its own decision as to the Member attending any meeting or performing any duty.

27.38 Continuing Duties

27.38.1 If a Member is on family absence leave and it would be difficult to replace that Member on a temporary basis, the Chair of Council can request that Member to attend a meeting if it might otherwise be inquorate.

27.38.2 A Member on family absence is expected to continue to observe and comply with any duties under the Members' Code of Conduct which remain applicable, including the duty to not bring the office of Member or the Council into disrepute (Members' Code, Rule 6(1) (a)), and the duty to not use their position or the resources of the authority improperly or for private advantage (Members' Code, Rule 7).

27.39 Members' Salaries

27.39.1 In accordance with the determinations of the Independent Remuneration Panel for Wales, a Member on family absence is entitled, for the duration of the absence, to retain a basic salary and any senior salary for which the Member is eligible.

28 ACCESS TO INFORMATION PROCEDURE RULES

28.1 Scope

28.1.1 These rules apply to all meetings of the Council, the executive, Scrutiny committees, area committees, the Standards Committee and regulatory committees.

28.2 Additional Rights to Information

28.2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. All councils are required to have a publications scheme and commit to making certain types of information available. The authority has adopted the Information Commissioners Model publications scheme.

28.3 Right to Attend Meetings

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

28.4 Notice of Meeting

28.4.1 The council will give at least 5 clear working days' notice unless to consider urgent items as defined of any meeting by posting details of the meeting at County Hall Usk. (The Designated Office)

28.5 Access to Agenda and Reports before the Meeting

28.5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working 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.

28.6 Supply of Copies

28.6.1 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 costs.

28.7 Access to Minutes after the Meeting

28.7.1 The Council will make available copies of the following for 6 years after 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.

28.8 Background Papers

28.8.1 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 their 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.

28.8.2 Public inspection of background papers. The Council will make available for public inspection for 4 years after the date of the meeting one copy of each of the documents on the list of background papers.

28.9 Summary of Public's Rights

28.9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall.

28.10 Exclusion of Access by the Public to Meetings

28.10.1 Public and private meetings of the executive. The executive may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting. This does not prevent the executive from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

28.10.2 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.

28.10.3 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.

28.10.4 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.

28.10.5 Meaning of exempt information. Exempt information means information falling within the following categories (subject to any qualification):

Category	**Qualification**
Information relating to a particular individual.	Public interest test applies (see below)
Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information by virtue of that paragraph if it is required to be registered under: The Companies Act 1985 The Friendly Societies Act 1974 The Friendly Societies Act 1992 The Industrial and Provident Societies Acts 1965 to 1978 The Building Societies Act 1986 or The Charities Act 1993. Public interest test applies (see below)
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.	Public interest test applies (see below)

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Public interest test applies (see below)
Information relating to any action taken or to be taken in connection with the prevention, Investigation or prosecution of crime.	Public interest test applies (see below)
(In relation to a meeting of a standards C 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): - Information which is subject to any obligations of confidentiality. - Information which relates in any way to matters concerning national security. - 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.	Public interest test applies (see below)

28.11 Public Interest Test

28.11.1 Information which:

(a) falls into the relevant sections in the table 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.

28.11.2 Information falling within the table is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

28.12 Disclosure by Members

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

28.13 Public Interest

28.13.1 Information within 28.10.5 may only be treated as exempt if an assessment of the public interest has been made.

28.13.2 The public interest should be assessed on a case by case basis having regard to all relevant factors, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.

28.13.3 In making such an assessment the proper officer should have regard to any relevant prejudice which may be caused to the Authority or any other party if the information were disclosed, having regard to the full context of any disclosure. Account may be taken of whether disclosure would breach any obligation of confidence or the rights of any individual under the Data Protection Act 2018 or the Human Rights Act 1998.

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

(a) further the understanding of and participation in debating issues of the day;

(b) facilitate transparency and accountability in and enhance scrutiny of decisions taken by the Authority;

(c) facilitate transparency and accountability in the spending of public money;

(d) help individuals understand the decisions made by the Authority affecting their lives;

(e) bring to light information affecting public safety or danger to the environment;

(f) contribute to the administration of justice and enforcement of the law or the prevention or detection of crime or the apprehension or prosecution of offenders;

(g) protect the public from unsafe products or rogue traders or practices;

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

(a) possible embarrassment to the Authority or its Officers;

(b) possible loss of confidence in the Authority or other public body;

(c) the seniority of persons involved in the subject matter;

(d) the risk of the public misinterpreting the information.

28.14 Exclusion of Access by the Public to Reports

28.14.1 If the proper officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which 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.

28.15 The Forward Work Programme

28.15.1 Period of forward work programme. The forward work programme will be prepared by the Chief Executive to cover a period of 4 months. It will be updated quarterly on a rolling basis.

28.15.2 Contents of forward work programme. The forward work programme will contain matters which the executive, Scrutiny committees 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 executive;

(c) any individual matters on which the executive intends to consult in advance of taking a decision, and the timetable for consultation and decision;

(d) the work programme of the Scrutiny committees, to the extent that it is known.

28.16 Consultation on Proposals to be Considered by the Executive

28.16.1 At least 2 weeks should be permitted in the forward plan timetable for consultation with relevant Scrutiny committees and ward members where a matter is to be considered by the executive and is not urgent (as defined below) or confidential or exempt.

28.16.2 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 (the minimum time provided for consultation as specified above).

28.16.3 A decision can only be treated as urgent if the decision taker (if an individual) or the chair of the body making the decision obtains the agreement of the chair of a relevant Scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Scrutiny committee, or if the chair of each relevant Scrutiny committee is unable to act, then the agreement of the Chief Executive, will suffice.

28.16.4 Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

28.17 Record of Decisions of the Executive

28.17.1 The decision record:

(a) a written record will be made of every executive decision made by the executive and its committees (if any) and individual members, and to 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.

28.17.2 Preparing the decision record:

(a) the proper officer or their representative shall attend any meeting of the executive, a committee of the executive 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 member has made any executive decision:

(i) that member shall as soon as reasonably practicable instruct the proper officer 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 member must be implemented makes compliance with (b) ii above impracticable, the decision may be implemented if the decision maker has the agreement of the Chair (or in their absence, the vice-chair) of the relevant Scrutiny committee, that the making of the decision is urgent and cannot reasonably be deferred.

28.18 Decisions by an Individual Member of the Executive

28.18.1 Reports intended to be taken into account. Where an individual member of the executive receives a report which they intend to take into account in making any decision, then they will not make the decision until at least 5 clear working days after receipt of that report.

28.18.2 Provision of copies of reports to Scrutiny committees. On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

28.18.3 Record of individual decision. The decision recording rules above will apply.

28.19 Scrutiny Committee Members' Access to Documents

28.19.1 Rights of access. Subject to 28.19.2 a Scrutiny committee (including its sub-committees) 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 executive or its committees; or

(b) any decision taken by an individual member of the executive.

28.19.2 Limit on rights. A Scrutiny committee or sub-committee 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 that committee or sub-committee.

28.19.3 Disclosure. Exempt or confidential information supplied to a member in accordance remains exempt or confidential.

28.20 Additional Rights of Access for Members

28.20.1 Rights of access. All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business transacted at a meeting of a decision making body of that authority or by an individual member of the executive.

28.20.2 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, 21, 23, 24 and 26 of Schedule 12A of the Local Government Act 1972, or

(b) it would disclose advice of a political advisor or assistant.

28.20.3 Nature of rights. These rights of a member are additional to any other right they may have.

28.20.4 Other Rights of Members. Notwithstanding any restriction in the foregoing provisions, all reports (including those that are “exempt” or “confidential” by virtue of Schedule 12A Local Government Act 1972 as amended) to all decision making bodies are available to all members.

28.20.5 A Member will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.

29 BUDGET AND POLICY FRAMEWORK

29.1 The Budget Setting Process

29.1.1 The Council will be responsible for the adoption of its policy framework and budget. The budget needs to accord with legal time constraints and so this procedure is designed to assist that. The budget adopted by the Council will be based on that proposed by the executive. Once a budget is in place, it will be the responsibility of the executive to implement it.

29.1.2 The process by which the budget shall be developed is:

(a) the executive will publicise by including in the forward plan and at the Council's offices a timetable for making proposals to the Council for the adoption of the budget, and its arrangements for consultation after publication of those initial proposals. The chair of Scrutiny committees will also be notified. The consultation period shall in each instance be not less than 3 weeks;

(b) at the end of that period, the executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny committee wishes to respond to the executive in that consultation process then it may do so. As the Scrutiny committees have responsibility for fixing their own work programme, it is open to the Scrutiny committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The executive will take any response from a Scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the executive's response;

(c) once the executive has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision;

(d) in reaching a decision, the Council may adopt the executive's proposals, amend them, refer them back to the executive for further consideration, or in principle, substitute its own proposals in their place;

(e) if it accepts the recommendation of the executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting;

(f) the decision will be publicised and a copy shall be given to the Leader;

(g) an in-principle decision will automatically become effective 5 days from the date of the Council's decision, unless the Leader informs the proper officer in writing within five days that they object to the decision becoming effective and provides reasons why;

(h) similarly, if the budget is defeated, and therefore returns to the executive for further consideration, then the Leader has 5 days from the date of the Council's decision to inform the Chief Executive of their intention to return to Council with a proposal;

(i) in each case, the proper officer will call a Council meeting within a further 10 days. The Council will be required to re-consider its decision and the Leader's written submission at that meeting. The Council may:

(i) approve the executive's recommendation by a simple majority of votes cast at the meeting; or

(ii) approve a different decision which does not accord with the recommendation of the executive by a simple majority;

(j) the decision shall then be made public implemented immediately;

(k) in approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance 29.1.5 and 29.1.6 (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

29.2 Decisions Outside the Budget or Policy Framework

29.2.1 Subject to the provisions of 29.2.4 (virement) the executive, a committee of the executive, an individual member of the executive and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 29.2.3 below.

29.2.2 If the executive, a committee of the executive, an individual member of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in 29.2.3 shall apply.

29.2.3 Urgent decisions outside the budget or policy framework:

(a) the executive, a committee of the executive, an individual member of the executive or officers, area committees or joint arrangements discharging executive 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 chair (or if unavailable the vice chairman) of a relevant 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 chair of the relevant Scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision;

(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.

29.2.4 Virement. The Council operates a scheme enabling controlled virement of revenue and capital expenditure as detailed within its Financial Procedure Rules.

29.2.5 In-year changes to policy framework. The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive, a committee of the executive an individual member of the executive or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which makes up the policy framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) necessary to ensure compliance with the law, ministerial direction or government guidance;

(c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

29.2.6 Call-in of decisions outside the budget or policy framework:

(a) where a Scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer;

(b) in respect of functions which are the responsibility of the executive, the monitoring officer's report and/or chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring 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 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 financial 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 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 days of the request by the 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 financial 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 circulated to all councillors 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 circulated to all councillors in the normal way; or

(iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

30 COMMITTEE MEETING PROCEDURE RULES

30.1 Application of Rules

30.1.1 These rules apply to all meetings of Committees and Sub-Committees of the Council, other than Cabinet and those with their own separately adopted meeting procedures.

30.2 Chair

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

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

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

30.3 Quorum

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

30.4 Ordinary Meetings – Business

30.4.1 Ordinary meetings of Committees will (as appropriate):-

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

30.5 Extraordinary Meetings

30.5.1 The following listed below may request the proper officer to call a meeting of the committee in addition to ordinary meetings:-

(i) the Council by resolution;
(ii) the Chair of the committee;
(iii) the Chief Executive;
(iv) the Monitoring Officer;
(v) s.151 Officer

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

30.5.3 Any meeting called in addition to ordinary meetings will:-

a) elect any person to preside if the chair and deputy chair are not present;

b) consider the item or items of business specified in the request; and

c) such other matter or matters which the chair has certified as being urgent.

30.6 Motions

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

(a) to appoint a chair of the meeting;

(b) in relation to the accuracy of the minutes;
(c) to change the order of business in the agenda;
(d) to refer something to an appropriate Committee, body or individual for consideration;
(e) to receive reports and/or to adopt recommendations of committees or officers;
(f) to proceed to the next business;
(g) that the question be now put;
(h) to adjourn a debate;
(i) to adjourn a meeting;
(j) to agree an alteration to a report under consideration;
(k) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
(l) to not hear further a member.

30.7 Speeches

30.7.1 Speeches, discussion and questions must be directed to the matter under discussion or to a point of order or personal explanation. The period allowed for any speech will be determined by the chair.

30.8 Point of order

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

30.9 Personal Explanation

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

30.10 Declarations of Interest

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

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

30.11 Voting

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

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

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

30.11.4 Members should be present (either in person or remotely) for the entirety of the introduction and debate on an item of business in order to vote. Those who attend a meeting remotely must have their cameras on and be visible onscreen in order to be recorded present at the meeting. If a member is not present for the whole of the introduction or debate on an item of business, they may be excluded from a vote on that item of business if, in the opinion of the chair, that member missed information or part of the debate that was material to the decision before Committee.

30.11.5 The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

30.11.6 Members attending committees which are exercising a quasi-judicial function must be present for the entirety of the introduction of the item and debate in order to vote.

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

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

30.12 Exclusion of the press and public

30.12.1 Members of the public and press may only be excluded from a meeting in accordance with the Council's access to information rules or by the chair exercising his powers in the event of a disturbance.

30.13 Members' Conduct

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

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

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

30.14 Disturbance by the Public

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

31 CABINET MEETING PROCEDURE RULES

31.1 When and where are Cabinet meetings held?

31.1.1 The date and time of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be determined by the Leader. The Cabinet will hold its meetings in accordance with the Councils Access to Information Procedure Rules in Section 28.

31.1.2 The place of a meeting shall include provisions enabling meetings to be attended remotely in accordance with the Local Government & Elections (Wales) Act 2021. The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

31.2 Chair

31.2.1 The Leader will chair any meeting of the Cabinet or its committees at which they are present. In their absence, the Deputy Leader will chair the meeting. In their absence, then a person appointed to do so by those present shall chair the meeting.

31.2.2 The Chair may, at their sole discretion, vary these procedure rules within the limits of what is legally permissible, in order to facilitate the transaction of the business of the meeting.

31.3 Quorum

31.3.1 The quorum for a meeting of the Cabinet shall be 3 including the Leader or Deputy Leader.

31.4 Attendance

31.4.1 Subject to the rules set out below, only Cabinet Members, assistants to the Cabinet, employees or other persons with a duty to advise Cabinet, or other individuals at the discretion of the Leader may attend and speak at Cabinet meetings.

31.4.2 The ability of other elected members to attend and speak at Cabinet will be in accordance with paragraphs 5.4.2 and 5.4.2 of the constitution and subject to the Council's Access to Information Procedure Rules.

31.4.3 A Group Leader (the Leader of a political group as defined by the Local Government (Committees and Political Groups) Regulations 1990) shall have the right to attend Cabinet meetings and ask questions in relation to items on the agenda for the meeting. Where a Group Leader is unable to attend the meeting, they may designate a deputy to attend in their absence, if notified to the Chair and the Local Democracy Manager prior to the commencement of the meeting.

31.4.4 The Group Leader (or their nominated Deputy) may ask questions in relation to any agenda item, provided the questions are submitted in writing to the Chair by 5pm one clear day before the meeting. All questions must:

(i) be relevant to the report or item being considered by Cabinet;

(ii) not be frivolous, vexatious or contain defamatory statements.

31.4.5 Nothing in this paragraph shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly and efficient conduct of the meeting.

31.5 Business to be conducted

31.5.1 At each meeting of the Cabinet the following business will be conducted (as appropriate):

(a) declarations of interest, if any;

(b) matters referred to the Cabinet (whether by Scrutiny Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions

contained in the Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules set out above;

(c) consideration of reports from Scrutiny Committees;

(d) consideration of reports from Cabinet Committees;

(e) reports from Officers of the Authority;

31.6 Consultation

31.6.1 All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the Scrutiny Committees 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.

31.7 Agenda

31.7.1

The Agenda will be published in accordance with the Council's Access to Information rules. The following provisions shall apply to the content of the Agenda for Cabinet meetings:

(a) The Leader will decide upon the schedule for meetings of the Cabinet. They may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter;

(b) any Member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration;

(c) the Chief Executive, the Monitoring Officer and/or the s151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties;

(d) in other circumstances, where any 2 of the Chief Executive, s151 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 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 considered at which the matter will be considered.

31.8 Voting

31.8.1 Cabinet decisions will be decided by a simple majority of those present and eligible to vote at the meeting.

31.8.2 If there are equal numbers of votes for and against, the person presiding at the meeting shall have a second or casting vote.

31.8.3 Cabinet Job Sharers (two or more members of the Cabinet who have been appointed to share the same Cabinet office) will have one vote between them in respect of any matter on which they have a right to vote because they are a member of the Cabinet. The vote is allocated to the job sharing arrangement and not to an individual Job Sharer, so Job Sharers should have appropriate preparatory discussions.

31.8.4 If two or more Cabinet Job Sharers who share the same office ('Job Sharing Partners') attend a Cabinet meeting, in their capacity as a member of the Cabinet they should both be recorded as having attended the meeting and they both may speak at the meeting. However, where a vote is required in respect of a Cabinet decision, they must decide between them in advance who will cast their vote and inform the Chair of the meeting.

31.8.5 If one Cabinet Job Sharer attends a Cabinet meeting, in their capacity as a Member of the Cabinet, where a vote is required in respect of a Cabinet decision, then the attending Cabinet Job Sharer must cast their vote taking into account preparatory discussions with their Job-Sharing Partner.

31.8.6 In the absence of agreement between the Cabinet Job Sharers', their vote shall not be counted.

31.8.7 If one Cabinet Job Sharer has a personal and prejudicial interest in a matter ('a Conflicted Job Sharer'), their non-conflicted Job-Sharing Partner should cast the job sharers' vote without having had any preparatory discussions about the matter with the Conflicted Job Sharer.

31.8.8 Members should be present (either in person or remotely) for the entirety of the introduction and debate on an item of business in order to vote. Those who attend a meeting remotely must have their cameras on and be visible onscreen in order to be recorded present at the meeting. If a member is not present for the whole of the introduction or debate on an item of business, they may be excluded from a vote on that item of business if, in the opinion of the chair, that member missed information or part of the debate that was material to the decision before Cabinet.

31.8.9 The failure of any technological provision whether that leads to a partial or complete loss of contact between the remote attendees and those members in actual attendance during the meeting shall not invalidate any part of the deliberations or any vote taken. The Chair may postpone the meeting if they deem that appropriate.

31.9 Disturbances

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

31.9.2 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

31.10 Filming and Use of Social Media During Meetings

31.10.1 Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.

32 SCRUTINY COMMITTEE PROCEDURE RULES

32.1 What will be the number and arrangements for Scrutiny committees?

32.1.1 The Council will have 4 Scrutiny Committees set out in Part 2 and will appoint to them as it considers appropriate from time to time. The Scrutiny Committees may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

32.1.2 The terms of reference of the various Scrutiny Committees will be to:

(a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; (except any matters specifically identified in the terms of reference of any other Scrutiny committee);

(b) make reports and/or recommendations to the full Council and/or the executive and/or any joint or area committee in connection with the discharge of any functions;

(c) consider any matter affecting the area or its inhabitants;

(d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any area committees;

(e) convene joint meetings with overview and scrutiny committees of other councils;

(f) assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government and Senedd Sponsored Public Bodies on the effectiveness of Council service delivery.

32.2 Specific functions of Scrutiny Committees

32.2.1 Policy development and review. Scrutiny committees may:

(a) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;

(b) conduct research, community and other consultation in the analysis of policy issues and possible options;

(c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

(d) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;

(e) 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.

32.2.2 Scrutiny. Scrutiny committees may:

(a) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;

(b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

(c) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

(d) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

(e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny committee and local people about their activities and performance;

(f) question and gather evidence from any person (with their consent).

32.2.3 Finance. Scrutiny committees may exercise overall responsibility for the finances made available to them.

32.2.4 Scrutiny Committees shall undertake the following:

(a) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate;

(b) 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;

(c) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;

(d) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County;

(e) 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;

(f) question and gather evidence from any person (with their consent) whilst conducting investigative and reporting processes.

32.2.5 Report. From time to time, as appropriate, the Chair of each Scrutiny committee will report to full Council on the workings of the committee including future work programmes.

32.2.6 Officers. Scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

32.3 Who chairs Scrutiny Committee Meetings?

32.3.1 Each Scrutiny Committee will be Chaired by a Chair appointed from the membership of that Scrutiny Committee

32.4 Who may sit on Scrutiny Committees?

32.4.1 There will be cross party Membership of all Scrutiny Committees. All councillors except members of the executive may be members of a Scrutiny committee. However, no member may be involved in scrutinising a decision in which they have been directly involved.

32.5 Meetings of the Scrutiny Committees

32.5.1 The Council may determine a cycle of meetings for the Scrutiny Committees. If the Council do not set the cycle, each such Scrutiny Committee shall determine their own cycle of meetings. The Chair, or in their absence the Vice Chair, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the Scrutiny Committee's work programme. A meeting of a Scrutiny Committee may be called by the Chair (or in their absence, the Vice Chair) or by the Monitoring Officer or by the Head of Democratic Services, if they consider it necessary or appropriate.

32.6 Quorum

32.6.1 The quorum for a Scrutiny Committee shall one quarter of the whole number of members. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they don’t fix a date, the remaining business will be considered at the next ordinary meeting.

32.7 Agenda Items

32.7.1 Any Member of a particular Scrutiny Committee shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of the that Scrutiny Committees to be included on the agenda for the next available meeting. Seven working days’ notice of the item should be given to Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

32.7.2 On receipt of such a request, so long as it is an appropriate matter to be considered, the Proper Officer will ensure that it is included on the next available agenda.

32.7.3 Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Scrutiny Committees shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committees within one month of receiving it.

32.8 Policy Review and Development

32.8.1 The role of the 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 above.

32.8.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

32.8.3 Scrutiny Committees may hold enquiries 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.

32.9 Reports from the Scrutiny Committees

32.9.1 All formal reports from the Scrutiny Committees will be submitted to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget 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).

32.9.2 If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

32.9.3 The Council or Cabinet shall consider the report of a Scrutiny Committee within one month of it being submitted to the Proper Officer.

32.10 Making sure that Overview and Scrutiny Reports are considered by the Cabinet

32.10.1 The agenda for Cabinet meetings shall include an item entitled "Issues Arising from Overview and Scrutiny". The reports of the Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within 3 months, the Cabinet will give an explanation of the reasons to the Chair of the relevant Scrutiny Committee as soon as practicable.

32.10.2 Where the Cabinet has delegated decision making power to another individual Member of the Cabinet, the relevant Scrutiny Committee will submit a copy of its report to them for consideration. At the time of doing so the Scrutiny Committee shall serve a copy on the Monitoring Officer. The Member with delegated decision making power must consider the report and respond in writing to the Scrutiny Committee within 3 months of receiving it. A copy of their written response to it shall be sent to the Proper Officer and the Leader. The Member will also attend a future meeting of that Scrutiny Committee to present their response.

32.11 Rights of Members of the Scrutiny Committees to Documents

32.11.1 In addition to their rights as Councillors, Members of the Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules.

32.11.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committee as appropriate depending on the particular matter under consideration.

32.12 Members and Officers Giving Account

32.12.1 The Scrutiny Committees 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 Member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:

(a) any particular decision or series of decisions;

(b) the extent to which the actions taken implement Council policy; and/or

(c) their performance and it is the duty of those persons to attend if so required.

32.12.2 For this purpose, senior Officer includes any chief Officer, Deputy Chief Officer and other appropriate senior Officer. Where there are concerns about the appropriateness of the Officer who should attend, the relevant chief Officer shall discuss this with the appropriate Overview and Scrutiny Chair or Vice Chair with a view to achieving consensus.

32.12.3 Where any Member or Officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the Member or Officer, if necessary in writing, giving at least 10 working days' notice of the meeting at which they are required to attend (unless agreed otherwise). Any notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee.

32.12.4 Where the account to be given to a Scrutiny 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.

32.12.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

32.13 Attendance by Others

32.13.1 Scrutiny Committees may invite people other than those people referred to above 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.

32.14 Call-In

32.14.1 All decisions taken by Cabinet, an individual member of the Cabinet, a Committee of the Cabinet or decisions taken under joint arrangements are subject to call-in.

32.14.2 All Key Decisions (as defined by paragraph 24.2.3) taken by Officers are subject to call-in.

32.14.3 Where a decision falling within 31.14. 1 and 31.14.2 is made, it shall be published by the Proper Officer, including by electronic means, and shall be available at the main offices of the Council within 2 clear working days of it being made. All members of the 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.

32.14.4 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 a Scrutiny Committee objects to it and calls it in for review.

32.14.5 During that period the Proper Officer shall call-in a decision for scrutiny by a Scrutiny Committee if so requested in the specified format by 3 Members of the Council and, shall then notify the decision taker of the call-in. They shall call a meeting of that Scrutiny Committees on such a date as they may determine, where possible after consultation with the Chair or Vice Chair of that Scrutiny Committees, and in any case within 15 clear working days of the decision to call-in (only in exceptional circumstances will the Chair of the Scrutiny Committee consider extending this time limit)

32.14.6 If, having considered the decision, the 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 10 clear working days, amending the decision or not, before adopting a final decision. If referred to full Council, the Proper Officer will convene a meeting of the Council within 15 clear working days.

32.14.7 If following an objection to the decision, a 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 Scrutiny Committee' meeting, or the expiry of that further 15 clear working day period, whichever is the earlier.

32.14.8 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 ten working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council's request.

32.14.9 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.

32.14.10 No Education Co-opted Members may call-in a decision.

32.14.11 The call-in procedure shall not apply to:

a) matters that are substantially similar to those that have already been considered by a Scrutiny Committee prior to the decision being made or have been the subject of a previous call-in within the last six months, unless there has been a material change in circumstances;

b) urgent decisions as defined within these rules;

c) Operational Decisions by officers.

32.14.12 The Monitoring Officer, in consultation with the Chief Executive, will determine whether or not a request for call-in falls within the rules the scheme.

32.14.13 Save in exceptional circumstances (as adjudicated by the Chief Executive) all Members requesting a matter be called in must attend the meeting at which the matter is being considered. The relevant cabinet member or, in their absence, the Leader or a deputy leader should also attend.

32.15 Urgent Decisions and Call-in

32.15.1 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.

32.15.2 A decision can only be treated as urgent if the decision taker (if an individual) or the chair of the body making the decision obtains the agreement of the chair of a relevant Scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant Scrutiny committee, or if the chair is unable to act, then the agreement of the Chief Executive of the Council, will suffice.

32.15.3 The chair of the relevant Scrutiny Committee or Chief Executive, as the case may be, must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.

32.15.4 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.

32.16 The Party Whip

32.16.1 If a Member of a Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, that Member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

32.17 Procedure at Scrutiny Committee Meetings

32.17.1 Scrutiny Committees shall consider the following business:

(a) minutes of the last meeting;

(b) declarations of interest;

(c) consideration of any matter referred to that Scrutiny Committee for a decision in relation to call in of a decision;

(d) responses of the Cabinet to reports of that Scrutiny Committee;

(e) the business otherwise set out on the agenda for the meeting.

32.17.2 The rules of debate at a Scrutiny Committee will be the same as the Committee Meeting Procedure Rules except that the Chair 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 a Scrutiny Committee or in any other capacity which allows them to contribute to the function of scrutiny.

32.17.3 Scrutiny Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

(a) that the business be conducted fairly and all Members of the Scrutiny Committees be given the opportunity to ask questions of witnesses, and to contribute and speak;

(b) that those assisting by giving evidence be treated with respect and courtesy;

(c) that the business be conducted as efficiently as possible.

32.17.4 Any Scrutiny Committee may, following the scrutiny of any decision or forthcoming decision, prepare a report for submission to the Cabinet and/or Council as appropriate.

32.18 Matters within the Remit of more than one Scrutiny Committees

Where a matter for consideration by a Scrutiny Committee also falls within the remit of one or more other Scrutiny Committee, the decision as to which Scrutiny Committees will consider it will be resolved by agreement of the respective Chairs. If no such agreement is possible, then the relevant Chief Officer shall determine which Scrutiny Committee is the most appropriate forum.

32.19 Councillor Call for Action

32.19.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of "last resort".

32.19.2 Any Member may request that an item is placed on the agenda of an Scrutiny Committees for consideration.

32.19.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to these Rules at Section 32.

33 COUNCILLOR CALL FOR ACTION – GUIDANCE FOR COUNCILLORS

33.1 Introduction

33.1.1 The Local Government Wales Measure 2011 introduced a number of new provisions aimed at strengthening local democracy. Section 63 of the Measure introduced a provision for "Councillor Calls for Action" (CCfA) which enables Councillors to refer issues of local importance to Scrutiny Committees.

33.1.2 CCfAs are intended to enable local Councillors and their electors to obtain a response from their Council Leadership on issues of local importance. CCfAs should be regarded as one of a series of tools which elected Members have at their disposal to resolve local issues and make a positive difference in their community. Previously in Wales, only local Crime and Disorder issues could be referred by the local Member to the designated Crime and Disorder Scrutiny Committee for action and it should be noted that these local crime and disorder referrals will remain in place under separate legislation.

33.1.3 As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents and CCfAs provide an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.

33.1.4 CCfAs have been introduced alongside other powers for scrutiny, including powers to scrutinise a wide range of bodies not previously subject to local authority scrutiny. CCfAs are intended to enable any Member for the Council to refer to a Scrutiny Committee, “a local government matter” which falls within the Scrutiny Committees remit.

33.2 How Should I Normally Attempt to Resolve a Local Issue in my Area?

33.2.1 Local issues can be resolved in a number of ways by councillors on behalf of their residents as listed in the Welsh Government’s Statutory Guidance from the Local Government Measure 2011:

(a) informal discussions with Officers or other councillors;

(b) informal discussions with partner representatives;

(c) referral to other “scrutiny” bodies such as Community Health Councils or internal audit committee;

(d) formal discussions with Officers and councillors;

(e) formal letters to the Cabinet Members;

(f) asking questions at Full Council;

(g) submitting a motion to Full Council;

(h) organising public meetings;

(i) use of petitions;

(j) making a complaint;

(k) questions at Full Council;

(l) freedom of information requests;

(m) communication with local AMs or MPs;

(n) use of social media or email based campaigns.

33.2.2 This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the appropriate Scrutiny Committees.

33.3 What is a Councillor Call for Action?

33.3.1 In order for the Scrutiny Committees to accept a CCfA as an agenda item for discussion at one of their meetings, the issue must affect either all or part of a councillor’s electoral area or it must affect someone who lives or works in that area.

33.3.2 A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that a CCfA is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

33.4 How and When Should I Make a CCFA?

33.4.1 A flowchart showing the process is provided at Annex A. A councillor may initiate the process by completing the form at Annex B. Further copies are available from the Head of Democratic Services. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to the Head of Democratic Services who will log and acknowledge the referral within 5 working days, to track its progress and forward a copy of the form to the Proper Officer.

33.4.2 The Proper Officer will confirm whether or not the referral satisfies the requirements outlined above to enable it to be placed on the agenda for discussion at a meeting of the Scrutiny Committee. The Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful; and the Councillor will be informed of this outcome as soon as practicable.

33.5 Criteria to be Followed by a Scrutiny Committee

33.5.1 It is up to the Members of a Scrutiny Committee to decide whether, and in what form, to take the matter further. The Scrutiny Committee will use the following criteria to decide whether or not the referral is appropriate to be considered by that Scrutiny Committee:

(a) is that Scrutiny Committee satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?

(b) Has that Scrutiny Committee considered a similar issue recently? If so, have the circumstances or evidence changed?

(c) Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account;

(d) have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?

(e) Is this a case that is being or should be pursued via the Council's corporate complaints procedure?

(f) Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?

(g) Is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?

(h) Is this an issue currently being looked at by another form of local scrutiny?

(i) Does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the Member's electoral division?

33.5.2 Crime and Disorder referrals should be directed to the designated Crime and Disorder Scrutiny Committee (Public Services Scrutiny Committee).

33.5.3 If a Scrutiny Committee decides not to accept the CCfA it must inform the councillor of the decision and the reasons for it.

33.5.4 If a Scrutiny Committee decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, e.g. the Councillor will be given adequate notice (a minimum of 10 clear working days) of the date of the Scrutiny Committee's meeting. The Councillor will be requested to attend to the Scrutiny Committee and informed that they will have 5 minutes in which to address the Scrutiny Committee.

33.5.5 The Scrutiny Committee may then wish to question the Councillor further before deciding how it intends to take the matter forward. This could include:

(a) asking the relevant responsible authorities to respond to the CCfA;

(b) setting up a research or task and finish group to undertake a more in-depth review;

(c) asking for further evidence and/or witnesses to be brought to a future meeting. The Scrutiny Committee has the power to request "designated persons" such as representatives from other public bodies/agencies to attend, where relevant, and to request information.

33.6 Potential Outcomes from a CCFA

33.6.1 A Scrutiny Committee could:

(a) determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;

(b) write a response and make recommendations on the CCfA to a relevant responsible authority;

(c) decide that further action is not appropriate giving its reasons.

33.6.2 Once a Scrutiny Committee has completed its work, the Councillor who made the referral will receive a copy of any response or recommendations made.

33.7 Timescales for Dealing with a CCFA

33.7.1 In exceptional circumstances, for example where there are unavoidable time constraints, a special Scrutiny Committee meeting may be convened.

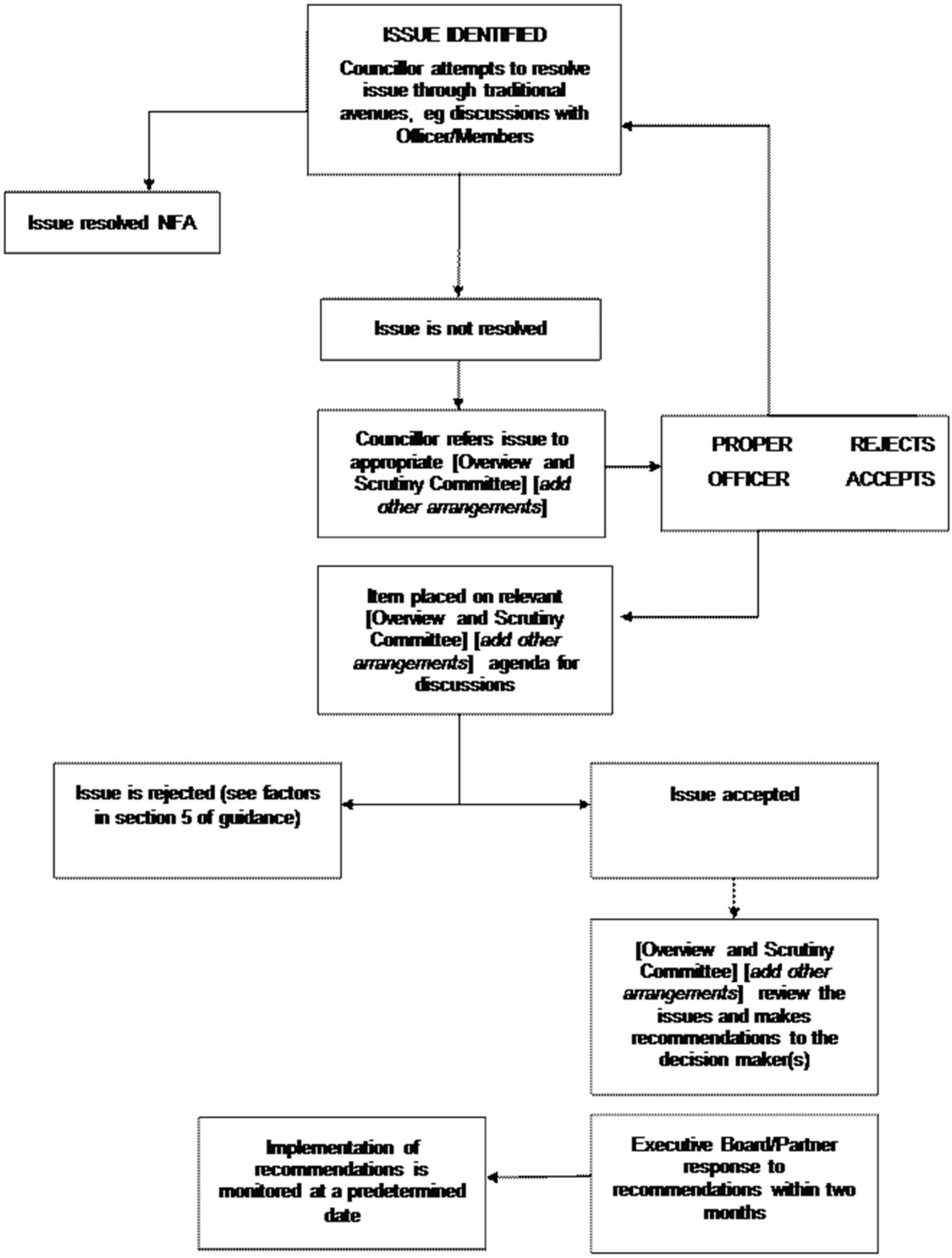
33.7.2 Should a CCfA result in recommendations to the Cabinet responsible authorities, they will be requested to make a response to the recommendations within 28 days and 2 months respectively.

Scrutiny Committees will monitor implementation of any recommendations as part of their Forward Work Programme.

33.8 Review of this Guidance

33.8.1 This guidance is based on a model prepared and approved by the Association of Council Secretaries and Solicitors (ACSeS) in October 2009. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly. Scrutiny Committee review the issues and makes recommendations to the decision maker(s). Cabinet/Partner response to recommendations within 2 months .Implementation of recommendations is monitored at a predetermined date.

Annex A


ISSUE IDENTIFIED
Councillor attempts to resolve issue through traditional avenues, eg discussions with Officer/Members
Issue resolved NFA
Issue is not resolved
Councillor refers issue to appropriate [Overview and Scrutiny Committee] [add other arrangements]
PROPER OFFICER
REJECTS
ACCEPTS
Item placed on relevant [Overview and Scrutiny Committee] [add other arrangements] agenda for discussions
Issue is rejected (see factors in section 5 of guidance)
Issue accepted
[Overview and Scrutiny Committee] [add other arrangements] review the issues and makes recommendations to the decision maker(s)
Executive Board/Partner response to recommendations within two months
Implementation of recommendations is monitored at a predetermined date

Annex B

For the attention of **(name and title of Proper Officer)**	
From	Councillor
Electoral Division	
Contact details	
Telephone	
E-mail	
SUBJECT	
Details Please briefly explain what the issue is and how it affects your electoral division.	
Action taken to date Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date) or add additional.	• Informal discussions with Officers or other councillors • Informal discussions with partner representatives • Referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee • Formal discussions with Officers and councillors • Formal letters to the Cabinet Members • Asking questions at Full Council • Submitting a motion to Full Council • Organising public meetings • Use of petitions • Making a complaint • Questions at Full Council • Freedom of Information requests • Communication with local AMs or MPs • Use of social media or email based campaigns
Expected Outcome Please describe the outcome you hope to gain via this referral.	
Papers attached Please list documents attached which should evidence the impact of the issue,	

the steps taken and any responses received.	

1. The following criteria will be taken into consideration when a Scrutiny Committees decide whether to progress with your CCfA:

   1.1 Have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?

   1.2 Has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?

   1.3 Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the CCfA should be taken into account.

   1.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?

   1.5 Is this a case that is being or should be pursued via the Council's corporate complaints procedure?

   1.6 Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?

   1.7 Is the matter an issue of genuine local concern, which impacts on the local community rather than a personal matter?

   1.8 Is this an issue currently being looked at by another form of local scrutiny?

   1.9 And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations, which could realistically be implemented and lead to improvements for anyone living or working in your electoral division.

2. Please consider whether your referral might be considered premature by the Scrutiny Committees. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, they will advise you accordingly.

34 FINANCIAL PROCEDURE RULES (Financial Standing Orders and Financial Regulations)

34.1 Contents

34.1.1 Detailed contents can be found here.

34.2 Status

34.2.1 This is section one of the Financial Procedure Rules.

34.2.2 Financial Procedure Rules provide the framework for managing the Authority's financial affairs and are part of Monmouthshire Council's constitution. They apply to every member and officer of the Authority, and anyone acting on its behalf.

34.2.3 The purpose of the Financial Procedure Rules is to ensure that public accountability and high standards of financial integrity are exercised in the control of public funds that pass through the Authority. The Financial Procedure Rules govern the day to day operation of the Authority's financial administration. They are introduced both to protect the interests of the Authority, and all those who are involved with financial administration.

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

34.2.5 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Procedure Rules, and for submitting any additions or changes necessary to Council for approval. The s151 Officer is also responsible for reporting, where appropriate, any breaches of Financial Procedure Rules. In the event of dispute as to the meaning of any of the provisions of the Financial Procedure Rules the matter shall be determined by the s151 Officer whose decision shall be final.

34.2.6 Where in the Financial Procedure Rules, an officer is designated by reference to their job title, the responsibilities shall relate to the post holder. Such an officer may arrange for officers under their supervision or management to carry out any of the obligations, duties or activities required to be performed by them under the Financial Procedure Rules, or to act in their absence, provided that the named post holder shall retain responsibility to the Authority.

34.2.7 The s151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that members, officers and others acting on behalf of the Council are required to follow.

34.2.8 Chief Officers and Heads of Service are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Authority's Financial Procedure Rules, and guidance documents issued by the s151 Officer, and that they comply with them. Failure to comply with the Financial Procedure Rules, or the instructions issued under them, or any arrangements made for the purposes of them, will constitute misconduct, possibly gross misconduct.

34.2.9 Other related documents approved by the Authority include the Constitution, Delegations, Contract Procedure Rules and Codes of Conduct.

34.2.10 The s151 Officer is responsible for promoting the same high standards of conduct in the management of partnerships as with the Council. Chief Officers and Heads of Service are responsible for ensuring that the Council's interests are protected in such arrangements and that appropriate advice is taken at all stages.

34.2.11 The default position is that any external arrangements will be subject to the Council's Financial Procedure Rules, unless specific approval has been granted by Cabinet to do otherwise.

34.3 Financial Management

34.3.1 This is section 2 of the Financial Procedure Rules and covers Managing Expenditure, Treatment of Year End Balances, Accounting Policies, Accounting Records and Returns, and Annual Statement of Accounts.

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

34.3.3 Key Controls. The key controls for financial management are:

(a) to ensure their promotion of proper financial management throughout the Authority;
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(b) to have a system in place to review compliance with financial standards.

34.3.4 Responsibilities of the s151 Officer:

(a) to be responsible, for the purposes of Section 151 of the Local Government Act, 1972 and Section 114 of the Local Government Finance Act, 1988, for the proper administration of the Authority's financial affairs. To adhere to the Statement on the role of the Chief Finance Officer in Local Government (CIPFA);

(b) as the Authority's financial adviser, to:

(i) report to the Cabinet and the Council on resource availability and resources allocation;

(ii) advise the Cabinet and the Council of the financial implications and risks of proposals submitted to them;

(iii) keep the Cabinet and the Council informed with respect to the Authority's finances and financial performance and other committees informed with respect to financial implications of their activities;

(iv) advise on financial systems and procedures for all service areas of the Authority including advice to the Cabinet and the Council if inadequate systems exist;

(v) advise and participate in all aspects of Value For Money projects;

(vi) advise the Cabinet and the Council on the financial aspects of all policy matters;

(c) to ensure proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the Authority. To ensure that finance staff are competent to perform the responsibilities that they are assigned;

(d) the s151 Officer shall, after consultation with the Monitoring Officer, personally make a report to the external auditor and each elected member if it appears to them that a Member, officer or partnership in which the Authority is represented:

(i) has made or is about to make a decision which involves or would involve the Authority in unlawful expenditure;

(ii) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority;

(iii) is about to enter an item of account the entry of which is unlawful;

(e) the s151 Officer shall also make such a report if it appears to them that the expenditure of the Authority incurred (and proposed to incur) in a financial year is likely to exceed the resources available to meet that expenditure.

34.3.5 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that the Financial Procedure Rules are followed and brought to the attention of all employees in their service areas;

(b) to be responsible, in consultation with the s151 Officer for:

(i) the financial administration of their service areas, including trading accounts, in compliance with the Financial Procedure Rules;

(ii) the monitoring and control of expenditure against their service area capital and revenue budgets;

(iii) the design and operation of systems of internal control capable of:

(1) carrying out the activities of the Authority in an effective and efficient manner;

(2) ensuring adherence to the Authority Policy Framework and Budget;

(3) safeguarding assets;

(4) securing, as far as possible the completeness and accuracy of records;

(5) ensuring value for money and preventing waste;

(6) identifying and reporting of financial risks.

(c) to agree with them any amendment to financial systems or introduction of new financial systems.

(d) to provide all information required by the s151 Officer for finance purposes on a timely basis, and to allow them or an authorised representative access to all information, records, documents and explanations that they require;

(e) to maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements;

(f) to establish and maintain sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets;

(g) to allow the s151 Officer adequate opportunity (at least 5 working days) to provide written comments for inclusion in all reports for decision by the Council or the Cabinet or for the purpose of exercising delegated powers;

(h) to consult with the s151 Officer with respect to any matter within their purview which is liable to materially affect the finances of the Authority, before any provisional or other commitment is incurred or before reporting thereon to the Cabinet or the Council;

(i) to inform the s151 Officer when officers intend to meet with representatives of Government Service areas or outside bodies on matters which may involve current or future financial or economic proposals and be given the opportunity of being represented or advised of the proposals as the s151 Officer considers necessary;

(j) to take action upon any internal audit reports to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion;

(k) to ensure that all employees who are responsible for financial administration are issued with appropriate instructions and periodic training as deemed necessary;

(l) to ensure that there is a clear separation of duties within the administration of all processes to ensure adequate controls are in place;

(m) to maintain proper records of authorising officers for all financial processes and to ensure that only these officers authorise key documents such as orders, invoices, claims and payroll records. Such records to be maintained by the system administrators in conjunction with Chief Officers;

(n) to immediately notify the s151 Officer and the Chief Internal Auditor whenever any matter arises which involves, or is thought to involve, a breach of

security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority;

(o) to liaise with the Chief Internal Auditor in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Bribery and Corruption Strategy;

(p) to ensure that all employees comply with the Financial Procedure Rules and any instructions issued under them or any arrangements made for the purposes of them;

(q) to ensure that any arrangements made under or for the purposes of the Financial Procedure Rules should be documented and where necessary conveyed in writing to relevant employees;

(r) to promote sound financial practices in relation to the standards, performance and development of staff in their departments.

34.4 Managing Expenditure

34.4.1 Virement and in-year changes to the budget:

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

(b) virement Guidelines are approved by Cabinet. There are different levels and types of budget virement that can occur, each requiring different levels of Member/Officer approval; this is outlined in the document.

34.4.2 Key Controls. Key controls for the scheme of virement are:

(a) the overall revenue budget is drawn up by the Cabinet and approved by the full Council. Chief Officers and budget holders are, therefore, authorised to incur expenditure in accordance with the estimates that make up the budget as set out in the budget book. The rules below cover virement; that is, switching resources between approved cost centres:

(i) virement does not create additional overall budget liability. Chief Officers and budget holders are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets;

(ii) the capital programme is drawn up by the Cabinet and approved by the full Council and contains details of approved expenditure on capital schemes.

34.4.3 Responsibility of the Cabinet. To approve revenue and capital budget virements outside of the delegations identified below:

Category	Virement	Authorisation
Cost Centre	Same Directorate/Corporate Area – Same Division	Up to £50k - Relevant Service Manager in consultation with Relevant Chief Officer/Head of Service Between £50k - £250k – Relevant Chief Officer/Head of Service Over £250k – Cabinet
	Same Directorate/Corporate Area – Different Division	Under £250k - Relevant Chief Officer/Head of Service, with consultation with relevant Service managers Over £250k – Cabinet
	Different Directorate/ Corporate Area – No Reserve Funding Impact	Under £250k - Relevant Chief Officers/Heads of Service, with consultation with relevant Service managers Over £250k - Cabinet
	Different Directorate/ Corporate Area – Reserve Funding Impact	Cabinet upon recommendation of Head of Finance
Account Code	Between Indirect Codes	Up to £50k - Directorate Finance Manager
		Over £50k - Assistant Head of Finance (Accountancy)
	Between Direct Codes	Up to £50k - Respective Directorate Finance Managers for Directorate Budgets and Central Finance Manager for Corporate Areas
	Between Indirect and Direct Codes	Head of Finance
Project Codes and other lower level codes	All	Respective Directorate Finance Manager for Directorate Budgets and Finance Manager Central Accountancy for Corporate Areas

34.4.4 Responsibilities of Chief Officers and Heads of Service:

(a) in consultation with the s151 Officer to vire, within service areas, sums not exceeding £250,000 provided under specific published revenue budget heads to other purposes (revenue only);

(b) to refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A recommendation will be

prepared by the appropriate Chief Officer or Head of Service, in consultation with the s151 Officer.

No virement may be approved if it is anticipated to introduce overspend to either the service
area or total cash limited budget of the Heads of Service.

34.4.5 Responsibilities of the s151 Officer:

(a) to consult with the appropriate Chief Officer or other Head of Service, to vire sums, within their service area and within the limits as outlined in these Financial Procedure Rules;

(b) to refer to the Cabinet for approval, virements in excess of £250,000 provided under the specific published budget heads. A recommendation will be prepared by the appropriate Chief Officer or Head of Service, in consultation with the s151 Officer;

(c) to recommend to Cabinet the use of reserves and to commit expenditure in future years up to a total of up to £1m and to ensure that appropriate records are kept and maintained.

No virement may be approved if it is anticipated to introduce overspend to either the service area or total cash limited budget of the Head of Service.

34.4.6 Capital Virement Authorisation Levels

Form	Scheme Categories	Virement Type	Authorisation
Cap 2a	• Property Maintenance • Infrastructure Maintenance • GF Renovation Grants	Virement within each category Virement between financial years within each category	Virements up to £50k – Service Manager responsibility Virements over £50k - Relevant Chief Officer/Head of Service
Cap 2b	IT schemes	Virement within this category including virement between financial years	Relevant responsible Chief Officer/Head of Service in consultation with Head of Finance, Cabinet Member and ICT Board

Cap 2c	• Development schemes over £250k • Development schemes under £250k – All categories • Reserve Funded • Education Strategic Review	Virement within and between these categories and between financial years	Virements affecting more than one member's portfolio require Cabinet approval Virements within a single member's portfolio require Single Member approval
Cap 2d	• Specific Grant Funded • Section 106 • Section 278	Virements between categories and between financial years	Virements require Cabinet approval along with written notification of approval from the grant funding body, or relevant Section 106 or Section 278 Agreement where it doesn't accord with spirit of existing agreement
Cap 2e	All categories of scheme if the virement is not covered by forms 2a – 2d	Virements between categories and between financial years	Virements require Cabinet approval

34.4.7 Responsibilities of Chief Officers and Heads of Service:

(a) in consultation with the s151 Officer, to vary within service areas the approved programme of capital expenditure by an addition or deletion or material modification of an existing project by a virement not exceeding £50,000 to or from another project but subject to the medium term financial plan;

(b) to refer to the Cabinet for approval, virements provided under the specific published budget heads as per above table. A recommendation will be prepared, in consultation with the s151 Officer.

34.4.8 Responsibilities of the s151 Officer:

(a) to consult with the appropriate Head of Service to vary within their service areas

the approved programme of capital expenditure, within the limits as outlined in these Financial Procedure Rules;

(b) to refer to the Cabinet for approval virements provided under the specific published budget heads as per the table above;

The Council sets a multi-year capital programme, with the latter years indicative only. In order to ensure an effective capital programme, expenditure can be brought forward only with the approval of the s151 Officer. The possibility of delaying spend into future years may be required in some cases and should be observed following any request from the s151 Officer.

34.4.9 Responsibilities of Accountancy Staff in Respect of Virement Administration;

(a) in all instances, a budget virement can only be actioned on the financial information system upon satisfaction by Accountancy Section that the above authorisations have been obtained;

(b) accountancy will check the forms. In particular they will need to make sure any financing implications are taken into account. If everything is in order they will make the necessary adjustments to the ledger and inform the relevant budget holders;

(c) accountancy will identify budget virements on the General Ledger. Expenditure and financing profiles will be adjusted in order to track expenditure and financing through the financial year and to assist in budget monitoring and forecasting.

34.5 Treatment of Year End Balances

34.5.1 Why is this Important? It is important to have a set of rules for the proper treatment of year end balances.

34.5.2 Key Controls. Appropriate accounting procedures are in operation to ensure that carried forward totals are correct.

34.5.3 Responsibilities of the s151 Officer:

(a) to transfer to reserves any appropriate under-spendings arising from the out-turn at financial year ends;

(b) to report to the Cabinet and Council as part of the budget process on the Authority's financial standing;

(c) in consultation with Chief Officers to approve carry forward of surpluses from internal trading units.

34.5.4 Responsibilities of Chief Officers and Heads of Service:

(a) internal trading unit surpluses may be carried forward to the following year subject to approval by the s151 Officer.

34.6 Accounting Policies

34.6.1 The s151 Officer is responsible for the preparation of the Authority's statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice on local authority accounting in the United Kingdom, for each financial year ending 31st March.

34.6.2 Key Controls. The key controls for accounting policies are:

(a) systems of internal control are in place that ensure that financial transactions are lawful;

(b) suitable accounting policies are selected and applied consistently;

(c) proper accounting records are maintained;

(d) financial statements are prepared which present fairly the financial position of the Authority and its expenditure and income.

34.6.3 Responsibilities of the s151 Officer. To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year, and covers such items as:

(a) separate accounts for capital and revenue transactions;

(b) the basis on which debtors and creditors at year end are included in the accounts;

(c) details on substantial provisions and reserves;

(d) fixed assets;

(e) depreciation;

(f) financial instruments;

(g) work in progress;

(h) stocks and stores;

(i) deferred charges;

(j) accounting for value added tax;

(k) government grants;

(l) leasing.

34.6.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure they and their staff adhere to the accounting policies and guidelines approved by the s151 Officer.

34.7 Accounting Records and Returns

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

34.7.2 Key Controls. The key controls for accounting records and returns are:

(a) finance staff and budget holders operate within the required accounting standards and timetables;

(b) all the Authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;

(c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure;

(d) reconciliation procedures are carried out to ensure transactions are correctly recorded;

(e) prime documents are retained in accordance with legislative and other requirements.

34.7.3 Responsibilities of the s151 Officer:

(a) to determine the accounting procedures and records for the Authority;

(b) to arrange for the compilation of all accounts and accounting records under their direction;

(c) to comply with the following principles when allocating accounting duties:

(i) 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;

(ii) officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions;

(d) to make proper arrangements for the audit of the Authority's accounts in accordance with the current Accounts and Audit Regulations;

(e) to ensure that all claims and returns required by Government Service areas and other bodies are processed through the grant review process as defined within the grants protocol for the Authority;

(f) to prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement;

(g) to determine the retention period of financial records where there are no requirements prescribed by statutory or other external regulations.

34.7.4 Responsibilities of Chief Officers and Heads of Service:

(a) to consult and obtain the approval of the s151 Officer before making any changes to accounting records and procedures;

(b) to comply with the following principles when allocating accounting duties:

(i) 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;

(ii) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions;

(c) to maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements;

(d) to ensure that the retention periods of financial records, as determined by the s151 Officer, are complied with. Where retention periods are prescribed by statutory or other external regulations, the Head of Service should ensure that these are complied with;

(e) to ensure that financial records are not disposed of other than in accordance with prescribed statutory requirements (as advised by the Council's Information Manager) and as approved by the s151 Officer;

(f) to supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the s151 Officer. Notable examples are lease agreement (or lease type arrangements) that the Authority has entered into, provisions and contingent liabilities that exist, significant post-balance sheet events, joint arrangements and partnerships that the Authority has entered into.

34.8 Annual Statement of Accounts

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

34.8.2 Key Controls. The key controls for the annual statement of accounts are:

(a) the Authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the s151 Officer;

(b) the Authority's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom. It is taken to the Governance and Audit Committee for final approval.

34.8.3 Responsibilities of s151 Officer:

(a) to select suitable accounting policies and to apply them consistently;

(b) to make judgements and estimates that are reasonable and prudent;

(c) to comply with the relevant accounting code of practice;

(d) to sign and date the statement of accounts, stating that it presents the financial position of the Authority as true and fair as at the accounting date for the year ended 31st March;

(e) to draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly;

(f) to ensure that good quality audit working papers are provided to external audit in readiness for the agreed commencement of the audit;

(g) to monitor progress with the completion of account closure to ensure that closure remains on track and in accordance with agreed timetables, as updated and revised during the course of closure;

(h) to ensure that Members and Strategic Leadership Team are appropriately briefed to allow them to understand the accounts that are presented to them.

34.8.4 Responsibilities of Chief Officers and Heads of Service:

(a) to comply with accounting guidance provided by the s151 Officer, and to supply the s151 Officer with information in the format, and by the date, requested.

34.9 Financial Planning Overview

34.9.1 This is Section 3 of the Financial Procedure Rules. It covers Performance Plans, Revenue Budgeting and Monitoring, Capital Budgeting and Monitoring and the Maintenance of Reserves.

34.10 Performance Plans

34.10.1 The Authority has a statutory responsibility to publish various performance plans, in accordance with Local Government (Wales) Measure 2009. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. External audit is required to report on whether the Authority has complied with statutory requirements in respect of the preparation and Corporate Improvement Plan.

34.10.2 Key Controls. The Key Controls for performance plans are:

(a) to ensure that all relevant plans are produced and that they are consistent;

(b) to produce plans in accordance with statutory requirements;

(c) to meet the timetables set;

(d) to ensure that all performance information is accurate, complete and up to date;

(e) to provide improvement targets which are meaningful, realistic and challenging.

34.10.3 Responsibilities of the S151 Officer:

(a) to advise and supply, as appropriate and in conjunction with Chief Officers, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables;

(b) to contribute to the development of corporate and service targets and objectives and performance information;

(c) to ensure that systems are in place to measure activity and collect the accurate financial information required and to provide said financial information to Service Areas to calculate their respective performance indicators.

34.10.4 Responsibilities of Chief Officers and Heads of Service:

(a) to contribute to the development of performance plans in line with statutory requirements;

(b) to contribute to the development of corporate and service targets and objectives and performance information;

(c) to indicate to the s151 Officer the Financial Information required and to agree the
methodology for calculation;

(d) to ensure that adequate systems are in place to measure activity and collect accurate and timely non-financial information for use as performance indicators;

(e) to advise and supply, as appropriate and in conjunction with the s151 Officer, the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

34.11 Revenue Budgeting and Monitoring

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

34.11.2 Key Controls. The Key Controls are that the format:

(a) complies with all legal requirements;

(b) complies with proper accounting and professional standards;

(c) reflects the accountabilities of service delivery.

34.11.3 Responsibilities of the s151 Officer:

(a) to advise the Cabinet on the format of the budget that is approved by the full Council.

(b) to ensure that there is a budget setting timetable in place that is approved by the Cabinet.

34.11.4 Responsibilities of Chief Officers and Heads of Service:

(a) to comply with accounting guidance provided by the s151 Officer.

34.12 Revenue Budget Preparation and Medium-Term Financial Planning

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

34.12.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for a local authority to budget for a deficit.

34.12.3 In considering the affordability of its capital plans the Council is required to consider all the resource currently available, and for the future together with an estimate of its requirements for the following year and each of the following three years. The Council is also required to consider known significant changes beyond this timeframe. This requires the development of rolling 4-year forecasts.

34.12.4 Key Controls. The Key Controls for budgets and medium-term financial planning are:

(a) budget holders are responsible for the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered;

(b) a monitoring process is in place to review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

34.12.5 Responsibilities of the s151 Officer:

(a) to prepare a report annually on a budget strategy for the following financial year for consideration by the Cabinet. This will take account of the commitments, resource constraints and shall include medium term prospects. It will cover all the services of the Authority. The Cabinet having considered the report of the s151 Officer will then agree a medium term financial plan;

(b) to prepare, after the budget strategy has been agreed by the Cabinet, in conjunction with the Chief Officers and Heads of Service, estimates of the income and expenditure of the various service areas and submit them to the Cabinet. The Cabinet shall consider the aggregate effect of these estimates upon the Authority's financial resources and, subject to any other considerations of policy and to any amendments which it proposes to make,

shall draw up proposals for the Budget and the amount of Council Tax to be levied for the ensuing financial year to be referred to the Council. The inclusion of items in approved revenue estimates shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed;

(c) to prescribe the Budget format required and to ensure that there is a budget setting timetable in place;

(d) to advise on the medium term implications of spending decisions and prepare medium term plans;

(e) to encourage the best use of resources and value for money by working with Chief Officers and Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning;

(f) to advise the full Council on Cabinet proposals in accordance with their responsibilities under section 151 of the Local Government Act 1972;

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

34.12.6 Responsibilities of Chief Officers and Heads of Service:

(a) to provide the s151 Officer with information to complete the medium term financial plan;

(b) to prepare, in conjunction with the s151 Officer, estimates of income and expenditure;

(c) to prepare budgets consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Cabinet. The budget format will be prescribed by the s151 Officer;

(d) to integrate financial and budget plans into service planning and for them to link in with the Corporate Plan;

(e) to ensure that all savings proposals and budget pressures put forward during the budget setting process are evidence based and are constructed using best estimates;

(f) when drawing up draft budget requirements, to have regard to:

(i) spending / income patterns and pressures revealed through the budget monitoring process;

(ii) legal requirements;

(iii) policy requirements as defined by the full Council in the approved policy framework;

(iv) initiatives already under way;

(v) areas where savings/efficiencies can be made.

34.13 Resource Allocation

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

34.13.2 Key Controls. The key controls for resource allocation are:

(a) resources are acquired in accordance with the law and using an approved authorisation process;

(b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;

(c) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

34.13.3 Responsibilities of the s151 Officer:

(a) to advise on Resources such as grants or the affordability of borrowing;

(b) to advise on the suitability of proposals to introduce/modify financial procedures to control resources (e.g. stock control systems);

(c) to assist in the allocation of resources to budget holders.

34.13.4 Responsibilities of Chief Officers and Heads of Service:

(a) to work within cash limits and to utilise resources allocated, and furthermore to allocate resources, in the most efficient, effective and economic way;

(b) to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

34.14 Revenue Budget Monitoring and Control

34.14.1 Proper budget management ensures that, once the budget has been approved by the full Council, resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

34.14.2 By continuously identifying and explaining variances against budgetary targets, the Authority can identify changes in trends and resource at the earliest opportunity. The Authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Authority, in total, does not overspend, each service area is required to manage its own expenditure within the cash limited budget allocated to it.

34.14.3 Chief Officers and Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring revenue expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. They must plan to fund such commitments from within their own budgets.

34.14.4 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.

34.14.5 Key Controls. The minimum key controls for managing and controlling the revenue budget are:

(a) there is a nominated budget manager for each cost centre;

(b) budget holders accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;

(c) budget holders follow an approved certification process for all expenditure;

(d) income and expenditure are properly recorded and accounted for;

(e) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; and

(f) specific budget approval is given for all expenditure.

34.14.6 Responsibilities of the s151 Officer:

(a) to establish an appropriate framework of budgetary management and control that ensures that:

(i) budget management is exercised within annual cash limits unless the full Council agrees otherwise;

(ii) all Chief Officers and Heads of Service are furnished with periodical statements of receipts and payments and such other relevant information as they have which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;

(iii) in consultation with Chief Officers and Heads of Service, reports are submitted, as determined by the s151 Officer, to the Cabinet, Scrutiny Committees, monitoring expenditure and comparing anticipated outturn with estimates;

(iv) each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision making processes that commits expenditure; and

(v) significant variances from approved budgets are investigated and reported by budget holders regularly;

(b) to ensure that Members and Strategic Leadership Team are appropriately briefed to allow them to understand the reports that are presented to them where a Head of Service is unable to balance expenditure and resources within existing approved budgets under their control.

34.14.7 Responsibilities of Chief Officers and Heads of Service:

(a) to be responsible for keeping strict supervision of the expenditure of their respective service areas and for drawing the attention of the s151 Officer and the Cabinet and the Council to any contemplated expenditure not provided for in the estimates or which, if incurred, would exceed the amount allocated for the purpose in the estimates;

(b) to maintain budgetary control within their service areas, in adherence to the principles above, and to ensure that all income and expenditure is properly recorded and accounted for;

(c) to ensure that budgetary provision is identified for all expenditure incurred;

(d) to ensure that officers responsible for committing expenditure comply with relevant guidance and financial regulations;

(e) to ensure, after consultation with the s151 Officer that there is subsequent approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:

(i) create financial commitments in future years;

(ii) change existing policies, initiate new policies or cease existing policies;

(iii) materially extend or reduce the Authority's services;

(f) to ensure compliance with procedures regarding virement.

34.15 Capital Budgeting and Monitoring

34.15.1 Capital expenditure (including use of capital grants and PFI/PPP projects or similar type arrangements) involves acquiring or enhancing fixed assets with a long term value to the Authority, such as land, buildings, infrastructure and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

34.15.2 The financing capacity of the Authority is restricted by the affordability prudence and sustainability of the Capital Programme and the underlying borrowing that supports it. 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.

34.15.3 Key Controls. The key controls for capital programmes are:

(a) specific approval by the full Council for the programme of capital expenditure;

(b) a scheme and estimate, including a robust business plan, options, progress targets and associated revenue expenditure is prepared for each capital project, for appraising by the s151 Officer;

(c) proposals for improvements and alterations to buildings must be approved by the appropriate Head of Service in accordance with the Asset Management Plan;

(d) schedules for individual projects within the overall budget approved by the Council must be approved by the appropriate Head of Service;

(e) accountability for each proposal is accepted by a named project manager;

(f) progress and expenditure should be monitored and compared to the approved budget;

(g) Cabinet approval of any changes to the Council approved Capital Programme whereby all funding is grant or s106 Capital;

() VAT is recorded and reported accurately and that payments are made in accordance with the requirements of VAT legislation and the HMRC's Construction Industry Scheme.

34.15.4 Responsibilities of the s151 Officer:

(a) to issue guidance relating to the strategy and controls for capital schemes. The definition of 'capital' will be determined by the S151 Officer, having regard to Government regulations and accounting requirements;

(b) to advise the Cabinet and Council on the affordability, prudence and sustainability of the Capital Programme by the preparation of prudential indicators as required by the Prudential Code for Capital Finance in Local Authorities;

(c) to ensure all matters required to be taken into account are reported to the Cabinet and Council when setting and revising prudential indicators;

(d) to establish procedures for the monitoring of prudential indicators;

(e) to prepare a report on the Capital Programme for the service area proposals, taking into account the Prudential Code Borrowing, Policy Framework, commitments, resource constraints and Capital Receipts. This report shall compare the estimates with the finance available and propose the level of annual expenditure of each service area. The report will identify those

schemes where expenditure may only be incurred after further work has been undertaken;

(f) to furnish all Chief Officers and Heads of Service with periodical statements of expenditure and progress on individual schemes. It shall be the responsibility of the s151 Officer in consultations with each Chief Officer and Head of Service to submit reports, as determined by the s151 Officer, to the Cabinet, Scrutiny Committees and the Council, monitoring expenditure and comparing with approved programme. The inclusion of items in the approved Capital Programme shall constitute authority to incur such expenditure save to the extent of which the Council shall have placed a reservation on any such items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservations have been removed.

34.15.5 Responsibilities of Heads of Services and Capital Budget Holders:

(a) to comply with guidance concerning capital projects and controls issued by the s151 Officer;

(b) to carry out an option appraisal before bidding / incurring capital expenditure to determine alternative methods of meeting need;

(c) to consider the revenue implications of Capital Projects over the whole life of projects and notify the s151 Officer when planning to undertake such schemes which do commit the Authority to additional Revenue expenditure;

(d) to submit a prioritised list of bids as part of the Medium Term capital budgeting process representing the schemes required to deliver service and corporate strategy;

(e) to ensure that all capital expenditure proposals are processed through the capital working group in advance of the s151 Officer making recommendations to Cabinet or Council as necessary;

(f) to ensure that adequate records are maintained for all capital contracts and the preparation of grant claims;

(g) to ensure compliance with the Authority's scheme of virement;

(h) to report to the s151 Officer as soon as it becomes apparent that the total cost of a scheme including variations will or is likely to exceed £50,000 or 5% [whichever is the higher] above the capital budget available. This report should cover the reasons for increased cost, an analysis of options considered to reduce cost to budget and the funding options considered to meet any budget shortfall;

(i) to ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the s151 Officer and, if applicable, approval of the scheme through the capital programme;

(j) to consult with the s151 Officer where the Head of Service proposes to bid for Capital Funding to be issued by Government departments or others to support expenditure that has not been included in the current year's capital programme;

(k) to ensure all expenditure charged against capital budgets meets the definition of capital expenditure in accordance with the Local Government Act 2003 and recommended accounting practice.

34.16 Maintenance of Reserves

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

34.16.2 Key Controls:

(a) to maintain reserves in accordance with the relevant codes of practice on local authority accounting in the United Kingdom and agreed accounting policies'

(b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified;

(c) the establishment of reserves and incurring of expenditure from reserves should be authorised by Cabinet.

34.16.3 Responsibilities of the s151 Officer:

(a) to advise the Cabinet and/or the full Council on prudent levels of Reserves for the Authority;

(b) to report to Council on the adequacy of reserves when setting the budget for the year and at outturn.

34.16.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that resources are used only for the purposes for which they were intended.

34.17 Risk Management and Control of Resources

34.17.1 This is section 4 of the Financial Procedure Rules. And covers Risk Management, Internal Controls, Internal and External Audit, Preventing Fraud and Corruption, Security of Assets and Treasury Management and Trust Funds.

34.18 Risk Management

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

34.18.2 Key Controls. The key controls for risk management are:

(a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Authority;

(b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;

(c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;

(d) managers apply a standard approach to risk identification and recording, using the risk management strategy;

(e) provision is made for losses that might result from the risks that remain;

(f) procedures are in place to investigate claims within required timescales;

(g) acceptable levels of risk are determined and insured against where appropriate;

(h) the Authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

34.18.3 Responsibilities of the Strategic Leadership Team:

(a) to develop risk management controls in conjunction with Chief Officers and Heads of Service;

(b) to ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.

34.18.4 Responsibilities of s151 Officer:

(a) to affect insurance cover, and to arrange for the negotiation of claims in consultation with other Chief Officers, where necessary;

(b) to hold in safe custody all insurance policies of the Authority, arrange for payment of premiums by the due date, and manage the Authority's own Insurance Fund;

(c) to make arrangements to ensure that insurance records relating to liability policies and related correspondence must be retained indefinitely. Documents relating to other policies and internal funding arrangements must be retained for 6 years. All employees will adhere to the requirements of the s151 Officer as to the retention of any documents of the nature referred to in this rule.

34.18.5 Responsibilities of Chief Officers and Heads of Service:

(a) to take responsibility for risk management, having regard to advice from the s151 Officer, and other specialist officers (e.g. emergency planning, health and safety);

(b) to ensure that there are regular reviews of risk within their service areas;

(c) to ensure that risk management is brought to the attention of relevant staff in their service areas;

(d) to notify the s151 Officer immediately in writing of any loss, liability or damage, or any event likely to lead to a claim by or against the Authority, and inform the Police, where necessary;

(e) to submit claims in such a form as prescribed from time to time by the s151 Officer;

(f) to arrange for the identification of all appropriate employees of the Authority who should be included in a suitable fidelity guarantee insurance, and shall make arrangements through the s151 Officer for such inclusion;

(g) to notify the s151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances;

(h) to notify the s151 Officer promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase;

(i) on a regular basis, the s151 Officer will forward to Chief Officers, schedules of assets covered by insurance. Chief Officers must examine the schedules and ensure that the details of those assets are correctly recorded and that the scope and level of insurance cover are adequate, and consistent with the Authority's corporate insurance arrangements;

(j) to provide the s151 Officer with any information that they need and in the timescale that they sets, to enable them to manage the Authority's insurances effectively;

(k) to consult with the s151 Officer and the Head of Law on the terms of any indemnity that the Authority is requested to give;

(l) to ensure that officers, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice cover under the council's insurance policy and the assessment of liability in respect of any insurance claim.

34.19 Internal Controls

34.19.1 The Authority is a large, complex organisation which requires internal controls to manage and monitor progress towards strategic objectives.

34.19.2 The Authority has statutory obligations and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

34.19.3 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

34.19.4 The system of internal controls is established in order to provide measurable achievement of:

(a) efficient and effective operations;

(b) reliable financial information and reporting;

(c) compliance with laws and regulations;

(d) risk management.

34.19.5 Key Controls. The key controls are:

(a) key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the Governance and Audit Committee to the effect that it is satisfied that the systems of internal control are operating effectively [Chief Internal Auditor's Annual Report];

(b) 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;

(c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;

(d) 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, the Public Sector Internal Auditing Standards and with any other statutory obligations and regulations; and

(e) an effective Governance and Audit Committee which meets on a regular basis to consider internal control and auditing matters.

34.19.6 Responsibilities of the s151 Officer:

(a) 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.

34.19.7 Responsibilities of Chief Officers and Heads of Service:

(a) to establish sound arrangements, consistent with guidance given by the s151 Officer, or the Chief Internal Auditor, for planning, appraising, authorising, and controlling their operations, in order to achieve:

(i) continuous improvement;

(ii) economy;

(iii) efficiency;

(iv) effectiveness;

(v) the proper use of resources;

(vi) the achievement of objectives; and

(vii) the management of risks;

(b) to review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Chief Internal Auditor. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication;

(c) to ensure staff have a clear understanding of the consequences of lack of control.

34.20 Internal Audit

34.20.1 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities 'make arrangements for the proper administration of their financial affairs'. The Accounts and Audit Regulations (Wales) 2005, more specifically, require that a 'local government body shall maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper internal audit practices'.

34.20.2 Internal audit is an independent and objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

34.20.3 Key Controls. The key controls for internal audit are:

(a) that it is independent in its planning and operation;

(b) the Chief Internal Auditor has direct access to the Chief Executive and the Leader of the Council, all levels of management and directly to elected members;

(c) internal auditors comply with the Public Sector Internal Auditing Standards;

(d) that it reports to the Governance and Audit Committee.

34.20.4 Responsibilities of the s151 Officer:

(a) to maintain a continuous and independent internal audit of the Authority's accounting, financial and other operations of the Authority;

(b) to ensure that all employees carrying out auditing duties comply with the current Public Sector Internal Auditing Standards and that they are competent to perform the responsibilities that they are assigned;

(c) to make arrangements for there to be undertaken a cyclical review of all financial systems throughout the Authority and to determine the appropriate level of audit coverage;

(d) to ensure that internal auditors have the authority to:

(i) access authority premises at reasonable times, subject to the Chief Internal Auditor being satisfied as to any risk to health and safety;

(ii) access all assets, records, documents, correspondence and control systems;

(iii) receive any information and explanation considered necessary concerning any matter under consideration;

(iv) require any employee of the Authority to account for cash, stores or any other authority asset under their control;

(v) access records belonging to third parties, such as contractors, when required;

(vi) review, appraise and report on the adequacy and application of financial and other controls, and on the protection of the Authority's property and assets against loss due to fraud or wasteful practices.

(e) to consider the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved, before the plan is endorsed by the Governance and Audit Committee;

(f) to ensure that the Chief Internal Auditor has the right to report independently to the Council, the Governance and Audit Committee or an appropriate committee, in their own name;

(g) to ensure that the Chief Internal Auditor provides an annual opinion on the Council's internal control environment as part of their annual report;

(h) to ensure the Chief Internal Auditor reports regularly to the Governance and Audit Committee on the adequacy of the internal control environment operated by the Authority.

34.20.5 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work;

(b) to ensure that auditors are provided with any information and explanations that they seek in the course of their work;

(c) to consider and respond promptly to recommendations contained in audit reports;

(d) to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion;

(e) to ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

34.21 External Audit

34.21.1 Under section 13 of the Public Audit (Wales) Act 2004, the Auditor General for Wales is the external auditor of each local authority in Wales. (Under transitional provisions of the Public Audit (Wales) Act 2013, an auditor appointed by the Auditor General continues to be the auditor of a local authority until the termination of their appointment.) The external auditor has rights of access to all documents and information, which they consider necessary to carry out their statutory functions.

34.21.2 The duties of the external auditor are set out in the Public Audit (Wales) Act 2004. The auditor must be satisfied that the authority's accounts give a true and fair view, are prepared in accordance with statute and proper practice. The auditor must also be satisfied that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

34.21.3 In addition to the audit of the accounts, the Auditor General has duties under the 2004 Act to undertake improvement studies of local authorities and powers to undertake other studies regarding the provision of services. The Auditor General also has duties to undertake improvement assessments, improvement planning audits and special inspections under the Local Government (Wales) Measure 2009.

34.21.4 The External Auditors attend all the meetings of the Authority's Governance and Audit Committee.

34.21.5 Responsibilities of the s151 Officer:

(a) to ensure there is effective liaison between external and internal audit;

(b) to ensure good quality audit working papers are provided in readiness for external audit to undertake any planned work;

(c) to work with the external auditor and advise the full Council, Cabinet and Chief Officers on their responsibilities in relation to external audit.

34.21.6 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets, which the external auditors consider necessary for the purposes of their work;

(b) to ensure that all records and systems are up to date and available for inspection;

(c) to ensure that all employees have proper regard to the guidance issued by the s151 Officer in connection with any external audits, and any reports of the external auditor;

(d) to consider and respond promptly to recommendations contained in audit reports;

(e) to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

34.22 Preventing Fraud and Corruption

34.22.1 The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.

34.22.2 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.

34.22.3 The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Authority with integrity and without thought or actions involving fraud and corruption.

34.22.4 Key Controls. The key controls regarding the prevention of financial irregularities are that:

(a) the Authority has an effective Anti-Fraud and Anti-Corruption Strategy and maintains a culture that will not tolerate fraud or corruption;

(b) all members and staff act with integrity and lead by example;

(c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt;

(d) high standards of conduct are promoted;

(e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;

(f) whistle blowing procedures are in place and operate effectively;

(g) legislation, including the Public Interest Disclosure Act 1998, is adhered to; and

(h) matters relating to fraud and corruption are reported promptly to the s151 Officer.

34.22.5 Responsibilities of the s151 Officer:

(a) to develop and maintain an Anti-Fraud and Anti-Corruption Strategy;

(b) 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;

(c) to ensure that all suspected financial irregularities are reported to the Chief Internal Auditor. The Chief Internal Auditor shall take steps as they consider necessary by way of investigation, in liaison with service area management where appropriate, and in line with the Authority's Anti-Fraud and Corruption Strategy. Where sufficient evidence exists to believe that a criminal offence may have been committed, the matter will be referred in conjunction with the Head of Finance to the police.

34.22.6 Responsibilities of Chief Officers and Heads of Service:

(a) to review existing controls in the light of changes affecting the Authority and to establish and maintain new controls where appropriate;

(b) to immediately notify the Chief Internal Auditor whenever any matter arises which involves, or is thought to involve, a breach of security, theft, or irregularities concerning cash, stores or other property of the Authority, or any suspected irregularity in the exercise of the functions of the Authority;

(c) to liaise with the Chief Internal Auditor in relation to the investigation of any suspected irregularities within their service area, in line with the Authority's Anti-Fraud and Corruption Strategy;

(d) where sufficient evidence exists to believe that a criminal offence may have been committed by a member of staff, to discuss with the Head of Finance, Head of Law and the Chief Internal Auditor; a joint decision will be taken to refer the matter to the Police;

(e) to instigate the Authority's disciplinary and suspension procedures where the outcome of an investigation indicates improper behaviour by a member of staff;

(f) to ensure that employees comply with Council guidance regarding the acceptance of hospitality, gifts and other benefits;

(g) to ensure their staff are aware of and comply with the Employee Code of Conduct and responsibilities under the Whistleblowing Policy are brought to their attention.

34.23 Security of Assets

34.23.1 The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

34.23.2 Obsolete, non-repairable or unnecessary assets should be disposed of in accordance with these regulations and the Contract Procedure Rules of the Authority.

34.23.3 Misuse of computer resources can seriously affect the business interests of the Authority.

34.23.4 Intellectual property is a generic term meaning non-physical product that is the product of original thought. It includes inventions, literary and artistic works, symbols, names, images, and designs. If these are created by an employee or consultant during the course of employment, then, as a general rule, they belong to the employer. Various Acts of Parliament cover different types of intellectual property. Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development.

34.23.5 Key Controls. The key controls for the security of resources such as land, buildings, vehicles, plant, machinery, furniture equipment, software and information are:

(a) resources are used only for the purposes of the Authority and are properly accounted for;

(b) resources are available for use when required;

(c) resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits;

(d) 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;

(e) assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items estimated to be of the value of £10,000, disposal should be by competitive tender or public auction;

(f) approval for the disposal of assets, stocks and equipment up to the value of £5,000 must be sought from the Head of Services; if the value of disposal is likely to exceed £5,000 then approval must be given by the Head of Service in conjunction with the Head of Finance;

(g) procedures should protect staff involved in the disposal of assets from accusations of personal gain;

(h) all staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act, Freedom of Information Act and software copyright legislation;

(i) 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 Governance policies;

In the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with any approved intellectual property procedures.

34.24 Security of Assets – Land and Buildings

34.24.1 Responsibilities of the s151 Officer:

(a) to maintain a terrier of all properties owned by the Authority and an asset register for all 'material' fixed assets, in accordance with good practice;

(b) to ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom;

(c) to determine arrangements for the acquisition and disposal of land and buildings;

(d) to advise on the financial implications of any purchase, sale or holding of property on the Authority's behalf.

34.24.2 Responsibilities of the Head of Law:

(a) to ensure the safe custody of all title deeds under arrangements agreed with the s151 Officer.

34.24.3 Responsibilities of Chief Officers and Heads of Service:

(a) to make arrangements to ensure the proper security of all the Authority's buildings;

(b) to consult with the Chief Internal Auditor in any case where security is thought to need improvement or where it is considered that special security arrangements may be needed;

(c) to ensure there are procedures in place to review the condition of physical assets used in delivery of services e.g. undertake regular impairment review.

34.25 Security of Assets - Vehicles, Furniture and Equipment

34.25.1 Responsibilities of the s151 Officer:

(a) to issue guidance to service areas on the maintenance of inventories and the disposal of assets;

(b) to ensure appropriate accounting entries are made to include all material assets and to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate;

(c) to agree procedures for the disposal of lost property.

34.25.2 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure the proper security and safe custody of all vehicles, equipment and furniture, belonging to or under the control of the Authority, and shall make contingency plans for the continuity of service in the event of disaster or system failure;

(b) to maintain inventories of furniture, equipment, vehicles and plant, including items leased by the Authority. This shall be kept up to date and shall be in a form approved by the s151 Officer and in accordance with the Authority's guidance. Chief Officers shall make arrangements to ensure that inventories shall include for each item, information relating to date of purchase, cost, location and any technical features, which might affect its value or usefulness;

(c) to make arrangements to ensure that an annual, independent, check of all items on the inventory is carried out, in order to verify location, review, and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers and cameras shall be identified with security markings as belonging to the Authority;

(d) to ensure that the Authority's property shall not be removed from its ordinary location otherwise than in accordance with the ordinary course of the Authority's business except in accordance with specific directions issued by the Head of Service concerned or used otherwise than for the Authority's purposes. A record should be kept of all authorised removals;

(e) to ensure that no Authority asset is subject to personal use by an employee without proper authorisation from the Head of Service;

(f) to make arrangements to ensure that any disposal of any vehicle, furniture, fittings, equipment, plant and machinery is in accordance with the Authority's procedure for disposals;

(g) before disposal to check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease;

(h) to ensure that income received for the disposal of an asset is properly banked and coded;

(i) if an item is lost, stolen or disposed of, this must be recorded against the entry in the inventory and reported to the Head of Service;

(j) to notify the s151 Officer of the purchase or disposal of any material asset, to enable the asset register to be updated;

(k) any property left on Council premises and regarded as lost must be disposed of in accordance with procedures agreed with the s151 Officer.

34.26 Security of Assets - Stocks and Stores (including products)

34.26.1 Responsibilities of the s151 Officer:

(a) to issue guidance to service areas on the maintenance of stock and stores;

(b) to approve the write off of stock and stores in accordance with the Scheme of Delegations within the Constitution;

(c) to ensure that appropriate accounting entries are made in relation to stock balances and write offs.

34.26.2 Responsibilities of Chief Officers and Heads of Service:

(a) to make arrangements for the recording of and the care and safe custody of the stocks and stores held by their service area;

(b) to make arrangements to ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check, at least annually. Each Head of Service must make arrangements for discrepancies to be investigated and pursued to a satisfactory conclusion;

(c) to advise the Chief Internal Auditor immediately of any significant discrepancy in stocks;

(d) to approve the write off of stock and stores up to the value of £5,000 in accordance with the Scheme of Delegations;

(e) to provide the s151 Officer with such information as they require in relation to stores for accounting and costing purposes.

34.27 Security of Assets – Cash

34.27.1 Responsibilities of the s151 Officer:

(a) to issue guidance to service areas on cash handling;

(b) to agree, in consultation with the appropriate Head of Service, the maximum limits for cash holdings;

(c) to approve the write off of stolen cash, not covered by insurance;

(d) to authorise the depositing of unofficial funds or valuables in a safe.

34.27.2 Responsibilities of Chief Officers and Heads of Service:

(a) to agree with the s151 Officer, the maximum limits for cash holdings and to ensure that these limits shall not be exceeded without their permission;

(b) to ensure that cash holdings are kept to a minimum, and do not exceed the insurance limit for that safe/cashbox;

(c) to ensure that cash handling is carried out in line with the Authority's guidance;

(d) to notify the Chief Internal Auditor and the Principal Insurance Officer of cash lost or stolen immediately. Stolen cash, which is not covered by insurance, can only be written-off with the agreement of the s151 Officer;

(e) to ensure that under no circumstances are personal cheques cashed out of monies held on behalf of the Authority;

(f) to ensure that a schedule is kept of the officers who hold keys to safes and similar receptacles;

(g) to ensure that the keys to safes and similar receptacles are held securely at all times. Arrangements shall be made for the nomination (from amongst employees) of key holders and substitute key holders who must be available in the absence of the principal key holder(s). The loss of any such keys must be reported by the key holder, or nominated substitute, to the relevant Head of Service forthwith, who shall take appropriate steps to protect the interests of the Authority;

(h) to ensure that safe key holders do not accept unofficial funds or valuables for depositing in the safe unless authorised by the s151 Officer. In such circumstances, it must be made clear by the key holder to the depositor, that the Authority is not to be held liable for any loss, and the key holder must obtain an acknowledgment to that effect before accepting the deposit.

34.28 Security of Assets - Information and Communication Technology

34.28.1 Responsibilities of ICT Board /SRS:

(a) to maintain a central inventory of technology equipment;

(b) the development and integrity of the Authority's voice and data network infrastructure;

(c) to approve all additions and alterations to the Authority's voice and data network;

(d) to issue detailed guidance, in conjunction with Chief Officers, to all employees who are responsible for and/or use computer equipment on their responsibilities within the Authority's IT Security Policy.

34.28.2 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that all equipment connected to the Authority's voice and data network infrastructure meets the standards identified by the ICT Board / SRS. Any requirement to add or make alterations to this network must be approved by the ICT Board / SRS;

(b) to ensure that the provisions of the Authority's IT Security Policy and other ICT policies are applied to all employees of the Authority, as appropriate to their use of information technology;

(c) to make arrangements to implement and monitor the procedures contained in the Authority's IT Security Policy. All employees must be familiar with, and comply with, the principals of the Data Protection Legislation, the Copyright, Designs and Patents Act 1988, the Computer Misuse Act 1990, and any other legislation or Authority policy which may apply to all employees at any time;

(d) to agree, in advance, with the ICT Board / SRS, a requirement to use specialist IT goods and services that might not meet the standards identified by the ICT Board / SRS, but are necessary to perform particular business activities. The Head of Service will be responsible for ensuring that such acquisitions do not compromise their corporate, financial and legal obligations, as defined by the Authority;

(e) to ensure that all employees are aware that misuse of technology and associated systems can seriously affect the business interest of the authority. Such misuse or any breach of security policy will result in disciplinary action being taken;

(f) to ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information in accordance with the Authority's Information Security Policy, 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.

34.29 Security of Assets - Intellectual Property

34.29.1 Responsibilities of the S151 Officer:

(a) to develop and disseminate good practice.

34.29.2 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that controls are in place to ensure that employees do not carry out private work during periods when they are working for the Authority and that employees are aware of an employer's rights with regard to intellectual property;

(b) to make officers aware that, if, at any time during their employment, an officer makes or discovers or participates in the making or discovery of any intellectual property relating to or capable of being used by the Authority, the officer must provide full details of the intellectual property to the relevant Head of Service or relevant Chief Officer.

34.30 Security of Assets – Clients' Private Property

34.30.1 Responsibilities of Chief Officers and Heads of Service:

(a) the Chief Officer for Social Care & Health and any other Head of Service affected, shall take all necessary steps to prevent or mitigate loss or damage of a client's (being a person other than the Council) moveable property, where responsibility lies within the National Assistance Act 1948 and shall arrange for an itemised inventory in each case to be prepared in the presence of two officers, in a form prescribed by the s151 Officer;

(b) all valuables such as jewellery, watches and other small articles of a similar nature and documents of title shall be deposited with the Chief Officer for Social Care & Health and any other Head of Service affected, for safe custody. Any loss of property shall be reported to the s151 Officer, without delay;

where the Council acts as an Appointeeship for any of the Council's service users the procedures will be determined by the Chief Officer for Social Care & Health.

34.31 Treasury Management and Trust Funds

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

34.31.2 Key Controls. Compliance with the CIPFA Treasury Management Code of Practice and the Authority's Treasury Management Policy Statement and Strategy. This provides assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.

34.31.3 All payments out of the Authority > £50,000 should be made via BACS or CHAPS.

34.31.4 Responsibilities of the s151 Officer:

(a) to prepare a Treasury Management Policy and Annual Report in accordance with the CIPFA Code of Practice;

(b) to maintain prudential indicators in accordance with the Prudential Code of Capital Finance for Local Authorities;

(c) to arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management in Local Government, which has been adopted by the Authority;

(d) to set an investment strategy in accordance with WAG investment guidance;

(e) to ensure that all investments of money under its control shall be made in the name of the Authority or in the name of nominees approved by the Cabinet or the Council within their respective responsibilities: bearer securities shall be excepted from this rule;

(f) to hold all securities the property of, or in the name of the Authority, or its nominees, or otherwise as the s151 Officer may specifically direct;

(g) to ensure that all borrowings shall be effected in the name of the Authority;

(h) to be the Authority's Registrar of loan instruments and to maintain records of all borrowings of money by the Authority;

(i) to report on the Treasury Management practices of the Authority in accordance with the CIPFA Code of Practice;

(j) to hold all Trust Fund securities etc., where Members or employees act as Trustees by virtue of their official position, unless the deed otherwise provides; or as otherwise directed by the Chief Cabinet;

(k) to arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain records of all transactions;

(l) to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

34.31.5 Responsibilities of Chief Officers and Heads of Service:

(a) to notify the s151 Officer or delegated Officer of planned monetary receipts or payments in excess of £0.5 million at an early stage.

34.32 Financial Systems and Procedures

34.32.1 This is section 5 of the Financial Procedure Rules and covers income, imprest accounts, payment to employees and members, internal charges, taxation, banking, and ordering and paying for work, goods and services.

34.32.2 Service Areas have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems. It is important that systems and procedures are sound and well administered to ensure financial stewardship and control to enable effective decision making. All financial systems and procedures should contain controls to ensure that transactions are properly processed and errors detected promptly.

34.32.3 The s151 Officer has a statutory responsibility to ensure that the Authority's financial systems are sound and must be notified, in advance, of any new developments or changes.

34.32.4 Key Controls. The key controls for systems and procedures are:

(a) basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated;

(b) performance is communicated to the appropriate managers on an accurate, complete and timely basis;

(c) early warning is provided of deviations from target, plans and budgets that require management attention;

(d) operating systems and procedures are secure;

(e) data is backed up on a regular basis.

34.32.5 Responsibilities of the s151 Officer:

(a) to make arrangements for the proper administration of the Authority's financial affairs, including to:

(i) issue advice, guidance and procedures for officers and others acting on the Authority's behalf;

(ii) determine the accounting systems, form of accounts and supporting financial records;

(iii) establish arrangements for audit of the Authority's financial affairs;

(iv) determine the accounting procedures, records and controls for any new financial systems to be introduced; and

(v) to approve in advance any changes to be made to existing financial systems.

34.32.6 Responsibilities of Chief Officers and Heads of Service:

(a) to consult with and gain the approval of the s151 Officer before changing any existing system or introducing new systems;

(b) to ensure that accounting records are properly maintained and held securely;

(c) to ensure that supporting vouchers and documents with financial implications are retained and not destroyed, except in accordance with arrangements approved by the s151 Officer;

(d) 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;

(e) to incorporate appropriate controls to ensure that, where relevant:

(i) all input is genuine, complete, accurate, timely and not previously processed;

(ii) all processing is carried out in an accurate, complete and timely manner;

(iii) output from the system is complete, accurate and timely;

(iv) data is backed up on a regular basis.

(f) to ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of error, fraud or other malpractice;

(g) 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;

(f) to ensure that systems are documented and staff adequately trained;

(g) to establish a scheme of service area authorisations identifying officers to act upon their behalf in respect of placing orders, use of procurement cards, payments and income collection, including variations, and showing the limits of their authority;

(h) to ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building;

(i) to ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation;

(j) to ensure that the Council's information security standards and internet security policy are complied with;

(k) to ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.;

(l) to comply with the copyright, designs and patents legislation and, in particular, to ensure that:

(i) only software legally acquired and installed by the Authority's IT management body is used on its computers;

(ii) staff are aware of legislative provisions;

(iii) in developing systems, due regard is given to the issue of intellectual property rights.

34.33 Income

34.33.1 Income can be a vulnerable asset, and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cash flow and also avoids the time and cost of administering debts.

34.33.2 Key Controls. The key controls for income are:

(a) all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;

(b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;

(c) all money received by an officer on behalf of the Authority is properly recorded and promptly banked;

(d) the responsibility for cash collection should be separated from that for identifying the amount due, and that for reconciling the amount due to the amount received;

(e) effective action is taken to pursue non-payment within defined timescales;

(f) formal approval for debt write-off is obtained;

(g) appropriate write-off action is taken within defined timescales;

(h) appropriate and timely accounting adjustments are made following write-off action;

(i) all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the s151 Officer;

(j) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

34.33.3 Responsibilities of the s151 Officer:

(a) 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 raise awareness and ensure compliance with the Council's Sundry Debtors Policy and the Debtors Policy for Social Care & Health;

(b) to ensure that all electronic monies are properly received, assigned and reconciled;

(c) to approve the writing off of all irrecoverable debts as follows:

up to £5,000 and any bankruptcies	Revenues Manager Finance Manager for SCH for specific SCH Debts
Between £5,000 and £10,000	s151 Officer
Over £10,000	s151 Officer and Cabinet Member for Finance

(d) to use debt recovery procedures to collect any income due to the Authority which has not been paid within specified time limits;

(e) to ensure that appropriate accounting adjustments are made following any write-off action;

(f) to advise the Head of Law of debts that have remained unpaid with a view to the institution of legal proceedings in appropriate cases;

(g) to ensure that any sum due to the Authority shall only be discharged by payment, credit note or write off.

34.33.4 Responsibilities of Chief Officers and Heads of Service:

(a) to consult with the s151 Officer before any proposal to introduce or revise scales of charges for services is submitted to the Cabinet or the Council as the case may be;

(b) to ensure that all such charges are reviewed at least once a year in consultation with the s151 Officer;

(c) to ensure that no agreements are put in place (legal or otherwise) that preclude the Council from reviewing its charges on an annual basis;

(d) to ensure that new charges are promptly implemented following appropriate approval;

(e) to ensure that where possible, income is received in advance of the service being provided;

(f) to ensure that all income due, is promptly collected, correctly receipted, reconciled, accounted for and promptly banked;

(g) to ensure that income collected and deposited is reconciled to the ledger on a regular basis;

(h) to ensure that there is clear separation of duties within income procedures to ensure that adequate controls are in place;

(i) to ensure that all income is correctly coded to the appropriate financial code;

(j) to maintain such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, to record correctly all sums due to the Authority and to ensure the prompt rendering of accounts for the recovery of income due;

(k) to notify the s151 Officer promptly in writing of all money due to the Authority, and of contracts, leases and other agreements and arrangements entered into, which involve the receipt of money by the Authority;

(l) to designate employees to receive monies due and to make arrangements to ensure that appropriate records are maintained;

(m) to make arrangements to ensure that employees responsible for receiving income are issued with written instructions on cash handling and till operation procedures and that such employees have signed to acknowledge that instructions have been received and understood prior to commencing such duties;

(n) to ensure that all employees use official receipts or tickets for all income received on behalf of the Authority and ensure that all chargeable VAT is accounted for. To seek approval from the Chief Internal Auditor for alternative receipting arrangements, where it is considered inappropriate to issue an official receipt or ticket, in advance of implementing such arrangements;

(o) to ensure that all official receipt forms, books, tickets and other such items are ordered and supplied to service areas by the Chief Internal Auditor or under arrangements approved by him/her;

(p) to ensure that all financial controlled stationery is securely held and accounted for at all times;

(q) to ensure that the opening of incoming mail where money is being handled, is undertaken by at least two responsible officers designated for that purpose. In exceptional circumstances where this is considered impractical alternative arrangements must have the approval of the relevant Head of Service, and the relevant Head of Service will arrange for the Chief Internal Auditor to be advised accordingly;

(r) to ensure that upon opening of incoming mail, all income is immediately recorded by the employee concerned either by way of receipt, remittance record or by another means, approved by the Chief Internal Auditor;

(s) to ensure that all cheques received in the incoming mail are immediately stamped upon opening by the relevant employee, in preparation for banking;

(t) to ensure that keys entrusted to employees are held securely at all times and are kept under their personal control. To ensure that employees understand their responsibilities as key holders, and of insurance requirements;

(u) to ensure that income held by the Authority is not used to cash personal cheques or make personal loans or other payments;

(v) to establish proper accountability wherever money is being handled. To ensure that every transfer of the Authority's money from one employee to another is evidenced in the records of the service area concerned. This may be by way of an official receipt being issued by the receiving employee, or if not, a record shall be maintained detailing the amount transferred, the date and the signature of both employees;

(w) to ensure that when income is due to the Authority and the payment is not to be made at the time, all amounts due are claimed on official invoices or by arrangements approved by the Chief Internal Auditor. Instructions for the cancellation or reduction of invoices for income must be authorised by the appropriate Head of Service or such member of staff specifically designated by them for that purpose;

(x) to make every reasonable effort to recover a debt before write off is considered. Once a debt is judged irrecoverable, write off procedures must commence promptly and adhere to the requirements of the relevant part of the scheme of delegations. Chief Officers must make arrangements in their respective service areas to ensure that correct procedures, for writing off debts, as prescribed by the s151 Officer, have been adhered to and that adequate documentation exists for each case;

(y) to ensure that credit notes to replace a debt are only raised to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt;

(z) to ensure that proper procedures are followed for checking and authorisation for write off, prior to submission to the s151 Officer for approval;

(aa) to seek to achieve payment by direct debit or standing orders in situations where regular payments are due to the Authority;

(bb) to authorise an adjustment to the accounts, in consultation with the s151 Officer, if a mistake has been made in raising an invoice;

(cc) to consult the s151 Officer about any proposal to arrange to accept payments by credit cards, debit cards, switch cards, internet, or similar means;

(dd) to notify the s151 Officer of outstanding income (accruals) relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the s151 Officer;

(ee) to notify the s151 Officer or delegated Officer of planned monetary receipts in excess of £0.5 million.

34.34 Banking

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

34.34.2 Key Controls:

(a) all banking arrangements are operated in accordance with approved procedures.

34.34.3 Responsibilities of the s151 Officer:

(a) to make or approve all arrangements with the Authority's bankers;

(b) to open and operate such bank accounts as are considered necessary;

(c) to ensure that all bank accounts operated by or on behalf of the Authority shall bear
an official title and in no circumstances shall an account be opened in the name of an individual;

(d) to approve the use of any direct debit/standing order on the Authority's accounts;

(e) to arrange the reconciliation of the main bank account with the Authority's cash accounts;

(f) to ensure that all cheques, excluding those drawn on authorised imprest accounts, are ordered only on their authority;

(g) to make proper arrangements for the safe custody of cheques;

(h) to ensure that cheques on the Authority's main bank accounts shall bear the facsimile signature of the s151 Officer or be signed by them or another officer authorised to do so;

(i) request for payments by alternative methods must first be approved by the s151 Officer or any officers delegated by them;

(j) personal cheques of Councillors or employees are not to be cashed;

(k) to ensure that proper procedures are followed for receiving income through touch tone telephone banking systems and via the internet;

(l) to ensure that bank accounts do not become overdrawn.

34.34.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that all income collected is promptly banked. This is particularly important where large sums are involved that impact on the Authority's cash flow;

(b) to ensure that all income received by an officer, on behalf of the Authority, is paid in direct to the Authority's bank, or transmitted directly to any other body or person entitled thereto. No deduction may be made from any money held, save to the extent that the s151 Officer may specifically authorise;

(c) to ensure that, in accordance with the relevant Accounts and Audit Regulations, each employee who banks money, enters on the paying in slip, a reference to the related debt (such as the receipt number or the number or the name of the debtor) and indicate its place of origin on the reverse of each cheque;

(d) to ensure that all income received on behalf of the Authority is properly safeguarded from the time it is received until the time that it is banked (e.g. kept in a safe or locked receptacle – subject to guidance available from Internal Audit);

(e) to ensure that in the transport of money by any employee for banking, or other purpose, that employee and their supervisor have due regard for the safety of employees (including the employee transporting such money), and

for the proper security of cash. The Head of Service shall ensure arrangements are made which incorporate the necessary safeguards;

(f) to ensure that payments made through the Council's bank account are properly authorised, correctly calculated, valid and in accordance with Council's procurement and payment procedures.

34.35 Ordering and Paying for Work, Goods and Services

34.35.1 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's Contract Procedure Rules.

34.35.2 Key Controls. The key controls for ordering and paying for work, goods and services are:

(a) all orders shall be in a form approved by the s151 Officer;

(b) official orders will be raised for all work, goods or services to be supplied to the Authority, except for supplies of utilities, periodic payments, procurement card or petty cash purchases or other exceptions specified by the s151 Officer;

(c) all goods, works and services are ordered only by appropriate persons and are correctly recorded;

(d) 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;

(e) goods, works and services received are checked to ensure they are in accordance with the order;

(f) payments are not made unless goods, works or services have been received by the Authority to the authorised price, quantity and quality standards, subject to tolerance levels set by the s151 Officer;

(g) all payments are made to the correct person/supplier based on the supply of sufficiently detailed documentation, for the authorised amount and are properly recorded, regardless of the payment method;

(h) all officers and members are required to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority;

(i) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with guidance issued by the s151 Officer;

(j) all expenditure is accurately recorded against the right budget, any exceptions are corrected and VAT is accurately against the correct VAT code; and

(k) in addition, the use of e-commerce and electronic purchasing / invoicing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

34.35.3 Responsibilities of the s151 Officer – Procurement:

(a) to produce Contract Procedure Rules and provide service areas with guidance relating to contracting and tendering arrangements;

(b) to publish data on a monthly basis showing details of the Authority's procurement activity, including the use of procurement cards, in accordance with the Council's requirements for openness and transparency.

34.35.4 Responsibilities of the s151 Officer - Procurement Cards:

(a) to produce and maintain a Policy for the use of procurement cards (also known as purchasing cards);

(b) to consider, on an exceptional basis, business cases for the non-standard use of procurement cards where service areas can demonstrate that such use is in the best interests of the Authority;

(c) to arrange payment of all confirmed and authorised procurement card transactions on a monthly basis;

(d) to report any instances of non-compliance with Procurement Card Policy identified to the relevant Heads of Service and Chief Officers for their investigation.

34.35.5 Responsibilities of Chief Officers and Heads of Service – Procurement:

(a) to ensure that all employees comply with the Authority's Contract Procedure Rules;

(b) to ensure that the service area obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the s151 Officer, which are in line with best value principles and contained in the Authority's Contract Procedure Rules;

(c) to make arrangements to ensure that every employee declares any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with the Employee Code of Conduct. Any employee declaring such an interest or having such an interest will not participate in (or act so as to influence or appear to influence) any decisions relating to the matter in which they have such an interest. All Councillors involved in contractual or purchasing decisions on behalf of the Authority will declare any interests and act in accordance with the Members' Code of Conduct;

(d) to ensure that officers within their service areas will not make any personal or private use of the benefits of any Authority contracts. For the avoidance of doubt, nothing in this paragraph will preclude an employee from taking advantage of Council wide schemes, which have been approved by the s151 Officer;

(e) to ensure that all IT purchases conform to a standard identified by the Head of ICT. Exceptional purchases, outside of these standards, shall be agreed in advance with the Head of ICT, through the ICT Programme Board;

(f) to ensure that no financial systems are purchased without the prior agreement of the s151 Officer.

34.35.6 Responsibilities of Chief Officers and Heads of Service - Procurement Cards:

(a) to ensure all employees comply with the terms of the Authority's Procurement Card Policy;

(b) to ensure the necessary separation of duties required by the Procurement Card Policy is in place in respect of all cards in use within their service areas;

(c) to authorise all applications for new Procurement Cards from prospective cardholders within their service areas;

(d) to approve any variations to the standard credit limits in place for procurement cards within their service areas. Current standard limits are £250 per transaction and cumulatively £5,000 per card per calendar month;

(e) to ensure that all procurement cardholders within their service areas complete the mandatory personal data form;

(f) to update the s151 Officer promptly with details of all changes in procurement cardholders, lost and/or damaged procurement cards and any declined transactions;

(g) to ensure cardholders and card administrators confirm the accuracy and completeness of monthly procurement card transactions promptly in accordance with the relevant Policy;

(h) to investigate promptly all instances of non-compliance with the Procurement Card Policy referred by the s151 Officer.

34.35.7 Responsibilities of the s151 Officer – Ordering:

(a) to approve the format of official orders and arrangements for placing orders under Purchase Order Processing (POP) System;

(b) to approve the format and use of emergency order books and to order, control and issue these to exempted service areas.;

(c) to approve all exceptions to the use of official orders;

(d) to approve any amendments to the arrangements for the use of debit, credit and procurement cards.

34.35.8 Responsibilities of Chief Officers and Heads of Service – General Ordering:

(a) to ensure that official orders are raised through the POP system for all works, goods and services supplied to the Authority except for internal services, periodical payments (e.g. utility payments), procurement card or petty cash purchases, and for such other exceptions as the s151 Officer may approve;

(b) to determine purchase order approval levels within each service area;

(c) in cases of urgency, a verbal order may be issued, using an order number from a valid emergency order book and with a clearly labelled confirmation order sent out as soon as possible thereafter;

(d) to ensure that employees do not use official orders to obtain goods or services for their private use;

(e) to ensure that each order conforms to the directions of the Authority with respect to any policy on central purchasing, computer purchasing, standardisation, quality and sustainability as may from time to time be adopted by the Authority. Chief Officers shall make arrangements to ensure that all purchases comply with any legal or health and safety requirements;

(f) to ensure that debit, credit and procurement cards are only used under arrangements approved by the s151 Officer and in particular the Authority's Procurement Card Policy;

(g) to make arrangements to ensure that loans, leasing or rental arrangements are not entered into or exited early without prior agreement from the s151 Officer. 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;

(h) after due consideration, to arrange for nominations for officers for the roles of requisitioner and approver. Note that the POP system will allow a requisitioner to fulfil the approver role, but will prevent an officer from approving their own requisition;

(i) to maintain an up to date list of requisitioners, approvers/substitutes within their service area. No officer shall process or approve an order, or purport to do so, unless they are duly authorised for that purpose;

(j) to ensure that all requisitions used are authorised by a nominated 'approver' with a financial approval limit greater than or equal to the value of the requisition and to ensure that the requisition's data is retained within the POP system;

(k) where a POP requisition is forwarded for approval to any other officer (e.g. in the case of absence of the usual approver), this officer must also be a nominated approver with a financial approval limit greater than or equal to the value of the requisition;

(l) to ensure that the requisitioner enters the following details on the official order within the POP system:

(i) a full description of the item required;

(ii) an accurate price, where appropriate, as quoted by catalogue or supplier;

(iii) the required quantity;

(iv) an appropriate product category (account code will be generated);

(v) cost centre and sub code;

(vi) the correct VAT suffix code; and

(vii) the delivery address;

(m) to ensure that, prior to approving a requisition on POP, the approving officer checks that:

(i) all relevant details have been entered and are correct;

(ii) there is adequate provision in the budget;

(iii) the items are appropriate for the purpose intended.

34.35.9 Responsibilities of Chief Officers and Heads of Service - Emergency Orders:

(a) to make arrangements to ensure the control and safe custody of all emergency order books;

(b) to ensure that emergency order books are only used for cases of genuine emergency and for those POP exempt service areas as formally approved by the s151 Officer.

34.35.10 Responsibilities of Chief Officers and Heads of Service - Goods Received:

(a) to make arrangements to ensure that goods, services and works are checked on receipt to verify that they are in accordance with the order. This check shall, where possible, be carried out by a different officer from the officer who approved the order. The officer carrying out the check shall make appropriate entries in inventories or stores records;

(b) to ensure that goods (or services) received details are entered promptly onto the POP system by the requisitioner or approver. This should be prior to receipt of the invoice;

(c) to ensure that budget holders regularly review any open orders for their cost centres and ensure that they are processed or closed (as appropriate) promptly.

34.35.11 Responsibilities of the s151 Officer – Payment:

(a) to arrange for officers to be nominated as Payment Officers and a list of these maintained on POP and kept up to date;

(b) to make payments on behalf of the Authority with the exception of disbursements from petty cash imprests and from subsidiary bank accounts which have been authorised by the s151 Officer. The normal method of payment of money due from the Authority shall be by cheque, BACS, CHAPS or other instrument drawn on the Authority's bank account. The use of direct debit/standing order requires the prior agreement of the s151 Officer;

(c) to make safe and efficient arrangements for all payments. All cheques shall be despatched by the s151 Officer direct to the recipient and not returned to the originating service. In the exceptional circumstances when cheques do need to be returned to a service area for despatch with associated documents, this must be approved in advance by the relevant Operational Manager, and the cheque must not be passed to the initiating officer;

(d) to ensure that payments made to a sub-contractors in the construction industry, are made in accordance with the Construction Industry Scheme, and the Authority's procedures;

(e) to make payments to contractors on an approved certificate, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments are to be made to contractors using authenticated receipts raised by service areas;

(f) to provide advice on making payments by the most economical means;

(g) to set tolerance levels for cost and quantity variations;

(h) to agree any exceptions to payment through the POP system;

(i) to approve all arrangements for supplier invoices. These relate to payments which do not have an associated order, such as utility payments;

(j) to approve the format of General Claim for Payment forms;

(k) to periodically check that General Claim for Payment forms and supplier invoices have been certified for payment by an authorised signatory;

(l) to consider General Claim for Payment forms and supplier invoices to the extent that they consider necessary, to make such enquiries and to receive such information and explanation as they may reasonably require;

(m) to monitor the levels of non-order purchases and report any concerns to Chief Officers and Heads of Service for investigation.

34.35.12 Responsibilities of Chief Officers and Heads of Service – Payment:

(a) to make arrangements for the submission of accounts for payment in accordance with arrangements made by the s151 Officer;

(b) to ensure that payment is made only against a valid invoice or General Claim for Payment, not on statements of account. In exceptional circumstances, payment may be made against a photocopy or faxed invoice but only where the relevant service manager has confirmed that the original invoice has been

lost and that they have satisfied him/herself that the invoice has not previously been paid;

(c) to notify the s151 Officer at 1st April, or as required, of all outstanding expenditure relating to the previous financial year, and to comply with any instruction issued in connection with the year-end accounting arrangements (accruals);

(d) to ensure that the POP is used for all payments; and that any exceptions have been agreed previously by the s151 Officer;

(e) to ensure that there is a segregation of duties between the officers requisitioning, approving and inputting invoices for payment. Any exceptions to this require the prior approval of the Chief Officer and an officer nominated by the s151 Officer;

(f) to ensure that invoices are input to the system without delay, in the manner specified by the s151 Officer. Sufficient time should be allowed to enable payments to be made within 30 days of receipt of the invoice;

(g) to ensure that invoices that do not meet the set tolerance levels are promptly dealt with. Where there is no match to an order and/or a delivery note, to ensure that further approval as required is given by a nominated approver/substitute;

(h) to ensure that invoices are not processed until the inputting officer is satisfied that delivery details have been entered;

(i) to ensure that all invoices input for payment are filed and stored securely in the manner prescribed by the s151 Officer.

34.35.13 Responsibilities of Chief Officers and Heads of Service - General Claims for Payment:

(a) to ensure that all General Claims for Payment are completed on a form approved by the s151 Officer. These must not be used in place of any invoice, demand, fee note or other written request for payment received from a creditor, and all relevant supporting documentation must be attached to support the payment;

(b) to ensure that a General Claim for Payment is completed by a designated officer and then passed to an authorised signatory for certification;

(c) to ensure that before a General Claim for Payment is authorised, the authorising officer undertakes the following checks:

(i) the payment is properly the liability of the Authority;

(ii) the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);

(iii) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;

(iv) the expenditure has been properly coded to the relevant service area;

(v) expenditure is within budget;

(vi) where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:

(1) the invoice is a tax invoice with the relevant Company VAT number;

(2) for construction industry payments, an authenticated receipt will be obtained; and

(3) for payments made in advance of services/goods being received, a tax receipt will be obtained;

(d) to ensure that payment in advance of the receipt of goods or services is only made where it is essential in order to secure the particular supply required or where a beneficial discount would otherwise be lost. This should be done in conjunction with the Legal Section to ensure an indemnity order is maintained;

(e) to ensure that duly certified General Claims for Payment and direct payment invoices are passed without delay to the s151 Officer.

34.35.14 Responsibilities of Chief Officers and Heads of Service - Supplier Invoices (Non-Order Invoices):

(a) any invoices received in departments with no responsibility for invoice entry to the Agresso system should be forwarded immediately to the central Creditor Payments Team;

(b) on receipt of e-mail notification of non-order invoices for approval, the relevant officer (who will in all cases be an authorised POP approver) should access the Agresso Webpage to review promptly the invoice awaiting approval. Approving officers should also check the system regularly;

(c) to ensure that before a Supplier invoice is authorised, the authorising officer undertakes the following checks:

(i) the payment is properly the liability of the Authority; all invoices should be made out to Monmouthshire County Council;

(ii) the work, goods or services to which the account relates have been received, carried out, examined and approved as to the quality and quantity (where appropriate);

(iii) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;

(iv) the expenditure has been properly coded to the relevant service area;

(v) expenditure is within budget;

(vi) where a payment includes VAT, in accordance with HM Revenue and Customs Regulations:

(1) the invoice is a tax invoice with the relevant Company VAT number;

(2) for construction industry payments, an authenticated receipt will be obtained; and

(3) for payments made in advance of services/goods being received, a tax receipt will be obtained;

(d) to ensure that authorising officers promptly reject any invoices containing an error or discrepancy, or which do not relate to the cost centre shown. In all cases the officer should a suitable explanation for rejection in the comments box on screen to enable further action to be taken by central Creditor Payments team;

(e) to note that the use of supplier invoices will be routinely monitored for evidence of breach of the Financial Procedure Rules relating to the requirement for the use of POP orders and to investigate any concerns over non-compliance referred by the Head of Finance.

34.36 Imprest Accounts

34.36.1 Imprest Accounts are used for minor items of expenditure. It is important that such accounts are properly managed, and that all expenditure is valid and correctly incurred.

34.36.2 Key Controls. The key controls for the operation of Imprest Accounts are:

(a) all Imprest Accounts should be operated in accordance with guidance issued by the s151 Officer;

(b) regular reconciliations between the imprest sum advanced and imprest records are undertaken.

34.36.3 Responsibilities of the s151 Officer:

(a) where they consider it appropriate to open an account with the Authority's bankers for use by the imprest holder (bank imprest) or alternatively to advance a cash sum (petty cash imprest);

(b) to determine the imprest level;

(c) to periodically review the arrangements for the safe custody and control of imprest accounts;

(d) to reimburse imprest holders as often as necessary to restore the imprests and to keep a record of such advances;

(e) to provide guidance on how imprest accounts are to be operated and how records are to be kept of payments and reimbursements.

34.36.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that all imprest accounts are maintained in accordance with the Authority's procedures;

(b) to maintain a list of officers in their service areas who are authorised to hold imprest accounts;

(c) to notify the s151 Officer when an imprest holder leaves the service area and to ensure that the imprest advanced is accounted for to the s151 Officer, unless responsibility for the imprest is transferred to a different officer, in which case the s151 Officer should be notified of the new account holder;

(d) to agree with the s151 Officer the procedure for reimbursing expenditure imprest accounts;

(e) to ensure that officers:

(i) do not, under any circumstances, allow personal cheques to be cashed, or personal loans to be made, from monies held in an imprest account;

(ii) obtain and retain a receipt to substantiate each payment from the imprest, which should be attached to a voucher and authorised. Particular care shall be taken by the employee to obtain a VAT invoice when this tax is charged;

(iii) restrict the amount of each separate payment to such limit as may be prescribed from time to time by the s151 Officer;

(iv) maintain records and operate the account in accordance with the s151 Officer instructions;

(v) maintain the safe custody of imprest cash by keeping it securely locked away preferably in a safe; guidance on this matter can be obtained from the Chief Internal Auditor;

(vi) produce, upon demand, to the s151 Officer or their representative cash and/or vouchers to the total of the imprest;

(vii) record transactions promptly;

(viii) when requested, give to the s151 Officer a certificate as to the state of their imprest advance;

(ix) where an imprest is operated through a bank account, ensure that the account remains in credit, and that the procedures set out under banking arrangements in the Financial Procedure Rules are followed. It shall be a standing instruction to the Authority's bankers that the amount of any overdrawn balance on an imprest holder's account shall be reported forthwith to the s151 Officer;

(x) do not make salaries or wages payments to employees from an imprest account; No payment must be made to sub-contractors for building work unless authorised by the s151 Officer;

(xi) reconcile and balance the account to the total of the sum advanced, at least monthly, with a copy of the reconciliation sheet signed and retained by the imprest holder. Periodic checks shall be made by a senior officer to ensure that this is being properly carried out;

(xii) on leaving the employment of the Authority, or otherwise ceasing to be entitled to hold an imprest advance, account to the relevant Head of Service for the amount advanced.

34.37 Payments to Employees and Members

34.37.1 Staff costs are the largest item of expenditure for most local authority services. It is, therefore, important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that Members' allowances are authorised in accordance with the scheme approved by full Council.

34.37.2 Key Controls. The key controls for payments to officers and Members are:

(a) proper authorisation procedures are in place, and that there is adherence to corporate timetables in relation to starters, leavers, variations and enhancements, and that payments are made based on timesheets or claims where appropriate;

(b) names on the payroll are checked at regular intervals to verify accuracy and completeness;

(c) frequent reconciliation of payroll expenditure against approved budgets;

(d) all appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the S151 Officer;

(e) all expenditure, including VAT, is accurately recorded against the right service area;

(f) HM Revenue and Customs Regulations are complied with.

34.37.3 Responsibilities of the Chief Officer Resources or delegated Officer:

(a) to arrange, control and make accurate and timely payment of:

(i) salaries and wages;

(ii) tax and national insurance;

(iii) car mileage, travel, subsistence and other incidental allowances/expenses;

(b) to approve, in consultation with the appropriate Head of Service, the form of all timesheets, overtime forms, car mileage and travel and subsistence claims, and any other payroll related records;

(c) to maintain an up to date list of all officers authorised to approve timesheets, overtime forms, car mileage and travel and subsistence claims, and all other payroll related records;

(d) to check periodically that all officer claims for salaries, wages, overtime, travel, subsistence and other allowances/expenses are correctly certified by an authorised signatory before payment is made. This also includes electronic certification via MyView;

(e) to maintain all necessary personal records concerning pay, pension, national insurance contributions and income tax and make all relevant payments on behalf of both employees and the Authority to the appropriate Government agencies;

(f) to provide advice and encouragement to secure payment of salaries and wages by the most economical means;

(g) to issue guidance to service areas on the retention of payroll records. All payroll records relating to Income Tax and National Insurance are to be retained for six years plus the current year, to satisfy the requirements of the Taxes Management Act. Records relating to pensions should be retained for six years following the cessation of any liability;

(h) where staff have access to the Authority's computerised payroll system, names of all officers authorised to do so shall be retained and kept up to date. Each officer shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy);

(i) to ensure that staff outside of the Employee Services Section do not have update access to the personnel screens on the Authority's personnel and payroll system without approval.

34.37.4 Responsibilities of the Monitoring Officer to the Council:

(a) to make arrangements for paying Members' allowances, travel, and subsistence upon receiving the prescribed form, duly completed and authorised. All claims will be examined and checked for reasonableness with respect to the amounts claimed. A record of authorised signatories shall be retained and kept up to date.

34.37.5 Responsibilities of the Chief Officer People, Performance & Partnerships:

(a) to ensure that the appointment of officers is made in accordance with the Procedure Rules of the Council and the approved establishments, grades and rates of pay;

(b) to approve the format of all records relating to the notification of appointments, terminations, sickness, special leave and any other personnel matter;

(c) to maintain all necessary records relating to the appointment, termination and all other personnel matters;

(d) to require on a quarterly basis from each staffing budget holder, confirmation of the accuracy of all employees recorded within the budget holder's area of responsibility;

(e) where Employee Services staff have access to the Authority's computerised personnel system, names of all officers authorised to do so shall be retained and kept up to date. Each employee shall have a password that must be confidential and not divulged to any person in any circumstances (in accordance with the Authority's IT Security Policy).

34.37.6 Responsibilities of Chief Officers and Heads of Service:

(a) to furnish the Head of Commercial and People Development with all documents that are required to arrange payment by the due date and any documentation required for pension, income tax and national insurance purposes;

(b) to ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available;

(c) to ensure that time sheets, overtime forms or other payroll related records are in a form prescribed or approved by the Chief Officer People, Performance & Partnerships. All such records shall be appropriately certified in manuscript, by an authorised signatory;

(d) to make arrangements to ensure that the Chief Officer People, Performance & Partnerships as appropriate, are notified promptly, and in the approved format, of all matters affecting the remuneration of officers within their service area, and in particular:

(i) appointments, resignations, dismissals, suspensions, secondments and transfers;

(ii) absences from duty for sickness or other reasons apart from approved leave;

(iii) changes in remuneration, other than normal increments and pay awards and agreements of general application; and

(iv) information necessary to maintain records of service for pension, income tax, national insurance and the like;

(e) to ensure that adequate and effective systems and procedures are operated, so that:

(i) payments are only authorised to bona fide employees;

(ii) payments are only made where there is a valid entitlement;

(iii) conditions and contracts of employment are correctly applied;

(iv) employees' details listed on the payroll are checked at regular intervals to verify accuracy and completeness;

(v) the same person does not both complete and authorise a timesheet, overtime form or other claim for payment;

(vi) persons involved in the different processes of completing and authorising a timesheet, overtime form or other claim for payment are clearly identifiable on the relevant document;

(vii) adequate supporting records are maintained to back up summary timesheet entries, completed by an individual on behalf of a group of employees. The supporting records must show the start and finish times of each employee each day, and should be signed by the employee concerned; and

(viii) no employee may certify or authorise a payment or other benefit to himself/herself or any document which would lead to a payment or other benefit to himself/herself;

(f) to ensure that the service area maintains and reviews periodically a list of officers approved to authorise timesheets, overtime forms and other payroll related records together with specimen signatures, and to ensure that only authorised officers authorise payments. A copy of the list should be sent to the Chief Officer People, Performance & Partnerships;

(g) to ensure that the service area reviews the establishment as required by the Head of Human Resources on a quarterly basis and confirms the accuracy of the report;

(h) to ensure that payroll transactions are processed only through the payroll system. "Cash in hand" and other non PAYE payments are not permitted. Chief Officers shall give careful consideration to the employment status of individuals employed on a self-employed, consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice shall be sought from the Chief Officer People, Performance & Partnerships;

(i) to ensure that all claims for the payment of car mileage, travel and subsistence, and incidental expenses are submitted promptly by officers in the approved format each month;

(j) to arrange for the correct certification of claims for car mileage, travel and subsistence, and incidental expenses. Certification by the Head of Service or an officer authorised by them shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred in connection with the Authority's business, the most cost effective route and means of transport was used and that the allowances claimed are properly payable by the Authority. The names of officers authorised by Chief Officers to approve such records shall be retained in each service area, together with specimen signatures and this shall be amended on the occasion of any change. The accuracy of the information contained in a claim shall be the responsibility of the employee concerned. Due consideration should be given to tax implications and that the Chief Officer Resources/Deputy Chief Executive is informed where appropriate;

(k) to ensure that claims for travel, subsistence and other allowances are paid through the payroll system wherever possible to ensure the correct treatment for Tax and National Insurance purposes. Imprest accounts should only be used to process minor payments, where there are no tax implications;

(l) to ensure that the Chief Officer Resources/Deputy Chief Executive is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system;

(m) to ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with guidance issued by the Chief Officer Resources/Deputy Chief Executive.

34.37.7 Responsibilities of Elected Members and Co-opted Members of Council Committees:

(a) to submit claims for travel or subsistence allowances on the prescribed form duly completed. All claims shall be submitted promptly, The accuracy of the information contained in a claim shall be the responsibility of the Member or co-opted Member concerned.

34.38 Internal Charges

34.38.1 Service Areas often undertake work for other service areas. The charge for such work should be recovered by way of a journal; only in exceptional circumstances should an internal debtor invoice be raised.

34.38.2 It is important that the basis of charge is agreed between the client and provider, and the financial transaction is accurately recorded in the Council's accounts.

34.38.3 The use of journals will cover Service Level Agreements, reallocation of costs and charges that are considered inappropriate for the Internal Trading Solution. The Internal Trading Solution will be used for those services where it is considered to be cost effective.

34.38.4 Key Controls. The key controls for internal charges are:

(a) all income and expenditure arising from an internal recharging relationship is correctly recorded and accounted for in a robust manner;

(b) each charging activity will have a clear basis on which it will be recharged;

(c) each charging activity will include the cost of the provision of the service plus an appropriate level of overhead;

(d) no significant surplus should be made by the provider at the expense of the internal customer unless there are contrary policies in place as approved by the s151 Officer;

(e) all providers ensure that all internal customers are provided with the information reasonably required to accompany the journal charge;

(f) all charges must be challenged within an appropriate timescale (two months from being informed of charge). The provider must ensure all challenges are considered and where appropriate resolution is made by clarifying query or amending the charge made by journal;

(g) there will be an arbitration process to clear disputes promptly.

34.38.5 Responsibilities of the s151 Officer:

(a) to issue guidelines and procedures on the administration of the Authority's internal charging systems;

(b) to ensure internal charging processes are efficient and effective and represent the best interests of the Authority as a whole;

(c) to arbitrate on outstanding disputed charges where the client and supplier service area fail to reach agreement.

34.38.6 Responsibilities of Chief Officers and Heads of Service:

(a) to comply with guidelines and procedures issued by the s151 Officer on the administration of the internal charging systems.

34.39 Taxation

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

34.39.2 Key Controls. The key controls for taxation are:

(a) budget holders are provided with relevant information and kept up to date on tax issues;

(b) budget holders are instructed on required record keeping;

(c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;

(d) records are maintained in accordance with instructions;

(e) returns are made to the appropriate authorities within the stipulated timescale.

34.39.3 Responsibilities of the s151 Officer:

(a) to complete all HM Revenue and Customs returns regarding Pay As You Earn (PAYE);

(b) to complete VAT returns and to supply other information as specified by HM Revenue and Customs;

(c) to provide details to the HM Revenue and Customs of deductions made under the Construction Industry Tax Deduction Scheme;

(d) to advise Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Authority.

34.39.4 Responsibilities of Chief Officers and Heads of Service:

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

(i) the payment relates to a supply of goods or services to Monmouthshire Council or to some other body covered by the Council's VAT registration;

(ii) unless otherwise authorised, a VAT invoice (or receipt) is held in respect of the payment;

(iii) where a payment is made to a contractor in the construction industry on the authority of an architect's certificate, an authenticated receipt is obtained as soon as possible;

(iv) the VAT identified on the VAT invoice is identified and coded correctly;

(v) that VAT invoices are processed expeditiously and are not unduly delayed.

(b) to ensure that VAT is accounted for, in the correct tax period, on all supplies of goods and services made by the Council that are subject to VAT;

(c) to ensure that a VAT invoice (or receipt) is issued upon request by any person to whom taxable supplies of goods or services have been made by the Council, showing the VAT charged;

(d) to ensure that all VAT invoices are raised and processed expeditiously;

(e) to ensure that documents identifying VAT transactions, including proof of payment and banking records, are retained for the period specified by HM Revenue and Customs;

(f) to ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements;

(g) to ensure that all persons employed by the Authority are added to the Authority's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency;

(h) to follow any guidance on taxation issued by the s151 Officer;

(i) to ensure that arrangements are in place for all relevant staff to be informed about the correct VAT treatment of all transactions and of changes to this as notified by the s151 Officer.

34.40 External Arrangements

34.40.1 This is section 6 and covers Partnerships, External Funding and Work for third parties.

34.41 Partnerships

34.41.1 Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – Aneurin Bevan LHB, Heddlu Gwent Police, 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.

34.41.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

34.41.3 Individual Cabinet Members are responsible for approving the contractual arrangements for any work for third parties or external bodies where the contract value exceeds £250,000.

34.41.4 The default position is that any external arrangements will be subject to the Council's financial regulations, unless specific approval has been granted by Cabinet to do otherwise.

34.41.5 The main reasons for entering into a partnership are to share risk, to access new resources, to provide new and better ways of delivering services and to forge new relationships.

34.41.6 A partner is defined as either:

(a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or

(b) a body whose nature or status give it a right or obligation to support the project.

34.41.7 Partners have common responsibilities:

(a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;

(b) to acknowledge that the best interest of the partnership is more important than the best interest of each participating group;

(c) to acknowledge that the partnerships require a level of flexibility which may require non-compliance with the Authority's Financial and Contract Procedure Rules. Where this arises it should be formally approved by Cabinet;

(d) to act in good faith at all times and in the best interests of the partnership's aims and objectives;

(e) to be open about any conflict of interests that might arise;

(f) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;

(g) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;

(h) to act wherever possible as ambassadors for the project.

34.41.8 Key Controls. The key controls for the Authority's partners are:

(a) to be aware of their responsibilities under the Authority's Financial and Contract Procedure Rules and to consider the appropriateness of each control to the partnership and any external funding guidance received;

(b) to ensure that processes are put in place which ensure that the partnership is effective in carrying out its duties in the required timely manner;

(c) to ensure that risk management processes are in place to identify and assess and mitigate all known risks without affecting the ability of the partnership to effectively function;

(d) to ensure that project appraisal processes and a strategic business case is in place to assess the viability of the project in terms of resources, staffing and expertise;

(e) to ensure that there is a sound legal vehicle in place prior to any project commencing;

(f) to ensure that there are robust arrangements for decision making and that budgets agreed by partners are lawful;

(g) to ensure clear accountability where the partnership uses grant income as a source of funding;

(h) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and

(i) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

34.41.9 Responsibilities of the s151 Officer:

(a) to advise on the use of effective and waiving of ineffective controls within the partnership in order to ensure that resources are not wasted;

(b) to advise, as appropriate, on the key elements of funding a project, including:

(i) a scheme appraisal for financial viability in both the current and future years;

(ii) risk appraisal and management;

(iii) resourcing, including taxation issues;

(iv) audit, security and control requirements; and

(v) carry-forward arrangements;

(c) to ensure that the accounting arrangements are satisfactory.

34.41.10 Responsibilities of Chief Officers and Heads of Service:

(a) to consult with the s151 Officer, as necessary, on a scheme's appraisal for financial viability in both the current and future years;

(b) to ensure that risk management processes are in place to identify, assess and mitigate all known risks without affecting the ability of the partnership to effectively function;

(c) to ensure that such agreements and arrangements do not impact adversely upon the services provided either by the Authority or the partnership;

(d) to ensure that all agreements and arrangements are properly documented;

(e) to provide appropriate information to the s151 Officer to enable a note to be entered into the Authority's statement of accounts concerning material items.

34.42 External Funding

34.42.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of authorities. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

34.42.2 Key Controls. The key controls for external funding are:

(a) 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;

(b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council;

(c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future capital and revenue budgets reflect these requirements.

34.42.3 Responsibilities of the s151 Officer:

(a) to ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts and budgets;

(b) to ensure that the match-funding requirements are considered prior to entering into the agreements and that future capital and revenue budgets reflect these requirements;

(c) to ensure that audit requirements are met;

(d) where they are specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.

34.42.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that all checks are carried out to make certain that funding instructions associated in a bid for external funding are taken into account;

(b) to maintain adequate supporting documentation to enable claims for funding to be maximised;

(c) to ensure that all claims for funds are made by the due date;

(d) to ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

34.43 Work for Third Parties

34.43.1 Current legislation enables the Authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the Authority's legal powers.

34.43.2 Key Controls. The key controls for working with third parties are:

(a) to ensure that proposals are costed properly in accordance with guidance provided by the s151 Officer; and

(b) to ensure that contracts are drawn up using guidance provided by the s151 Officer and that the formal approvals process is adhered to.

34.43.3 Responsibilities of s151 Officer:

(a) to issue guidance with regard to the financial aspects of third party contracts.

34.43.4 Responsibilities of Chief Officers and Heads of Service:

(a) to ensure that appropriate insurance arrangements are made;

(b) to ensure that the Authority is not put at risk from any bad debts;

(c) to ensure that, wherever practicable, payment is received in advance of the delivery of the service;

(d) to ensure that the department/unit has the appropriate expertise to undertake the contract;

(e) to ensure that such contracts do not impact adversely upon the services provided for the Authority;

(f) to ensure that all contracts are properly documented;

(g) to provide appropriate information to the s151 Officer to enable a note to be entered into the statement of accounts.

~~35~~ CONTRACT PROCEDURE RULES ~~–~~

Introduction

1.1 These Contract Procedure Rules provide a corporate framework for the procurement of all Goods, Services and Works for the Council, including concession contracts. These Rules apply to all procurements commenced on or after 24 February 2025 when the Procurement Act 2023 came into force. Any procurements commenced prior to that date shall continue to be governed by the requirements of the Public Contracts Regulations 2015 ("PCR").

1.2 Sustainable Procurement is defined in the Wales Procurement Policy Statement as "the process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves ***value for money*** on a whole life basis in terms of generating benefits not only to the organisation, but also providing opportunity for how this money can be spent in a way that delivers wider economic, social, environmental and cultural well-being both locally and within Wales but also to society and the economy, whilst minimising damage to the environment". "Procurement" under the Procurement Act 2023 means the award, entry into and management of a ***contract***.

1.3 Procurement includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.

1.4 The Council spends in the region of £150 million per annum on the external procurement of Goods, Services and Works. It is therefore important that the Council strategically manages this spend to ensure that it:

i. Obtains value for money and the required level of quality and performance in all contracts let.
ii. Conducts its procurement activity openly, transparently and, where practicable, based on standard approaches and use of common systems that appropriately minimise complexity, cost, timescales and requirements for suppliers.

iii. Complies with all, English and Welsh law that governs and / or relates to the procurement of goods, services and works and the letting of concession contracts.
iv. Meets the principles of the Welsh Government's Wales Procurement Policy Statement (WPPS).
v. Considers all relevant guidance issued by Welsh Government including Welsh Procurement Advice Notes and the Code of Practice on Ethical Employment in Supply Chains.
vi. Supports the achievement of the seven well-being goals for Wales as set out in the Well-being of Future Generations (Wales) Act (2015).
vii. Has procurement procedures which, when followed, should protect members and officers of the Council from any allegation of acting unfairly or unlawfully in connection with any procurement by the Council.
viii. Subject to compliance with (iii), has considered, assessed and where practicable mitigated any risks associated with a particular procurement process and subsequently entering into contracts; and
ix. Achieves the organisational outcomes of the Council's Socially Responsible Procurement Strategy and Policy.

1.5 These Rules are not intended as detailed guidance for implementation. Any ***procurement guidance*** issued by the Council's ***Strategic Procurement Lead*** must be taken into account, including the **Buying Responsibly Guides**. Appendix 2 (Definitions and Interpretations) - the first time a key word is used within the CPRs it is ***italicised in bold blue text*** to indicate that it is included within Appendix 2.

1.6 Contracts, which involve the receipt of income by the Council or the disposal of an asset or an undertaking by the Council, may often require competitive ***tender***. The reason for this, for instance, is because they amount to a "concession", or confer a competitive advantage on the ***contractor*** as against its competitors, or the Council needs to be able to demonstrate that it has received an appropriate market value. Therefore, all references to competitive tenders and ***quotations*** within these CPRs shall apply (with such changes as are appropriate) equally to circumstances where the contract involves the receipt of income by the Council or the disposal of any asset or undertaking by the Council, as they do to purchases to be made by the Council, unless specifically stated otherwise.

1.7 These CPRs govern organisational behaviour in the conduct of procurement. It is important that such behaviour is undertaken in support and delivery of the wider policies and objectives of the Council and in respect of officers, this includes the Employees' Code of Conduct.

1.8 All Officers must comply with the Council's "Code of Conduct" in addition to the Council's "Anti-Fraud, Bribery and Corruption Policy" and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to investigation under the council's disciplinary procedures and is a criminal offence under the "Bribery Act 2010"

1.9 Any person who is not an officer of the Council, but is engaged by the Council to advise, conduct, or supervise any stage of a Tender, must Comply with the Council's Contract Procedure and Financial Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to.

1.10 In conducting any procurement, the Seven Principles of Public Life and utmost probity must be demonstrated at all times

1.11 All values referred to in these Rules are **exclusive** of VAT **unless they refer to** procurements **above** the ***Procurement Act Thresholds*** (PAT) which are **inclusive of VAT**.

1.12 Any dispute regarding interpretation of these Rules shall be referred to the S151 Officer or their nominated officers for resolution in consultation with the Council's Strategic Procurement Lead.

1.13 These Rules shall be read in conjunction with the Council's Constitution as a whole and, in particular, in respect of contract payments, including compliance with the Council's Financial Procedure Rules.

1.14 The S151 Officer or their nominated officers in consultation with the Strategic Procurement Lead will amend these Rules from time to time, to ensure that they meet all Legal Requirements.

1.15 The S151 Officer or their nominated officers and the Strategic Procurement Lead shall periodically undertake a formal review of these Rules.

2. Compliance with these Rules

2.1 These Rules must be followed when dealing with any Council Procurement except for those Procurements and other matters referred to in Rule 3 (Exemptions).

2.2 Every Procurement undertaken by the Council or any other party on its behalf must comply with:

i. All, English and Welsh law and associated guidance that governs and or relates to the procurement of goods, services and works and the letting of concession contracts and to the extent of any conflict between these CPR and any such legal requirements then the provisions of such legal requirements shall prevail.
ii. The Council's Constitution as a whole, and
iii. The Council's strategic objectives and policies including its Socially Responsible Procurement Strategy and Policy, and
iv. Other objectives and requirements listed in clause 1.4 of these rules.

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

2.4 Any failure by officers to comply with any of the provisions of these CPRs or associated guidance adopted by the Council may result in disciplinary action. Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks and who have access to the relevant training, Guidance and support to undertake the particular procurement.

3. Exemptions to the Rules

These Rules do not apply to: -

3.1 The acquisition or disposal of land (see Procedural Rules for the Acquisition or Disposal of Land. Any land contracts which involve development agreements shall be notified to the Chief Officer Law & Governance and legal advice sought on the procurement law implications)

3.2 Contracts of employment which make an individual a direct employee of the Council.

3.3 Use of the Council's in-house services.

3.4 *Grants* (Grants are not regulated by public procurement law, as they are not public contracts. Grants are, however, regulated by the rules on subsidy control (formerly known as state aid) and by general public law controls relating to fiduciary duty and proper spending of public money. As appropriate, legal and financial advice should be obtained from the relevant Council officers). If there are any procurements for services, goods or works for which grant money is used then these will be caught by these CPRs.

3.5 Individual orders placed under a *Framework Agreement* or a contract which provide for orders to be placed against an agreed schedule of rates, or under a measured term contract, provided that such contracts or Framework Agreements have been let by the Council in accordance with these Rules and the orders placed in accordance with the applicable Framework Agreement or contract. The Strategic Procurement Lead must be consulted before the use of any Framework not listed on the Council Supply Directory. If a Framework was let under Public Contracts Regulations 2015 (**"PCR"**) any 'call offs' will continue to be governed by the PCR.

3.6 An individual care contract. That is a contract for services entered into in pursuance of powers under The Social Services and Well–being (Wales) Act 2014 for the benefit of an individual, where: -

i. the estimated value is below the *Light Touch* Regime under the Procurement Act (and/or is not a Regulated Below Threshold Contract).
ii. the Council does not have any existing framework or umbrella arrangements in place in respect of the relevant service.
iii. the individual care contract represents value for money and;
iv. where the contract is required to honour the preference of the individual service user; or
v. is required as a matter of emergency in the interest of the welfare of the individual service user.

3.7 Instructions and briefs to Counsel issued by or on behalf of the Chief Officer Law & Governance and Legal Services to Counsel or nominated officer. The Chief Officer Law & Governance or their nominated officers will make arrangements to ensure that appropriate record is kept of all such instructions or briefs together with a record of Counsel's fee.

3.8 Goods, Services and Works procured by another public body on behalf of, or for the joint benefit of the Council and other parties, and provided, that, in such case, the other public body's procurement / contract rules, all English and Welsh procurement law requirements, and the fundamental principles such as non-discrimination, equal treatment, transparency, mutual recognition and proportionality have been complied with (that is, a collaborative procurement arrangement such as contracts awarded via the

Welsh Government Commercial Procurement Delivery Team, Crown Commercial Services etc. The advice of the Strategic Procurement Lead must be sought before placing reliance on any such arrangement).

3.9 Any other contract that is defined as 'exempted contract' under Schedule 2 of the PA 23.

3.10 When placing reliance on the exemptions stated above the ***Senior Officer*** in the Service Area should ensure that the best possible value for money is obtained for the Council.

4. Conflicts of Interest

4.1 No Elected 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.

4.2 The Council must take all reasonable steps to ensure that a conflict of interest and/or potential conflicts of interest does not put a ***supplier*** at a perceived or actual unfair advantage or disadvantage in relation to a procurement. If any advantage cannot be avoided, or the supplier will not take steps that the Council considers are necessary in order to ensure it is not put at an unfair advantage then the suppliers must be excluded from the procurement.

4.3 The Council must undertake a "conflicts assessment" before publishing a tender or transparency notice or a dynamic market notice. If a conflict of interest or potential conflict of interest is identified the Council must set out the steps it has taken or will take to demonstrate that no such conflict of interest exists. The Council must keep any assessment under review, revise as is necessary and when publishing any notice confirm that a conflicts assessment has been prepared and revised in accordance with the Procurement Act (Part5).

4.4 Elected Members and employees of the Council shall comply with the requirements of section 117 of the Local Government Act 1972 and, as appropriate, the Officers and Members Code of Conduct set out in the Constitution in respect of the declaration of interests in contracts with the Council.

4.5 Such interests must be declared to the Monitoring Officer for inclusion in the appropriate registers, detailing how the conflict has been addressed.

5. Welsh Language Act

5.1 Any invitations to tender for a contract must state that tenders may be submitted in Welsh.

5.2 Any invitations to tender for a contract must be published in Welsh, where the:

i. Subject matter of the tender for a contract suggests that it should be produced in Welsh, or
ii. Anticipated audience, and their expectations, suggests that the document should be produced in Welsh.

5.3 Where a tender or quote has been submitted in Welsh, this must be treated no less favourably than a submission in English (including, amongst other matters, in relation to the closing date for receiving submissions, and in relation to timescale for informing bidders of decisions).

5.4 If a tender has been submitted in Welsh, and it is necessary to interview the bidder as part of the assessment process, you must:

i. Offer to provide a translation service from Welsh to English to enable the bidder to use the Welsh language at the interview; and
ii. If the bidder wishes to use the Welsh language at interview, provide a simultaneous translation service for that purpose (unless you conduct the interview in Welsh without a translation service).

5.5 When informing a bidder of the decision in relation to a quotation or tender, you must do so in Welsh if the quotation or tender was submitted in Welsh.

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

i. The Authority's Welsh Language Scheme,
ii. The Welsh Language (Wales) Measure 2011, and
iii. The Welsh language standards issued to Monmouthshire County Council (Compliance Notice – Section 44 Welsh Language (Wales) Measure).

6. Procurement Planning

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

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

i) Any officer that is required to lead a procurement process must be named with relevant approvals within the Councils Authorised Signatory List, which is held by the Strategic Procurement Lead.

ii) Ensuring the procurement is included on the Contract Forward Plan.
iii) Engagement with key stakeholders in order to identify and assess needs – what is being procured and why? What is the key driver for the procurement? What are the critical success factors? What outcomes are being sought?

iv) advice on the procurement of software and licences shall in the first instance be brought to the attention of the Council's Digital Programme team (or its successor) and approval to proceed sought. Any exception to this rule will need to be justified by the relevant Chief Officer where the procurement activity is taking place and approved by the Head of Service with responsibility for Digital Services.

v) checking that no existing in-house provision exists for the Goods, Services or Works required (see rule10)

vi) carrying out of options appraisal to look at different ways of meeting, the identified needs (e.g. buy, lease or rent?) and using the Carbon Reduction

Guidance issued by the Strategic Procurement Lead to minimise the carbon impact of the procurement.

vii) determining budget and funding, to define a realistic budget for the contract to achieve the desired results and then securing the funds to finance and manage the contract throughout its duration, including any disposal costs

viii) Selection of the appropriate Procurement Procedure (see Appendix 1)

ix) Using Guidance issued by the Strategic Procurement Lead to consider options to deliver wider well-being objectives including carbon reduction, ***community well-being benefits*** and fair work

x) Preparing the specification (setting out the requirements)

xi) Where a tender is to be awarded, determining the criteria and evaluation methodology and how to secure the Most Advantageous Tender.

6.3 The results of this planning stage must be properly documented by the Senior Officer responsible for the proposed procurement (or their nominated deputy) and, if used recorded in the Council's ***electronic procurement*** system.

7. Advice and Risk Assessment

7.1 At the outset of a procurement process, the Senior Officer (or their nominated officer) must ensure all proposed procurements with an estimated value in excess of £75,000 for goods, services and works are recorded on the Council's Contract Forward Plan. In addition to these Rules, the Senior Officer must follow all guidance issued by the Strategic Procurement Lead in respect of the procurement.

7.2 The advice of the Chief Officer Law & Governance (or their nominated officers) must be sought on all procurements with an estimated value in excess of £100,000 (unless a ***Call Off Contract*** is procured under a framework in line with the requirements of the framework and any advice or guidance from the Strategic Procurement Lead) and for lower value requirements where the complexity of the procurement requires, for example the inclusion of bespoke clauses. If there is any doubt, legal advice should be sought.

7.3 For Procurements with an estimated value in excess of £75,000 for goods, services and works, the Senior Officer shall carry out a risk assessment (proportionate to the nature and value of the proposed contract). The risk assessment shall be prepared at the outset and thereafter maintained and updated throughout the Procurement Process until the end of contract. The decision maker must be informed of any risks identified and of the contingency measures in place.

7.4 When carrying out any risk assessment in respect of a proposed procurement, regard must be had to the requirements to comply with the whole of these Rules.

8. Personal Data

8.1 In carrying out any Procurement, the Senior Officer responsible for the procurement must take all reasonable steps, including incorporation of appropriate provision into tender documentation and Contracts, to ensure that the personal data of individuals is protected in accordance with all legal requirements (including the Data Protection

Legislation) and Codes of Practice from the Information Commissioner's Office (ICO) and as set out in the Council's Information Governance Policies. The Senior Officer must ensure the Councils' obligations and risks, in respect of personal data, are considered and indemnities are sought where appropriate. More information and guidance can be obtained from the Data Protection & Information Manager (or their nominated officers).

9. Other Advice

9.1 As part of the tender planning stage, the Senior Officer responsible for the procurement must ensure that they seek advice in relation to the organisations non procurement related requirements as set out in the Pre-Tender Report (Advice and Further Considerations Section).

10. Use of In-house Service

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

10.2. In-house services must be used unless the Senior Officer of the procuring Service Area and the in-house service provider agree otherwise, evidenced in writing and retained by the procuring Senior Officer.

11. Framework Arrangements and Dynamic Markets

11.1 The Council has entered into a number framework agreements (including Dynamic Markets (formally DPS)) for the supply of various types of goods, services and works.

11.2 The Procurement Team maintain a register of such contracts and framework agreements in the Supply Directory and can provide advice on their use and any exceptions granted.

11.3 It is the responsibility of the Service Area requiring the procurement to ascertain whether there is a framework or other corporate purchasing agreement in place by checking the Supply Directory. If such a framework or corporate purchasing arrangement exists, then Service Areas must use this arrangement or otherwise obtain the prior agreement of the Strategic Procurement Lead.

11.4 The use of frameworks not listed in the Supply Directory is only permissible once the ***Procurement Team*** has approved its use (including checking that the framework agreement concerned may be relied upon by the Council). The Procurement Team will be able to advise on the use on 'non-Welsh' Frameworks and any additional requirements when using these Frameworks.

11.5 When using framework agreements, all guidance issued in relation to the use of the Framework concerned must be considered by the Service Area and followed. The award criteria, weightings and the terms and conditions of contract specified in the framework agreement must be used. It is the responsibility of the Service Area requiring the procurement to ensure that all supporting documentation necessary is assembled and completed, before placing reliance on a framework agreement. It should be noted that the relevant framework agreement will include terms and conditions governing contract/orders let under it and the Service Area should satisfy themselves that the terms and conditions are suitable for their requirements before using the framework (taking advice as appropriate). Whilst Procurement and Legal Services can provide advice and support, it will be expected

that this provision will be complied with by the Service Area before seeking such advice.

11.6 Where Goods, Services or Works are regularly required, and arrangements described in Rule 11 are not available, consideration must be given to procuring a framework arrangement and the advice of the Strategic Procurement Lead must be obtained.

11.7 Collaborative and Joint working arrangements:

i. Any consortia procurement arrangements must be approved for use by the Strategic Procurement Lead before reliance is placed on the same.
ii. Before proceeding with any proposed joint working arrangements, legal advice should be sought from the Chief Officer Law & Governance or their nominated officers

12. Estimating the Contract Value

12.1 The estimated contract value is the maximum value the Council could expect to pay under the contract including where applicable, amounts already paid. The value is **exclusive of value added tax**, up to the PA23 threshold**,** which the Council expects to be payable over the full duration of the contract (not the annual value and inclusive of any extensions). In estimating the value of a contract, the Council must take into account all of the facts which are material to the estimate and available to the authority at the time it makes the estimate.

12.2 In estimating the contract value the Service Area needs to account for the following:

i. The value of any goods, services or works provided by the Council under the contract other than for payment.
ii. Amounts that would be payable if an option in the contract to supply additional goods, services or works were exercised.
iii. Amounts that would be payable if an option in the contract to extend or renew the term of the contract were exercised.
iv. Amounts representing premiums, fees, commissions or interest that could be payable under the contract.
v. Amounts representing prizes or payments that could be payable to participants in the procurement.

12.3 If the Council is unable to estimate the value of a contract in accordance with Schedule 3 of the PA23 threshold (for example because the duration of the contract is unknown), the Council is to estimate the value of the contract as an amount of more than the threshold amount (see Procurement Act Thresholds) for the type of contract. It is recommended that service areas simply undertake the best valuation with the information available on what it expects to pay, following the detailed rules set out in Schedule 3. It is unlawful to exercise any discretion in valuing a contract with a view to avoiding the requirements of the Act. If there is uncertainty over calculating the estimated value of the proposed Contract, then the advice of Legal and Procurement Services should be sought.

12.4 No Works or requirements for Goods or Services may be artificially split to avoid consulting with the Strategic Procurement Lead or avoid compliance with procurement law or these Rules.

12.5 Where the Council has requirements over a period of time for Goods and Services where the contracts have similar characteristics and the Goods and Services are of the

same type, and enters into a series of contracts or a contract which is renewable, then the estimated value shall be calculated by the total spend on such matters over the last 12 months or projected estimated spend for next 12 months or if the contracts have been continuous then the total value of the contracts, whichever is the greater. In estimating this value, the advice of the Strategic Procurement Lead must be sought.

12.6 In considering if the Procurement Act applies, the Council must have regard to the 'Estimating the Value of a Contract' set out in Schedule 3 of the Procurement Act and the advice of the Strategic Procurement Lead sought.

12.7 In estimating the value of a **Framework**, the Council estimate the sum of the value of all contracts that have or may be awarded in accordance with that Framework.

12.8 The Council must estimate the value of a **concession contract** as the maximum amount the supplier could expect to receive under or in connection with the contract including, where applicable, amounts already received. The amount a supplier could expect to receive includes the following—

i. Amounts representing revenue (whether monetary or non-monetary) receivable pursuant to the exploitation of the works or services to which the contract relates (whether from the contracting authority or otherwise).
ii. The value of any goods, services or works provided by the contracting authority under the contract other than for payment.
iii. Amounts that would be receivable if an option in the contract to supply additional services or works were exercised.
iv. Amounts that would be receivable if an option in the contract to extend or renew the term of the contract were exercised.
v. Amounts representing premiums, fees, commissions or interest that could be receivable under the contract.
vi. Amounts received on the sale of assets held by the supplier under the contract.

13. Carbon Reduction

13.1 Service Areas must fully consider the Circular or Sustainable Procurement Hierarchy principles at the start of a tender process to identify opportunities to buy sustainably, minimise carbon impact, waste and any negative environmental impact. Carbon reduction requirements should be embedded into tenders and contracts in accordance with Guidance issued by the Strategic Procurement Lead.

13.2 Carbon Reduction Plans must be sought in all tenders above £6million (Inc VAT) in accordance with Guidance issued by Strategic Procurement Lead .

14. Community Well-being Benefits

14.1 Community Well-being Benefits (formerly Social Value) are well-being commitments offered by bidders over and above the primary contract requirements i.e. the requirements as stipulated in the specification and/or Terms and Conditions. The Community Well-being Benefits requirements should be used within tenders above £250,000 to capture each tenderers Community Well-being Benefits offer. The successful tenderers offer will form part of the Contract

14.2 The Strategic Procurement Lead will issue Community Well-being Guidance and Templates which must be used and followed, and the delivery of Community Well-being

Benefits managed by the contract manager using the Council's online platform.

14.3 For all contracts below £250,000 in value, the inclusion of community benefits as a contractual obligation is optional but shall be considered.

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

14.5 Regard must be had to the Welsh Government guidance on Community Well-being Benefits and such other guidance as the Strategic Procurement Lead may issue from time to time on the approaches to delivering community well-being benefits though Council contracts.

15. Procurement Process and Procedures

A Summary of the Council's 4 Procurement Routes is set out in Appendix 3 and Appendix 4 (Governance and Procedures Overview).

16. Quotations - Goods (Supplies), Services and Works

16.1 Where possible, Goods, Services or Works must be obtained via existing approved arrangements including:

i. firstly, in-house services provision (see Rule 10), and
ii. secondly, Framework Agreements and consortia arrangements approved for use by the Council's Strategic Procurement Lead (See Rule 11).
iii. if no in-house service or Framework arrangement available then quotations must be sought.

16.2 Quotations Process

i. Quotations must not be artificially split (rule 12.5) and rule 12.6 (repeat requirements) to avoid compliance with procurement law or these Rules.
ii. Any ***request for quotation*** (RFQ) shall include as a minimum a technical specification, pricing schedule and terms and conditions.
iii. Bidders should be given sufficient time to submit a response to a request for quotation. Consideration should be given to the complexity of the quote being requested and sufficient time allowed for bidders to provide suitable quotes.
iv. Quotes should only be accepted, via an email or the Sell2Wales system. If accepted in writing the acceptance should make clear that the Council's standard terms and conditions referred to in the Council's ***purchase order*** apply. On acceptance of the quotation (written or electronic), a purchase order must be sent via the ***Purchase-to-Pay*** (P2P) system, which contains reference to the Council's standard terms and conditions.
v. In the circumstance where not all suppliers respond to the request for quotation with a submission, it is acceptable to evaluate and award the contract based on whatever submissions have been made, even where there is only one submission, provided Value for Money is achieved.

vi. For quotations above £25,000 a minimum of two people must evaluate the quotations received.

16.3 Quotation Route 1 - Goods, Services and Works up to the value £25,000 (Excluding VAT)

16.3.1 For procurements with an estimated value up to £25,000 the use of the Sell2Wales Quick Quote function is encouraged. As a minimum Service Areas must seek:

i. At least three written quotes from suitable supplier(s) via email.
ii. A Quotation Record Form must be used to document the process undertaken for quotations above £10,000 and if 3 quotations are not sought the reasons must be set out along with an explanation of how the recommended approach demonstrates value for money.
iii. Where spend is less than £10,000 the number of quotes *and documentary evidence to support value for money will need to be proportional to the type and regularity of spend.*
iv. *For certain types of low value spend, defined as less than £100, one written quote is encouraged and appropriate documentation should be retained e.g. receipts.*
v. Where the market allows at least **one** quotation should be sought from a local supplier.

16.3.2 The Service Area must retain a copy of the quotation(s) received and make a copy available on request.

16.4 Quotation Route 2 – Goods, Services and Works between the value of £25,000 to £75,000 (Excluding VAT)

16.4.1 For procurements with a value between £25,000 to £75,000 then the requirement **must be managed through the Sell2Wales** website to ensure compliance with the Procurement Act and in particular the requirement to publish a below threshold Tender Notice (if opportunity advertised) and publish a Contract Details Notice **for all** quotations awarded. As a minimum the Service Area must seek:

i) At least **four** written quotations from suitable suppliers and these should include suppliers who are either micro, small and medium-sized enterprises (SMEs), or voluntary, community and social enterprises (VCSEs). We encourage Service Areas to advertise opportunities through Sell2Wales.

ii) Where the market allows at least **two** quotations should be sought from local suppliers, and these should include providers who are either micro, small and medium-sized enterprises (SMEs), or voluntary, community and social enterprises (VCSEs).

16.4.2 Note that the option to reserve procurements on the basis of location should **not be used** in relation to procurements which are of cross-border interest to suppliers from EU Member States.

16.4.3 The Service Area must keep an appropriate file record (Quotation Record Form) evidencing matters, including for Works that relevant competency and capability assessments have been undertaken. The Service Area needs to be satisfied, able to

demonstrate compliance and that it has obtained value for money and complied with these Rules.

16.4.4 Where it is not a regulated *Below Threshold Contract* and there are less than four suppliers (but more than one) for the requested goods, services or works on the Sell2Wales system, it is acceptable to request quotations from the number (less than four) of the suppliers registered.

16.4.5 Where it is proposed to Direct Award, it is a requirement to follow the Direct Award authorisation procedures set out in CPR 17.

16.4.6 The quotation must be received electronically using the Sell2Wales system and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the request for quotation.

16.4.7 All quotations received will be automatically "unlocked" and available for evaluation in the electronic system after the closing time and date prescribed in the request for quotation. The officer in the Service Area running the quotation will open quotations; the electronic procurement system will automatically record all quotation prices. There is no requirement for Legal Services or Procurement Team officers to be present.
Following evaluation of the submissions and acceptance of the quotation on the electronic system, a purchase order must be sent via the Purchase-to-Pay (P2P) system or the provision of CPR 24 (Placing of Orders) complied with.

16.4.8 If a quotation is to be openly advertised on the Sell2Wales system, then a Tender Notice will be issued by the Sell2Wales system, and the requirements of the Procurement Act complied with.

16.4.9 The prior consent of the Strategic Procurement Lead must be obtained to the use of an alternative Procurement Procedure or reliance being placed on Rule 17 ('Direct Awards and Exceptions'). Where reliance is placed on "Exceptions" a Notice **must** be published on Sell2Wales to comply with the Procurement Act.

16.5 Tenders - Goods, Services and Works – general provisions

16.5.1 Where possible Goods, Services and Works must be obtained via existing approved arrangements including:

i. firstly, in-house services provision (see Rule 10), and
ii. secondly, Framework Agreements and consortia arrangements approved for use by the Council's Strategic Procurement Lead (See Rule 11).
iii. if no in-house service or Framework arrangement available then tenders must be sought. Tenders must not be artificially split (rule 12.5) and rule 12.6 (repeat requirements) to avoid consulting with the Strategic Procurement Lead or avoid compliance with procurement law or these Rules.
iv. The details of **the tender must be included on the Council's Contract Forward Plan at the earliest opportunity**. Failure to do this may result in delays in the procurement process.

16.6 Tender Process

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

i. a specification of the Services, Goods or Works being procured and instructions on whether any *variants* are permissible.

ii. the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders (including a time for bidders to seek clarifications on the tender documents). Any clarification should also include any clarification on the terms and conditions and a statement included to advise applicants not to raise any changes to terms and conditions as part of their tender submission.
iii. the Council's terms and conditions of contract.
iv. the evaluation criteria including attached weightings.
v. the Form of Tender.
vi. pricing mechanism and instructions for completion.
vii. whether the Council is of the view that TUPE may apply and/or whether this is a matter for the contractor to assess (internal advice should be sought prior to tender).
viii. If personal data being handled as part of the contract that it will be processed in accordance with legal requirements including the General Data Protection Regulation (GDPR) and Data Protection Act.
ix. form and content of method statements to be provided.
x. rules for submitting of tenders.
xi. any further information, which will inform or assist Tenderer(s) in preparing tenders.

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

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

16.6.3 In respect of proposed procurements with an estimated value in excess £75,000 for Goods, Services and Works, the Service Areas must use the Pre-Tender Report Form to obtain the prior approval from the Procurement Team to issue the invitation to tender documentation, including specification, evaluation criteria and weightings.

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

16.6.5 In developing tender documentation, Service Areas need to consider whether there may be any potential modifications needed and if so, how potential modifications will be made during the operation of the contract and where applicable, provide details for those in the tender documentation.

16.6.6 The prior consent of the Strategic Procurement Lead must be obtained to the use of an alternative Procurement Procedure or reliance being placed on Rule 17 (Direct Awards and Exceptions). Where reliance is placed on "Exceptions" a Notice must be published on Sell2Wales to comply with the Procurement Act.

16.6.7 The procurement of any goods, services or works, including an extension or modification (formerly known as a *variation*) to a contract requires appropriate levels of authority before it can commence and prior to contract award.

16.7 Tender Route 3 – Goods, Services and Works – between the value of £75,000 (Excluding VAT) to Procurement Act Threshold (Including VAT)

16.7.1 For procurements with an estimated value of £75,000 up to the Procurement Act Thresholds amounts, then:

i. The Service Area must notify the Procurement Team as soon as possible of their requirement and ensure the tender is on the Contract Forward Plan, failure to do this may result in delays in issuing the tender. Where practical, at least 6 months in advance of the need.
ii. All requirements must be managed on the Council's electronic procurement system or on Sell2Wales the national procurement website and tenders invited using a Procurement Act procedure.
iii. The Council's Pre-Tender Report Form and Contract Award Form must be used to record the procurement actions taken for goods, services and works over £75,000.

16.7.2 As a minimum the Service Area must seek:

i) At least **four** written tenders from suitable providers and these should include providers who are either micro, small and medium-sized enterprises (SMEs), or voluntary, community and social enterprises (VCSEs).

ii) Where the market allows at least **two** tenders should be sought from local suppliers, and these should include providers who are either micro, small and medium-sized enterprises (SMEs), or voluntary, community and social enterprises (VCSEs).

16.7.2 We encourage Service Areas to advertise opportunities through Sell2Wales and seek advice from the Strategic Procurement Lead. If the Tender is to be openly advertised, then a Tender Notice will be issued via the Sell2Wales system, and the requirements of the Procurement Act complied with.

16.8 Tender Route 4 – Goods, Services and Works above the Procurement Act Thresholds.

16.8.1 For all procurements above Procurement Act Threshold:

i. The Service Area must notify the Procurement Team as soon as possible of their requirement and ensure the tender is on the Contract Forward Plan, failure to do this is likely to result in delays in issuing the tender. Where practical, at least 12-18 months in advance of the need.
ii. the advice of the Strategic Procurement Lead and, unless using an approved Framework Agreement, the Chief Officer Law & Governance (or their nominated officers) must be sought at the outset to determine the Procurement Procedure to be followed and at all subsequent stages of the procurement process.

iii. the procurement process will be conducted in accordance with the advice received and where applicable will in any event be in accordance with the requirements of the Procurement Act and *Regulations* for the time being in force.

iv. All requirements must be managed and advertised on the Council's electronic procurement system and on Sell2Wales the national procurement website and tenders invited using a Procurement Act procedure. This will ensure that the required *Notices* as set out in Appendix 5 are published as required.

v. In accordance with section 16 of the Procurement Act 2023 Preliminary Market Engagement is encouraged and

vi. the requirements of such Procurement Act and Regulations will take precedence over any requirements set out in these Rules.

17. Direct Awards and Exceptions

17.1 In exceptional circumstances and subject to the following requirements the rules set out in sections 13 shall not apply and *reduced number of tenders* or a *single tender* may be invited.

i. This provision (Direct Awards and Exceptions) does not apply to procurements above the Procurement Act Thresholds, in which case compliance with the provisions of the PA 23 and Regulations is mandatory.

ii. Before proceeding to let any contract the Service Area must state in the Quotation Record Form, Pre-Tender Report and Contract Award Report the reasons why a Direct Award or reduced number of tenders is proposed, why the proposed way forward (reduced number of tenders or Direct Award) represents value for money and is in the Council's best interest.

iii. Further information on the justification for direct awards can be obtained within Schedule 5 of the PA2023.The Strategic Procurement Lead will issue Guidance on the types of scenarios where a direct award could be made which could include the following:

- The public contract concerns the creation or acquisition of a unique work of art or artistic performance.
- Due to an absence of competition for technical reasons, only a particular supplier can supply the goods, services or works required
- The public contract concerns the supply of goods, services or works by the existing supplier which are intended as an extension to, or partial replacement of, existing goods, services or works in circumstances where, (a)a change in supplier would result in the contracting authority receiving goods, services or works that are different from, or incompatible with, the existing goods, services or works, and (b)the difference or incompatibility would result in disproportionate technical difficulties in operation or maintenance.
- The goods, services or works to be supplied under the public contract are strictly necessary for reasons of extreme and unavoidable urgency, and as a result the public contract cannot be awarded on the basis of a competitive tendering procedure. Urgency is unavoidable if it, is not attributable to any act or omission of the Council, and could not have been foreseen by the Council.

iv. Before proceeding with a reduced number of tenders or a Direct Award, the consent of the Strategic Procurement Lead must be obtained on a Pre-Tender Report Form. The Strategic Procurement Lead reserves the right not to sign and approve any request for a Direct Award or reduced number of tenderers, which in their reasonable opinion do not

warrant approval, in which case the proposed procurement should not proceed. It must be appreciated that the Strategic Procurement Lead cannot authorise any direct awards or exceptions, (and Council Service Areas should not proceed with any proposed procurement) that would be in breach of the requirements of the Regulations or any other Legal Requirement. The Strategic Procurement Lead will set out their justification for not approving requests on the Quotation Record Form, Pre-Tender Report and Contract Award Form, in which case the procurement will not have approval to proceed. It should also be noted that there will also be no approval to proceed with award of the contract and accordingly Legal Services will be unable to complete any contract in these circumstances.

v. Where a direct award or exception has been agreed by the Strategic Procurement Lead , the following approval will need to be obtained.
    - Value up to £75,000 – Head of Service
    - Excess of £75,000 – The responsible Chief Officer, S151 Officer and Cabinet Member.

All approved exceptions to these CPR's will be reported to the Councils Governance & Audit Committee on at least a 6 monthly basis.

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

18. Electronic Tendering

18.1 All procurement with a value of £25,000 or above (including requests for quotations) **must be conducted using Sell2Wales** or the Council's approved electronic system. It is the responsibility of the Senior Officer of each service to ensure that their staff comply with this rule.

18.2 Any officer required to use the Council's electronic procurement system must notify the system administrator so that they can be registered with the appropriate and required levels of access. Similarly, it is the responsibility of the relevant Senior Officer to notify the Councils Strategic Procurement Lead of changes to any officer's eligibility to use the system (e.g. staff leaving or disciplinary measures) at the earliest opportunity so that the user access can be deactivated.

18.3 Where rule 15.1 applies, all requests for quotations and invitations to tender, along with all associated procurement documentation, must be issued via Sell2Wales and/or the Council's approved electronic procurement system.

18.4 Where rule 15.1 applies, all quotes and tender submissions from bidding organisations, including all supporting documentation, must be received via Sell2Wales or the Council's approved electronic procurement system.

19. Conditions of Participation

19.1 The Council should also consider whether supplier is an excluded /excludable supplier as defined by Schedule 6 of the Procurement Act

19.2 The Council may set conditions of participation which a supplier must satisfy in order to be awarded a public contract.

19.3 The Conditions must only relate to the supplier's:

i. legal and financial capacity to perform the contract, or
ii. technical ability to perform the contract, including any necessary Health and Safety and Environmental management measures

19.4 When setting conditions of participation, Officers must ensure they are a proportionate means of assessing the supplier's relevant capacity or ability, having regard to the nature, complexity and cost of the public contract.

19.5 The Council should also consider whether the supplier is an excluded /excludable supplier as defined by Schedule 6 of the Procurement Act

19.6 For Below Threshold contracts the Council has a duty to consider small and medium-sized enterprises and should provide suitable rationale for including conditions of participation.

20. Receipt, Custody and Opening of Electronic Tenders

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

21. Late Tenders

21.1 Tenders received after the date and time for receipt of tenders will only be opened and considered with the agreement of Strategic Procurement Lead and Chief Officer Law & Governance (or their nominated officers) if this was the result of an identified system wide failure of the Council's e-procurement system (and not the bidders' ICT system) and notification has been received by the Council in advance of the tender deadline.

22. Tender Evaluation

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

22.2 The Strategic Procurement Lead will issue evaluation guidance to ensure each team member understands their role and responsibility during the evaluation.

22.3 Where the Contract estimated value exceeds the Procurement Act Threshold except as otherwise stated in7.2), the S151 officer shall be consulted and, where they consider it appropriate, their representatives shall be included on the Evaluation Team. Consideration should also be given to including service users on the Evaluation Team.

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

22 .5 As a general rule, no adjustment or qualification to any quote or tender(s) submitted is permitted. Errors found during the examination of quotes or tenders shall be dealt with in one of the following ways:

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

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

23. Post Tender Clarification

23.1 The Senior Officer, following consultation with the Strategic Procurement Lead and in accordance with any requirements set by the Strategic Procurement Lead (regarding records to be kept) may seek clarification from Tenderers in respect of their tenders provided this does not involve discrimination. Clarifications should be undertaken in the Council's electronic procurement system and a record of all clarifications needs to be maintained within the system including minutes of any clarification interviews. Legal advice should be sought as required.

23.2 At all times during any clarification process the Council shall consider and comply with the principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, principles that shall apply to all the Council's Procurements.

24. Standstill, Awarding Contracts and Letters of Intent

24.1 A decision to award a Contract may only be made by:

i. Subject to Clause 24.2 an officer with the requisite delegated authority to award contracts in accordance with the Council's Scheme of Delegations or
ii. Otherwise pursuant to a decision of the Council, one of its Committees or Cabinet.

24.2 For all Procurements valued at above £75,000, the decision to award a Contract shall be made by the relevant Head of Service using the Council's pro forma Contract Award report unless the decision is to be made by a Chief Officer or the Cabinet, in which case the Council's standard reporting forms for such decisions shall be used. The Senior Officer must

ensure, prior to seeking such a decision, that sufficient funds are in place to meet all contract payments and if any funding is being obtained from third parties that any conditions attaching to such funding have been complied with.

24.3 A Contract shall only be awarded using the pre-determined tender evaluation criteria and weightings to the most advantageous tender. When a decision is subject to the Council's 'Call in Procedure' (See the Council's Scrutiny Procedure Rules), any decision will be subject to that call in period and the decision to award the contract should not be acted upon until the call in period has expired.

24.4 Before entering into a public contract the Council must publish a contract award notice. Before publishing a contract award notice, the Council must provide an assessment summary to each supplier that submitted an assessed tender. The assessment summary must provide information about the Council's assessment of the tender and if different, the *most advantageous tender* submitted in respect of the contract.

24.5 The Council may not enter into a public contract before the end of the mandatory or voluntary eight working day standstill period, beginning on the day that the contract award notice is published.

24.6 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Strategic Procurement Lead , taking into account the requirements of any legislation relating to the disclosure of information.

24.7 A letter of intent is not an appropriate substitute for a formal contract but in exceptional circumstances can be issued as an interim measure until a formal contract has been signed. Letters of intent shall only be used with the prior agreement of, and in a form approved by, the Chief Officer Law & Governance (or their nominated officers). It should be noted that letters of intent can be legally binding agreement and accordingly must refer to the relevant contract documents as a minimum.

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

25. Placing of Orders/Completion of Contracts and Retention of Contract Documentation

25.1 Frameworks - Orders placed under Framework Agreements must be placed using the order form prescribed in the Framework Agreement and on the terms and conditions set out in the Framework Agreement. (See Rule11.5)

25.2 For all other contracts with a value of up to £75,000, orders should be placed using the Council's electronic Purchase to Pay system (P2P) unless the Strategic Procurement Lead otherwise agrees or there is a more applicable form of contract required. The P2P system generates purchase orders, which incorporate by reference the Council's standard terms and conditions of contract.

25.3 For Contracts with a value above £75,000 Service Areas must use the appropriate standard form of contract issued or approved for use by the Chief Officer Law & Governance (or their nominated officers).

25.4 It is essential that the Goods, Services or Works are procured on the Council's standard terms and conditions and not those submitted by the Contractor. A contractor's terms and conditions should only be used following consultation with the Chief Officer Law & Governance or their nominated officers, and the Strategic Procurement Lead.

25.5 Contract documents, along with all associated related documents, must be saved to the Council's electronic procurement system and retained for a minimum of six years from the contract end date and, if the contract is concluded under seal, for a period of twelve years from the contract end date. Where the contract was funded, or partly funded, through some form of external grant then further grant specific conditions, as regard to retention of documents may apply and must be adhered to.

25.6 As minimum contracts must set out:

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

26. Execution (Completion/Signing/Sealing) of Contracts

26.1 Contracts with a value in excess of £75,000 may only be signed on behalf of the Council by a Senior Officer.

26.2 For contracts below the threshold set out in rule 26.1 they can be signed by an Authorised Signatory. However, regardless of who signs there should be consideration in terms of separation of duties and the person who signs the contract on behalf of the Council should not be the same officer who led the offer to market

26.3 The Council's seal may only be affixed to a contract in the presence of the Chief Officer Law & Governance or their nominated officers.

27. After Award, Standstill Periods and Notices

27.1 Contract Award Notices and Assessment Summaries

27.1.1 Before entering into a public contract, the Council must publish a contract award notice setting out that the Council intends to enter into a contract.
Before publishing a contract award notice in respect of a contract awarded under section 19 (award following competitive tendering procedure), a contracting authority must provide an assessment summary to each supplier that submitted an assessed tender. An "assessment summary" means, in relation to an assessed tender, not including any tender disregarded in the assessment of tenders, information about the contracting authority's assessment of:

i. The tender, and
ii. If different, the most advantageous tender submitted in respect of the contract.

27.2 Standstill

27.2.1 For contracts above Procurement Act Thresholds the Council may not enter into a public contract before:

i. The end of the mandatory standstill period, or
ii. If later, the end of another standstill period provided for in the contract award notice.

27.2.2 The "mandatory standstill period" is the period of eight working days beginning with the day on which a contract award notice is published in respect of the contract. These requirements do not apply to contracts awarded:

i. Under section 41 of the Procurement Act where a direct award has been made due to extreme and unavoidable urgency or to protect life etc.
ii. Awarded in accordance with a framework.
iii. Awarded by reference to a dynamic market.
iv. A light touch contract.

27.2.3 If a contract is of a kind described 25.3, a contracting authority may not enter into the contract before the end of any standstill period (a "voluntary standstill period") provided for in the contract award notice. A voluntary standstill period may not be less than a period of eight working days beginning with the day on which the contract award notice is published.

27.2.4 For any other notices, please see noticing regime set out in Appendix 5.

27.3 Key performance indicators

27.3.1 Before entering into a public contract with an estimated contract value of more than £5 million, the Council must set at least three key performance indicators in respect of the contract. This does not apply if the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to key performance indicators.

27.3.2 A "key performance indicator" is a factor or measure against which a supplier's performance of a contract can be assessed during the life-cycle of the contract. The Council must publish any key performance indicators.

27.3.3 This section does not apply in relation to a public contract that is:

i. a framework,
ii. a concession contract, or
iii. a light touch contract.

27.3.4 Section 71 of the Procurement Act sets out the provisions about assessing performance against, and publishing information about, key performance indicators.

27.3.5 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Strategic Procurement Lead, taking into account the requirements of any legislation relating to the disclosure of information.

28. Bonds, Securities, Liquidated and other Damages

28.1 The Senior Officer (of the Service Area requiring the procurement) is responsible for ensuring that a risk assessment is undertaken, to determine if a performance bond or performance guarantee is required. If appropriate, the advice of the Council's Finance officers should be sought.

28.2 Consideration should also be given to the appropriateness of including in the contract a provision for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

28.3 The above should be considered prior to going out to tender and if it may be required, provision included in the Tender.

29. Parent Company Guarantee

29.1 The Senior Officer (of the Service Area requiring the procurement) is responsible for seeking a Parent Company Guarantee where a contractor is a subsidiary of a parent company and:

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

29.2 The above should be considered prior to going out to tender and if it may be required, provision included in the Tender.

30. Records

30.1 To ensure appropriate records are maintained the Council's electronic procurement system or Sell2Wales must be used for all contracts above £25,000.

30.2 For all Procurements below £25,000 where Sell2Wales or the Council's electronic procurement system is not used, Service Areas must keep appropriate records. As a minimum the records kept must detail:

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

30.3 The Procurement Team shall maintain a Corporate Contract Register, which will record details of all contracts /contracts (above £25,000) awarded by the Council and the Procurement Act requires this Register to be published. Service Areas must use Sell2Wales for all procurements over £25,000 to enable the Council to meet its legal responsibilities.

31. Contract Management

31.1 On the Contract Award Report Form, the Senior Officer (of the Service Area concerned) must identify and nominate an individual (referred to as the 'Contract Manager'), who will manage the day-to-day aspects of the Contract for its term (See rule 34 re Contract End).

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

i. supplier performance
ii. compliance with quality, specification and contract terms
iii. compliance with cost
iv. user experience
v. risk management
vi. safeguarding
vii. delivery of community well-being benefits
viii. Any other performance measure as prescribed by the Strategic Procurement Lead

31.3 For all contracts where there are key performance indicators the Contract Manager must on an annual basis assess performance against the KPIs and publish this information. This must also be done upon termination of the contracts.

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

32. Modifying a Public Contract (formerly Contract Variation) – basic principles

32.1 Depending upon the nature of the modification proposed, the terms of the contract concerned, and scope of the original procurement exercise undertaken, contract modification have the potential to amount to a new contract and/or procurement, and thus can constitute a single tender award without advertisement and require a new procurement process.

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

32.3 The advice of the Strategic Procurement Lead and the Chief Officer Law & Governance or their nominated officers must be obtained as to whether a Modification is permissible.

32.4 Contract and framework agreements may be varied without a new procurement procedure where it is a ***Permitted Modification*** as set out in 32.10.

32.5 In the circumstances detailed in CPR32.10 (permitted modifications) the decision to authorise or not a proposed contract modification shall be made, as appropriate, by Cabinet or the officers listed below, provided that the modification cost can be met within budget and complies with all Legal Requirements. Decisions to authorise modifications shall be recorded in writing and at Senior Officer level and above, and as appropriate, a Cabinet report must be prepared. All modifications shall be entered on the Council's electronic procurement system and the Contracts Register, and an amendment made to the original Purchase Order and/or Contract;

Head of Service - Modification (or aggregate value of all modifications made to the Contract) up to £75,000

Relevant Chief Officer (in agreement with the Council's S151 Officer) - Modification (or aggregate value of all modification made to the Contract) over £75,000 up to £1million

Relevant Chief Officer (in agreement with the Council's S151 Officer and Cabinet Member) - Modification (or aggregate value of all modifications made to the Contract) over £1million up to £5 million

32.6 CPR 32.5 shall not apply to modifications to Works contracts provided the modifications are in line with the Procurement Act, these CPRs and a relevant officer has been authorised to approve such modifications in the original award report. Such modifications shall also only be permissible if they are within the approved budget for the contract. Any such modification shall be recorded the Contract Modification Form and the contract signed by the relevant officer.

32.7 As soon as it becomes known or apparent (whichever is the earlier) to the Contract Manager, that the total cost of a contract, will or is likely to exceed the contract sum, they must inform their service finance manager for financial monitoring purposes. The relevant Finance Manager will advise the Senior Officer and or Contract Manager of any further financial requirements that need to be complied with in order to inform future budget monitoring reports or any further financial governance decisions that need to be taken. In most circumstances a brief report must be prepared, which must address the reasons for increased cost, an analysis of options considered to reduce cost to budget, and the funding options considered to meet any budget shortfall, together with an indication of how any additional costs will be paid for. This brief report will ultimately feed into future budget monitoring or budget preparation reports. This report needs to consider any legal implications and be signed off by the Senior Officer and sent to the finance manager acting on behalf of the Section 151 Officer.

32.8 Any modification to the original Contract must be in the best interests of the Council and continued delivery of services. Section 74 of the Procurement Act sets out when a Contract may be modified. The Council may modify a public contract or a contract that, as a result of the modification, will become a public contract (a "convertible contract") if the modification is:

i. is a permitted modification under Schedule 8 of the Procurement Act – see 30.8,
ii. is not a substantial modification – see 30.09, or
iii. is a below-threshold modification – see 30.10.

32.9 A contracting authority may also modify a public contract or a convertible contract if the contract is a light touch contract.

32.10 **Schedule 8** of the Procurement Act sets out the conditions for a permitted modification and should be referenced for the detail but in summary the key area where a modification is allowed:

i. **Provided for in the Contract.**
ii. **Urgency and the protection of life, etc**
iii. **Unforeseeable circumstances** where the modification would not increase the estimated value of the contract by more than 50 per cent.

iv. **Materialisation of a known risk**
v. **Additional goods, services or works -** using a different supplier would result in the supply of goods, services or works that are different from, or incompatible with, those already provided for in the contract. The modification must not increase the estimated value of the contract by more than 50 per cent.
vi. **Transfer on corporate restructuring -** A *novation* or assignment of a public contract to a supplier that is not an *excluded supplier* is a permitted modification if it is required following a corporate restructuring or similar circumstance.

32.11 A substantial modification is a modification which would**:**

i. increase or decrease the term of the contract by more than 10 per cent of the maximum term provided for on award,
ii. materially change the scope of the contract, or
iii. materially change the economic balance of the contract in favour of the supplier.

32.12. Below threshold Modifications

32.12.1 A modification is a **below-threshold modification if:**

i. The modification would not itself increase or decrease the estimated value of the contract by more than—
    i. In the case of a contract for goods or services, 10 per cent.
    ii. In the case of a contract for works, 15 per cent.
ii. The aggregated value of below-threshold modifications would be less than the threshold amount for the type of contract.
iii. The modification would not materially change the scope of the contract, and
iv. The modification is not listed within Schedule 8 or defined as a substantial modification.

32.13. Contract change notices

32.13.1 Before modifying a public contract or a convertible contract (see section 74(1)), the Council must publish a contract change notice. This does not apply if:

i. The modification increases or decreases the estimated value of the contract by:
    i. in the case of a contract for goods or services, 10 per cent or less,
    ii. in the case of a contract for works, 15 per cent or less, or

ii. The modification increases or decreases the term of the contract by 10 per cent or less of the maximum term provided for on award, unless the modification is a novation or assignment on corporate restructuring.

32.13.2 A “contract change notice” is a notice setting out that the Council intends to modify the contract. It is not required for ‘light touch’ contracts.

33. Assignments and Novations

33.1 Any proposals to assign or novate a contract must be referred to the Chief Officer Law & Governance or their nominated officers at the earliest possible instance for advice.

34. Termination of Contract

34.1 For any Contract exceeding £25,000 in value early termination shall be approved by the appropriate decision maker and for any contract over £75,000 the advice of the Chief Officer Law & Governance or their nominated officers and Strategic Procurement Lead must be first sought. Contracts of a lesser value may be terminated early (prior to the expiry date) by agreement with the Contractor or in accordance with the termination provisions set out in the Contract. Legal advice should be sought as appropriate. The Senior Officer must inform the Strategic Procurement Lead when any Contract is terminated early and the reasons for the same.

34.2 For any Contract exceeding £5,000,000 in value, early termination shall be approved by Cabinet unless the matter relates to a Council function in which case matters shall be reported to Council.

34.3 If required by the Procurement Act then a contract termination notice will need to be published.

35. Payments on Account and Contract Payments

35.1 Payments on account should only be made upon certification by the person designated under the Contract for that purpose ('the appropriate person'). The appropriate person will keep detailed records of any such payment, which shall be open to inspection by the Strategic Procurement Lead and S151 officer.

35.2 The Senior Officer of the relevant service area shall make arrangements to retain adequate details relating to all contract payments made to allow for a proper audit of all such payments. All payments made must comply with the process as set out in Financial Procedure Rules.

36. Contract End

36 .1 For contracts with a duration of more than 12 months, then at an appropriate point but generally at least six months prior to the end of the contract term, the Contract Manager should review the Contractor's performance and consider what, if any, replacement arrangements are required.

36.2 Some contracts may require active steps to be taken to end the contract (e.g. serving of notices) and or steps to be taken to decommission the contract arrangements. The Senior Officer of the Service Area concerned is responsible for ensuring that where appropriate, matters are diarised and appropriate steps taken to bring contracts to an end and sufficient time allowed to put in place any replacement arrangements that may be required.

37. Transitional Arrangements

37.1 For any procurements commenced before the Procurement Act 2023 comes into force, further advice should be sought from the Strategic Procurement Lead and Chief Officer Law & Governance (or their nominated officers).

Appendix 1: Procurement Routes and Procedures

Where the Council carries out a procurement, which is fully regulated by the Procurement Act then the Council must use one of the following procurement procedures:

a**. The Open Procedure** - A single stage tendering procedure without restriction on who can submit tenders (Open procedure).
b. **Competitive Flexible Procedure** - such other competitive tendering procedure as the council considers appropriate for the purpose of awarding the public contract
c. **Direct Award** – where the justification applies [in accordance with schedule 5 of the Procurement Act] a contract may be awarded directly to a Supplier without competition
d. **Frameworks** – a contract may be awarded in accordance with a framework. The framework call-off procedure must be followed.

2. Appendix 2 - Definitions and Interpretations

In these Rules the following definitions apply:

Authorised Signatory means officers that have been approved and named within the Council's Authorised Signatory List to advertise procurements on behalf of the Council, for which the coordination is the responsibility of the Strategic Procurement Lead.

Below threshold contract means a contract for the supply, for pecuniary interest, of goods, services or works to a contracting authority; a framework; or a concession contract, that has an estimated value of less than the 'threshold amount' for the type of contract (see Procurement Act Thresholds below)

Call off contract means a contract entered into following a procurement under a Framework Agreement.

Community Well-being Benefits means the delivery of social, economic and environmental benefit, through effective application of Community Benefits clauses in public contracts. The Community Well-being Benefits requirements should be used within tenders above £250,000 to capture each tenderers Community Well-being offer.

Concession Contracts means a contract between the Council and Contractor, for the supply, for pecuniary interest, of works or services to a contracting authority i.e. council where—
(a)at least part of the consideration for that supply is a right for the supplier/contractor to exploit the works or services, and
(b)under the contract the supplier/contractor is exposed to a real *operating risk*.

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

Contract Manager means an officer responsible for the monitoring and management of a contract.

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

Contracts Register means the register maintained (in such form as determine from time to time) by the Strategic Procurement Lead, which lists all contracts (except arrangements in respect of Land) concluded by the Council with a value in excess of £25,000 inc VAT. (See clause 30.3 of the CPR).

"Covered procurement" under the Procurement Act means the award, entry into and management of a public contract.

CPRs acronym for Contract Procedure Rules as may be amended from time to time.

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

Excluded Supplier –

A supplier is an “excluded supplier” if:
(a)the Council considers that:
(i) a mandatory exclusion ground (see Schedule 6 of PA 2023) applies to the supplier or an associated person, and
(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or
(b)the supplier or an associated person is on the debarment list by virtue of a mandatory exclusion ground.

Excludable supplier –
A supplier is n “excludable supplier” if:
(a) the Council considers that:
(i) a discretionary exclusion ground (see Schedule 7 of PA 23) applies to the supplier or an associated person, and
(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or
(b) the supplier or an associated person is on the debarment list by virtue of a discretionary exclusion ground.

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

Goods covers all products, goods, supplies, substances and materials that the Council purchases, hires or otherwise obtains.

Grant(s) a sum of money paid or to be paid by the Council to a third party, and in respect of which the Council does not require the grantee to provide the Council with any Services, or Goods or carry out any Works for the Council’s direct benefit. The Grant(s) may be conditional (i.e. obligation to spend the Grant(s) in a particular manner, to account for that spend and repay the Grant(s) if the Grant(s) conditions are breached).

Strategic Procurement Lead means the Council’s lead Procurement officer responsible for strategic procurement, managing the Council’s relationship with the **Procurement Team**, the delivery of the strategic procurement objectives and ensuring compliance with procurement legislation.

Legal Requirements means all English and Welsh law and associated guidance that governs and or relates to the procurement of goods, services and works and the letting of concession contracts.

Light Touch Contracts - Light touch contracts are contracts for certain social, health, education and other public services and are subject to more flexible procurement rules. One thing these services have in common is that they are services provided directly to individuals or groups of people and therefore warrant special treatment and greater flexibility.

Modification (formerly known as a variation)- means any alteration to a Contract, including additions, omissions, substitutions, alterations, or changes of any other nature.

Monitoring Officer. The officer designated by the Council as its Statutory Monitoring Officer as required under Section 5 of the Local Government and Housing Act 1989.

Most Advantageous Tender (MAT). A tender evaluated on the basis of qualitative,

technical and sustainable aspects of the tender submission as well as price when reaching an award decision.

Notices means the notices referred to in the PA 2023 and attached in Appendix 5

Novation - the process of substituting an existing contract with a replacement contract, or substitution of a new party for a previous party in a contract.

An "**operating risk**" (see concession contract) is a risk that the supplier/contractor will not be able to recover its costs in connection with the supply and operation of the works or services, where the factors giving rise to that risk—
(a)are reasonably foreseeable at the time of award, and
(b)arise from matters outside the control of the contracting authority/council and the supplier/contractor.

Permitted Modification means a modification to a contract which is permitted either under the Procurement Act or as set out in rule 30.

Procurement. Means, for the purposes of these rules, "the process whereby the Council meets it need for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also providing opportunity for how this money can be spent in a way that delivers wider economic, social, environmental and cultural well-being both locally and within Wales. but also to society and the economy, whilst minimising damage to the environment". It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts. "Procurement" under the Procurement Act 2023 (PA 23) means the award of, entry into and management of a contract.

Procurement Act means the Procurement Act 2023 (PA 23) as amended from time to time

Procurement Act Thresholds are prescribed in Schedule 1 (Threshold Amounts) .
The current thresholds, inclusive of VAT are:

- Services £214,904
- Light Touch Regime for Services £663,540
- Supplies £214,904
- Works £5,372,609
- Concession contracts £5,372,609

The thresholds change every two years and are due to change again on 1st January 2026

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

Procurement Team – means officers working for, or seconded into, the Council's commissioning and procurement function which may include officers of any other Local Authority who assist the Council in that regard.

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

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

- **The open procedure**
- **Competitive flexible procedure**

See Appendix 1 for an overview of the procurement procedures available. The appropriate procedure to use must be considered on a case-by-case basis, as it will depend on factors that are specific to each procurement.

Purchase Order means an electronic order raised and authorised via the Council's e-procurement system P2P system, or such other electronic system in force for the time being

Purchase-to-Pay (P2P) means the Council's electronic method of processing payments.

Quotation means a quotation of price and any other relevant detail submitted to the Council upon the Council's request, without the formal issue of an invitation to tender.

Regulated below threshold procurement means a below threshold contract that is not: a. an exempted contract as defined in Schedule 2 of the Procurement Act; b. a concession contract; or c. a utilities contract.

Regulations. means The Procurement (Wales) Regulations 2024, as amended from time to time.
Rules means these Contract Procedure Rules.

Section 151 Officer means the officer designated by the Council as its Statutory Section 151 Officer as required under Section 151 of the Local Government Act 1972
Senior Officer means any officer who is at Head of Service level or above or, if such is the case, named in a decision of the Cabinet, Council or one of its Committees, as having delegated powers and duties in respect of the procurement concerned."
Services includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency staff and all those activities constituting Services for the purposes of the PA 23 or Regulations.

Single Tender and Reduced Number of Tenders means where these Rules allow (and for good reason and subject to a proper business case), the Council limits the minimum number of Tenderers to be invited to tender to one or a lesser number than would otherwise normally be required by these Rules given the estimated value of the Contract concerned.

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

Request for Quotation (RFQ). Means a request to provide a price and any other relevant detail, without the formal issue of an invitation to tender.

Tenderer(s) individual, individuals, partnerships, companies or other bodies invited to submit quotes/tenders/prices for providing the Council with Services, supplying Goods or carrying out Works.

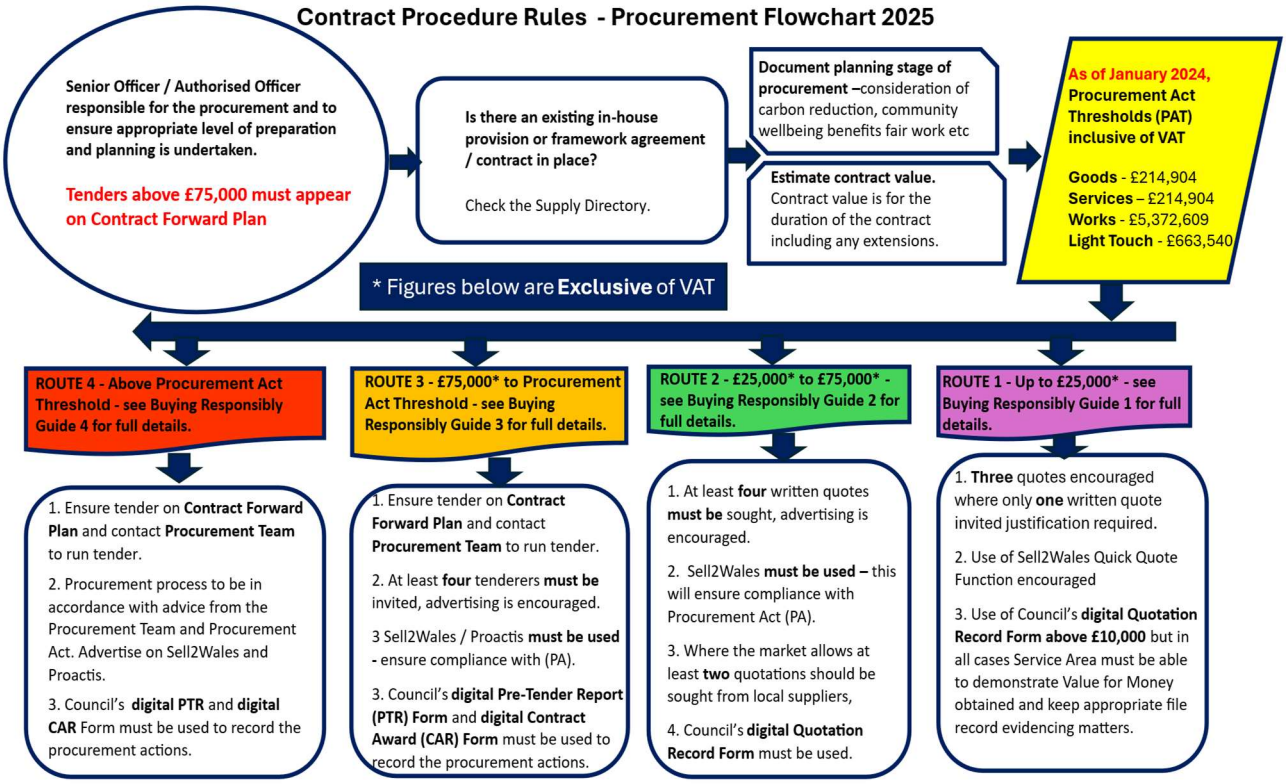
Value for Money should be considered as the optimum combination of whole-of-life costs in terms of not only generating efficiency savings and good quality outcomes for the

organisation, but also benefit to society, the economy, and the environment, both now and in the future.
Variant Bid means an offer/bid, which contains variants on the requirements specified by the Council in its procurement documentation.

Variation and Variations means any alteration to a Contract, including additions, omissions, substitutions, alterations, or changes of any other nature.

Works includes all works of new construction and repairs in respect of physical assets (buildings, roads, etc.) including all those activities constituting Works for the purposes of the Procurement Act 2023.

3. Appendix 3 – Procurement Process Flow Chart



4. Appendix 4 – Governance and Procedures Overview

This chart provides a high-level overview of the procurement procedures and governance requirements for contracts let under the Procurement Act 2023 (PA2023). It relates to the procurement of goods, services and works both through Request for Quotation (RFQ), Tender or Call-Off from a Framework. Please note internal Procurement Team.

Value (*excluding VAT)	Route	Recommended	Minimum Requirements (where call-off from FW comply with minimum requirements)	Notice Publication Requirement (PA2023)	System	Governance requirements in addition to Authorities own decision-making requirements	Exceptions to minimum requirements including Direct Awards	Resourced and Managed by	Modifications	Contract Register	Terms and Conditions (where call-off from FW, always use FW T&C)
£0-£25K*	1 – Written Quote	3 written quotes encouraged through S2W / Email.	1 written quotation via email where you can demonstrate value for money	None	Email or S2W	QRF completed and retained by Service Area.	Not applicable	Managed by Service Area (through S2W where applicable) in accordance with procurement guidance	PO / contract amendment	None PO record	Standard or Framework
£25K-£75K*	2 – S2W RFQ	Advertise opportunity through S2W	Invite 4 quotes through S2W	BTTN where advertised CDN for all awards including without competition	S2W	QRF completed and retained by Service Area	Managed within Service Area – reasons recorded on QRF and Procurement approval required	Managed through S2W by Service Area in accordance with procurement guidance	PO / contract amendment	S2W CDN created by Service Area	Standard or Framework
£75K*-PA2023 thresholds	3 – Below Threshold Tender	Advertise through S2W	Invite 4 tenders through S2W		Proactis and S2W	Record on Contract Forward Plan PTR / CAR to record procurement route agreed with Ardal Procurement and Service Area approval Legal / Finance advice as required.	PTR to set out justification Procurement / Legal / Finance advice as required	Service Area lead with Ardal Procurement support Proactis Sourcing / Sell2Wales project created and managed by Ardal Procurement	CMF to record procurement consultation and Service Area approval Legal / Finance advice as required	Proactis Contract Record created by Ardal Procurement	Use standard or Framework or agree with Legal Services
PA2023 thresholds and above	4 – Above Threshold Tender	Preliminary Market Engagement	Advertise through S2W	Various in accordance with PA2023	Proactis and S2W						Agree with Legal Services or Framework

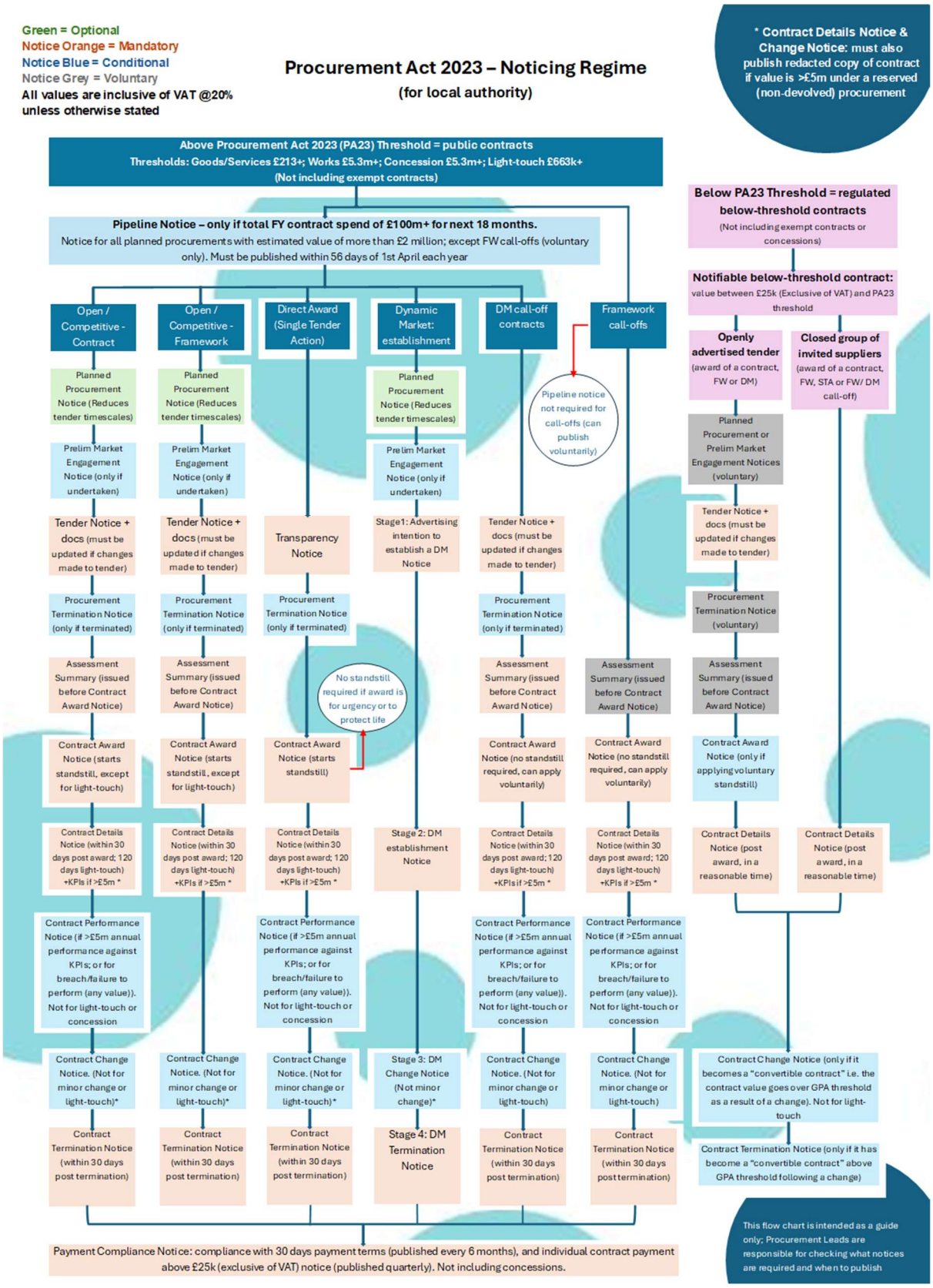
BTTN	Below Threshold Tender Notice
CDN	Contract Details Notice
S2W	Sell2Wales

QRF	Quotation Record Form
PTR	Pre-Tender Report
CAR	Contract Award Report
CMF	Contract Modification Form

PA2023 Thresholds incl. VAT	
Goods and Services	£214,904
Works	£5,372,609
Light Touch	£663,540

Please note in addition to above, for all contracts a purchase order (PO) will be required to manage payments to suppliers and contractors

5. Appendix 5 – Noticing Regime



36 PLANNING CODE OF PRACTICE

1.0 Introduction

1.1 This Code of Practice is intended to guide the procedures by which Councillors ('Members') and Officers of the Council deal with planning matters and to set standards of probity and conduct expected of them. Monmouthshire County Council will seek to adopt best practice in its administration of the planning process. It recognises that the public expects the Council to subscribe to the principles of fairness, consistency and objectivity. Members of the Planning Committee have a key role in ensuring that these principles are followed and the Council has stated that the Planning system must be fair and open. Elected Members are critically important in arbitrating between competing arguments.

1.2 The Town and Country Planning system involves the Council taking decisions about private proposals for the development and use of land, but in the public interest. Planning law requires that all planning applications be determined in accordance with the adopted development plan unless material planning considerations indicate otherwise. The Council must also take account of representations made by members of the public, in as far as they relate to material planning considerations.

1.3 As the planning system affects people's lives and private interests it can be very contentious. It is therefore important that members of the public understand the system and has confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety.

1.4 Members and Officers must not only ensure that their conduct accords with the Code of Conduct for Members and professional standards for officers (which cover such matters as declarations of interests, gifts and hospitality), but, when dealing with planning matters, also act in accordance with this Planning Code of Practice.

1.5 A breach of this code, while not usually amounting to a breach of criminal law, may adversely affect the standing and reputation of the Council. It could result in a decision being judicially reviewed and the planning permission being quashed by the Court or in a complaint of maladministration or an allegation of a breach of the Code of Conduct for Members being made to the Public Services Ombudsman for Wales.

1.6 If Members or Officers are in doubt about the application of this Code, they should seek advice from the Council's Monitoring Officer.

2.0 Elected Members

2.1 Planning Committee Members

Planning Committee Members should:

- act fairly and openly and avoid any actions which would give rise to an impression of bias

- avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.

It is a matter for each individual member to decide what constitutes inappropriate contact, however, it is important that any contact is not out of the ordinary and does not give the impression to others that the nature of the contact is inappropriate.

- approach each planning application/issue with an open mind
- not organise support or opposition to a planning application
- carefully weigh up all relevant planning issues before making a decision
- make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. In this respect, while Committee Members have a special duty to their Ward constituents, including those who did not vote for them, their over-riding duty is to the whole community.
- not decide how to vote on applications on the basis of a political 'whip', but on the planning merits of each case. (The view of the Ombudsman is that subjecting a planning decision to the discipline of the political whip could amount to maladministration)
- ensure that the reasons for their decisions are clearly stated
- With the coming into force of section 25 of the Localism Act 2011 if a member does or says anything prior to the planning committee considering the planning application, the member will not be judged to have a closed mind just because of what the member says or does. However, it is essential that the member when attending the planning committee takes into account all relevant planning considerations before making a decision on the planning application.

2.2 Members of the Planning Committee who are also Members of Community/Town Councils

Membership of a Community/Town Council provides an opportunity to listen to local views and does not of itself give rise to a conflict of interest for a Planning Committee Member provided he/she complies with the requirements of this code of practice particularly when considering all the evidence and arguments presented to the Planning Committee.

If the Member is present at a meeting of the Community/Town Council (or one of its committees) when a planning application/matter is under consideration, he/she can play a full part including entering into discussion, asking questions and even voting.

However, regardless of the planning committee member's previous statements and actions, the member must make the decision at planning committee taking into account only relevant material planning considerations.

2.3 Local Ward Members who are not Members of Planning Committee

Where an application is considered by Planning Committee Local Ward Members have the right to attend the Planning Committee (or Delegation Panel and site inspections by committee or panel) to speak on any planning matter (subject to declarations of interest) but may not vote. Such Members do not act in the decision-making role performed by planning committee members.

In appropriate circumstances the local ward member of an adjacent ward may also have the same rights as if they were the local ward member. Where an application has wider implications, the Chairman may exercise discretion and allow other members to address committee.

When attending meetings of the Planning Committee, Councillors who are not members of the Committee shall sit separately from Committee Members - whether or not they intend to address the Committee - and unless invited to do so by the Chairman shall not communicate with the Committee Members during the meeting.

Non-Committee Members can address the Committee after the officer has introduced the application and before any other speakers.

2.4 All Members

Local Ward Members represent their electoral division and the County as a whole. Any member can make representations on planning applications. Where the local ward member in whose division the application is located wishes an application to be considered by Planning Committee or the Delegation Panel they shall inform officers in writing either by letter or email to that effect and give relevant material planning reasons for the request. The views of the Local Ward Member will be included in the application report. "Planning reasons" in relation to the Local Ward Member request means a brief statement outlining the material considerations that justify the application being considered by Planning Committee or the Delegation Panel.

Members shall not pressure Officers to make particular recommendations in reports. This will be a clear breach of the Code of Conduct for Members.

3.0 Officers

3.1 The function of Officers is to carry out the administrative and executive functions in support of the planning process and to give professional advice to the public and Councillors.

3.2 The Chief Officer – Communities & Place makes decisions on the majority of planning applications under officer delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee of the Council. The local member in whose ward the application site is located can ask for any planning application to be referred to the Planning Committee for a decision rather than by officer delegated powers but must give material planning reasons for doing so. Some of the decisions under officer delegated powers are exercised in consultation with the Delegation Panel.

3.3 In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, Planning Officers shall:

- act fairly and openly and avoid any actions which would give rise to an impression of bias
- avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
- carefully weigh up all relevant planning issues
- make decisions purely on planning grounds having regard to the development plan and

other material considerations

- give professional, objective and consistent planning advice
- provide a comprehensive and accurate analysis of the planning issues
- Give a clear recommendation
- carry out the decisions of the Committee
- not be allocated a planning application to case manage if they are considered to have a personal interest in, or have a perceived personal interest in that application
- abide by the Royal Town Planning Institute's Code of Professional Conduct.

3.4 The Council's Legal Officers advise Members on legal and procedural matters. In doing so, they must:

- act fairly and openly and avoid any actions which would give rise to an impression of bias
- avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
- give professional, objective and consistent advice
- carry out the decisions of the Committee so far as they relate to the completion of any legal agreement, institution/defence of proceedings etc.

4.0 Operation of the Delegation System and the Role of the Delegation Panel

4.1 The Council will operate a scheme of delegation of decisions to officers. The scheme defines matters to be determined by officers in consultation with the Delegation Panel (Chairman, Vice Chairman and Opposition Spokesperson of Planning Committee) and those wholly delegated to officers.

4.2 The published lists of applications and application details will not indicate whether an application is to be dealt with under delegated powers as the status of an application may change during the processing stages. In addition, the Chief Officer or Head of Service may specify that an application be put to Committee if it involves controversial issues.

4.3 Panel meetings will be arranged regularly to consider applications that fall to be considered by the Delegation Panel**.** A list of applications or other matters that are proposed to be determined under delegated powers will be presented to the Delegation Panel. This will be known as the Delegation List**.** There should be a minimum of two members present at the Delegation Panel meeting.

4.4 The Delegation List shall specify the detail of the application with the officer recommendation.

4.5 There will be a report prepared on each application or other matter to be determined under officer delegated powers. The report shall include a description of the proposal,

planning history, an adequate summary of objections/representations, relevant policies, a professional appraisal and recommendation. Any comments by Community or Town Councils, which are counter to the recommendation, should be specifically addressed in the professional appraisal, under the title: *'Response to Town/Community Council Representations'.*

The Relevant Officers: Officer recommendations and decisions on delegated decisions can only be authorised by:

- Chief Officer – Communities & Place
- Head of Placemaking, Housing, Highways and Flood
- Head of Planning
- Development Services Manager (DSM)
- Heritage Manager
- Development Management (DM) Area Manager

4.6 The Delegation Panel cannot determine planning matters. Officers consult with the Panel on those matters identified in the Delegation Scheme. The Panel can require that an application or other matter is presented to Planning Committee and will identify any application or other matter that is not to be delegated. The DSM, DM Area Manager or where appropriate, the case officer shall present each application on the agenda to the Panel. The Panel Members may ask the officers questions for clarification. The Panel Members will then come to a view on the proposal and decide whether a) the application can be delegated to officers to determine as per the recommendation, or b) be referred to Planning Committee for determination.

4.7 The meeting outcomes shall be delivered verbally at the meeting and the recording of this saved on the DM Team's IT system.

4.8 Where the Council receives objections and officers recommend approval before an application is determined officers will:

- Provide a copy of the officer evaluation to the Panel members, the local ward member and the local community or town council

- The local member may attend the Panel but should contact the Chair and officers to agree and arrange this

- At the discretion of the Chair, the Panel may agree to meet an applicant and a third party on site where it is considered that certain planning issues warrant more detailed, direct discussion. This will, however, be the exception rather than the norm in that the officer report and presentation should normally be sufficient in setting out the planning issues and in coming to a balanced recommendation. If this circumstance applies, the applicant and third parties will be invited to make their views to the Panel Members separately before the Panel Members debate the proposal and make a decision

4.9 The Delegation Panel will also form a Design Panel to allow members to contribute to the design process of a development at an early stage. The Panel will convene as and when required and will consider applications for 10 or more dwellings or non-residential development of 1,000 sq.m. or more and other applications that may raise important design issues. The applicant/agent will be invited to attend as will any other relevant parties. The local ward member will be invited to attend. The role of the Design Panel

will be to advise on design aspects of the application. The Design Panel will not give any indication on the outcome of the application.

5.0 Discussions Before and During Applications and on Enforcement Matters

5.1 Discussion and negotiation are essential in the planning process as they can bring about improvements that can make an application acceptable or otherwise remedy problems. The Council encourages this discussion and negotiation.

5.2 Such discussions will normally take place at officer level and Members shall, wherever possible, refer requests for such advice to the Officers.

5.3 Where Members feel that a formal meeting would be useful in clarifying the issues, they should never seek to arrange that meeting themselves but should request the Head of Planning or the Development Services Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action. The meeting can be attended by the Delegation Panel depending on the scale and/or implications of the proposal and the Local Ward Member for the ward in which the application site is located (see par.4.8 above). Other Ward Members in the locality may attend where the application has wider implications.

5.4 Members may also attend presentations by applicants or developers but should either have an officer present or have made officers aware of it and officers have discussed it with Members or briefed them on it.

5.5 At all times Members should have regard to the Council's Code of Conduct for Members and the Planning Code of Practice.

5.6 All Officers taking part in discussions shall:

- make clear whether or not they are the decision maker for the purposes of the application/issue under discussion
- make clear that only personal and provisional views can be expressed which will not bind the Council to reach a particular decision when determining an application
- express views in the context of the development plan and other material planning considerations
- be consistent in interpreting planning policies
- advise applicants and neighbours/objectors on procedural matters.

5.7 Occasionally local people or Community/Town Councils will arrange public meetings to discuss a current application and may invite the applicants, Members and Officers to attend. Given the need to avoid giving commitments and ensuring that an open mind on proposals is retained, Members of the Committee and Officers who attend such meetings shall use them for fact-finding, shall not express a final opinion for or against the proposal and shall otherwise act in accordance with the guidance in this Code.

6.0 Lobbying of Members of the Planning Committee

6.1 Lobbying is the process by which applicants and their agents, neighbours, non-Committee Members and other interested parties seek to persuade Council Members on the Planning Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Members of the Planning Committee as these discussions can help Members to understand the issues and concerns. As stated in the Nolan Committee Third Report: "it is essential for the proper operation of the Planning system that local concerns are adequately ventilated".

6.2 In responding to approaches of this kind, Committee Members shall follow the nine principles outlined in Paragraph 2.1 above and may wish to make a record of the discussion, but may also:

i) Explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee/ by the Chief Officer

ii) Explain the procedures by which representations can be made; that the public can speak at the Committee (subject to a number of conditions within the Public Speaking protocol being met) should the application come to the Committee for decision, and that a decision will be taken only when all relevant planning considerations have been taken into account

iii) Explain the kinds of planning issues that the Council can take into account

iv) Report issues raised to the Officers or direct the public to the Officers so that their views can be considered

v) Advise the public to contact non-Committee Members who may be able to represent local views with less restraint.

6.3 Where a Committee Member feels that they have been unreasonably or excessively lobbied on a particular proposal they shall make a declaration at Planning Committee on that application that they have been lobbied. However, that Member shall still be able to speak and vote on the application if the guidance in Section 2 is adhered to.

7.0 Planning Applications Submitted by Members, Community/Town Councils and Officers

7.1 Where a Planning Application is submitted by or on behalf of the following:

a. an Officer of the Council who works within the Planning Department or who has an involvement in the Planning Application process (except in any instance where the application has been submitted in their capacity as an employee of the Council)

b. an elected or co-opted Member of the Council; or

c. c.by an individual who has a close personal relationship with either of the above; the application shall be considered by Planning Committee.

7.2 The Member that is affected shall declare an interest and take no part in the decision.

7.3 The Officer that is affected shall record his/her interest and take no part in the decision.

7.4 Where a Community/Town Council submits a planning application, the County Council Members who are also Members of that Community/Town Council should disclose their interest and withdraw from further consideration of the matter.

8.0 Planning Applications Submitted by the Council

8.1 It is critical that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

8.2 All such proposals will be subject to the same administrative processes, including consultation, as all other applications with consideration being made in accordance with policy and any other material planning consideration.

8.3 The following applications will be considered under the Delegation Panel process:

(i) where the application is by or on behalf of the Council and *there are no material planning objections to the proposed development*; and

(ii) the application is for development on Council-owned land or in which the Council has a direct interest and *there are no material planning objections to the proposed development*

Where any applications by or on behalf of the Council receive one or more material planning objections they shall be considered by Planning Committee.

8.4 Where a Member of Planning Committee has a Cabinet portfolio responsibility relating to an application, they shall declare that interest and not take part in the discussion or vote.

9.0 Officers' Reports to the Planning Committee

9.1 All Planning matters considered by the Planning Committee will be the subject of full evaluation by officers and will include a recommendation. Such reports shall be comprehensive, but succinct in setting out the key planning (and legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.

9.2 Any comments by Community or Town Councils, which are counter to the recommendation, should be specifically addressed in the professional appraisal, under the title: *'Response to Town/Community Council Representations'.* Local Ward Member representations will also be addressed.

9.3 A summary of late correspondence received since the report was prepared will be made available to the Committee and dispatched electronically to Members by close of business the day before Planning Committee meets. Late correspondence will be accepted for consideration up to a deadline of noon on the Friday before the Planning Committee after which it will not normally be taken into account unless it raises material planning or legal issues that have not already been considered in the officer report.

"Received" means received by Planning Department staff at County Hall by post or electronically.

9.4 When applications are presented to Planning Committee the Council's Democratic Services Team will publish the agenda on the Council's web site five clear working days before the meeting itself. In addition, the Planning Department will publish the officer evaluation for each application that is on the agenda on the respective electronic application file before the committee meeting itself to enable these to be viewed by the public.

10.0 Procedure at Planning Committee

10.1 The following procedure will be followed at Planning Committee:

- The quorum for a Planning Committee is 50% of its membership in accordance with the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017
- The Chairman will identify the application to be considered
- An officer will present a brief summary of the application and issues with the recommendation
- The Local Member, if not a member of Planning Committee will be invited to speak for a maximum of 4 minutes by the Chairman. The Local Member, at the discretion of the Chairman may be allowed to use their additional 2 minute summing up time at this point, if this is requested.
- The representative of the community or town council will then be invited to speak for a maximum of 4 minutes by the Chairman
- The Chairman will then invite, in turn, the objector and/or supporter to speak for a maximum of 4 minutes each
- The Chairman will invite the Applicant or Appointed Agent (if applicable) to speak for a maximum of 4 minutes.
- Time limits will normally be strictly adhered to although the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking
- Speakers may speak only once
- Committee Members may then raise questions with officers
- Planning Committee Members will then debate the application, commencing with the Local Member if a member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
- Immediately before the application is put to the vote, the Local Member will be invited to sum up, speaking for no more than 2 minutes provided that they have not already used their 2 minute summing up time.
- The community or town council representative or objector/supporter or applicant/agent may not take part in the Members' consideration of the application and may not ask questions unless invited to by the Chair

- Where an objector or supporter or applicant/agent or community or town council has spoken on an application, no further speaking by or on behalf of that group will generally be permitted in the event that the application is considered again at a future meeting of the committee, however regard will be had to special circumstances that may justify an exception. The final decision lies with the Chairman.

- The Chairman's decision regarding a procedural matter is final

- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly

- When the motion has been seconded the Chairman shall identify the Members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded

- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application. Where Members attend remotely, they shall be on camera at all times during the consideration of the application to be eligible to vote.

- Any Member who abstains from voting shall consider whether to give a reason for their abstention

- The Legal Officer shall count the votes and announce the decision.

10.2 Public speaking at Planning Committee will be allowed strictly in accordance with the protocol attached in Appendix 1. The invitation to speak and the conduct of the meeting is at the discretion of the Chairman of Planning Committee.

11.0 **Planning Committee Site Inspections**

11.1 Committee site inspections are fact-finding exercises which allow the Planning Committee to make a more informed decision than would otherwise be possible from only reading the officer's report, listening to the officer presentation and considering the views expressed at the Committee meeting by interested parties.

11.2 The purpose of a site inspection is to clarify issues of fact and such visits should only be held where the Committee cannot make an informed decision without seeing the site for themselves and the inspection would have substantial benefit. Examples of this include:

- Where there are accusations that a plan is misleading
- Overlooking into other people's property
- Visual prominence
- Understanding the topography of the area

Examples where a site visit would <u>not</u> normally be appropriate include where:

- purely policy matters or issues of principle are at issue
- the Member simply disagrees with the conclusion reached in the report

- the Member wishes to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations.

11.3 Members of Planning Committee will carry out the inspections with the local ward member being invited. The applicant (or agent) and objectors/supporters may attend but may only draw attention to matters of fact relating to the site, and at the Chairman's discretion. The community or town council shall be invited to attend the site inspection. An officer shall attend to advise on the application.

11.4 Members of Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.

11.5 If a Member finds it necessary to visit a site alone (perhaps because it was not possible to attend the Committee inspection), they shall view it from public vantage points only, seek to avoid discussion with interested parties, and, if discussion occurs, make it clear that a decision will be taken when it has been discussed by the Committee.

12.0 Planning Committee Decisions Contrary to Officer Recommendation

12.1 Where the Committee does not accept the recommendation made by the Officers the application shall be deferred to the following Planning Committee and brought back with reasons for refusal or conditions of approval as the case may be.

12.2 It is important that full clear and convincing reasons are set out when any planning decision is made. Where an application is determined in accordance with the officer recommendation the officer report meets this requirement. However, when Members determine an application against the officer recommendation the primary record of the debate are the minutes together with the recording of the livestream of the meeting. It is essential that Members' reasons are recorded and that the minutes of the meeting incorporate a full, clear and accurate statement of the reasons.

12.3 Where planning permission is refused contrary to officer advice, Members should be aware of the risk of an award of costs being made against the Council at a subsequent appeal. Advice on the award of costs is contained in the Welsh Government's 'Development Management Manual Section 12 Annex: Awards of Costs'. Of particular relevance to this protocol is the following advice in par. 3.9:

"Local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority."

13 Appeals against Council Decisions

13.1 Officers will normally organise the administration of an appeal but in a case where there is a refusal of planning permission contrary to the officer recommendation and the appellant seeks an informal hearing or public inquiry Members will be expected to help formulate

and to present the Council's case at the appeal. This is because under the Royal Town Planning Institute (RTPI) Code of Professional Practice planning officers who are members of the Institute must not make statements purporting to be their own, but which are contrary to their bona fide professional opinion. At a case determined by written representations a link to the live stream of the debate and the minutes will normally be sufficient to summarise the Council's case.

13.2 Once the appeal has been lodged then at the next available Planning Committee, individual Members will be nominated to represent the Council's case at the appeal. Other Members may attend to contribute or listen to the debate at the appeal hearing or inquiry. This is good practice in all appeals whether the decision was against officer advice or not. Members have an important role to play in appeals. The local ward member will be informed of the appeal. They and any other member may, within set deadlines, make written representations to the Inspector and may also appear at informal hearings or as a witness at inquiries. In doing so they should state whether they are acting in their capacity as the local Councillor or representing the Council's case.

13.3 Officers shall support Members who wish to attend the appeal and/or make representations and advise them on preparing and delivering evidence as well as on legal aspects. Where appropriate a nominated officer will be designated to assist and guide members before attending a hearing or inquiry and attend the hearing or inquiry with the member(s). However, the officer will not be able to prepare or give evidence where that would be contrary to their professional views.

14 Community and Town Councils

14.1 Officer reports will specifically address community and town council objections.

14.2 Community and town council clerks are notified by email when the agenda for Planning committee is published. It is the community or town council's responsibility to register to speak in cases where they wish to address committee Members.

14.3 Representatives of community and town councils will be permitted to attend planning committees and committee site inspections.

14.4 A representative will be permitted to address the Committee on an application, at the discretion of the Chairman and in accordance with the Protocol on Public Speaking.

14.5 Representatives will be expected to uphold the following principles:-

- To observe the National Code of Local Government Conduct, particularly in the context of declarable interests.

- Not to introduce information that is not a material planning consideration.

15.0 Member Training

15.1 The Council has decided that all members of the Council, not just those Members of the Planning Committee, shall undertake training. No Member shall sit on Planning Committee unless they agree to undertake such training.

15.2 Members will be offered core training within three months of appointment to the Committee. This will cover planning procedures, the development plan and material

planning considerations, probity and other subjects determined from time to time by Officers in consultation with the Members.

15.3 Other training will be available in the form of additional sessions such as seminars on specific subjects.

16.0 Review of Decisions

16.1 To assess and improve the quality and consistency of decisions and thereby strengthen public confidence and assist in reviewing planning policy the Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types and shall include visits to the sites.

16.2 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.

16.3 The outcome of appeals against the decisions of the Council will be reported regularly to Planning Committee so that any lessons can be learned. The outcome of enforcement cases and legal proceedings will also be reported regularly to Members, including the local Member, to keep them abreast of progress.

16.4 The Delegation Panel may from time to time review decisions made under officer delegated powers.

Appendix 1

Protocol on Public Speaking at Planning Committee

Public speaking at Planning Committee will be allowed strictly in accordance with this protocol. You cannot demand to speak at the Committee as of right. The invitation to speak and the conduct of the meeting is at the discretion of the Chair of the Planning Committee and subject to the points set out below. The conventional protocol has been modified to allow public speaking via pre-recorded videos or to attend the meeting in person and address the Planning Committee.

Who Can Speak?

Community and Town Councils

Community and town councils can address Planning Committee via a pre-recorded video or in person at the meeting. Only elected members of community and town councils may speak. Representatives will be expected to uphold the following principles:

(i) To observe the National Code of Local Government Conduct.

(ii) Not to introduce information that is not:

- consistent with the written representations of their council, or
- part of an application, or

- contained in the planning report or file.

When a town or community councillor has registered to speak in opposition to an application, the applicant or agent will be allowed the right of reply.

Members of the Public

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. Where there is more than one person in opposition or support, the individuals or groups should work together to establish a spokesperson. The Chair of the Committee may exercise discretion to allow a second speaker, but only in exceptional cases where a major application generates divergent views within one 'side' of the argument (e.g. a superstore application where one spokesperson represents residents and another local retailers). Members of the public may appoint representatives to speak on their behalf.

Where no agreement is reached, the right to speak shall fall to the first person/organisation to register their request. When an objector has registered to speak the applicant or agent will be allowed the right of reply.

Speaking will be limited to applications where, at the date the Planning Committee agenda is published letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations (in this context organisations would not include community or town councils or statutory consultees which have their own method of ensuring an appropriate application is considered at Committee).

The number of objectors and/or supporters will be clearly stated in the officer's report for the application contained in the published agenda.

The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but less than 5 letters of objection/support have been received.

Applicants

Applicants or their appointed agents will have a right of response where members of the public or a community/town council, have registered to address committee in opposition to an application. This will also be via a pre-recorded video or in person at the Planning Committee meeting.

When is speaking permitted?

Public speaking will normally only be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not normally be permitted. Regard will however be had to special circumstances on applications that may justify an exception. The final decision lies with the Chair.

Registering Requests to Speak

Speakers must register their request to speak as soon as possible, between 12 noon on the Tuesday and 12 noon on the Friday before the Committee. To register a request to speak, objectors/supporters must first have made written representations on the application.

Anyone wishing to speak must notify the Council's Democratic Services Officers of their request by

calling 01633 644219 or by email to registertospeak@monmouthshire.gov.uk

Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline, please contact Democratic Services on 01633 644219 to check that your registration has been received.

Parties are welcome to address the Planning Committee in English or Welsh, however if speakers wish to use the Welsh language, they are requested to make this clear when registering to speak and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

Applicants/agents and objectors/supporters are advised to stay in contact with the case officer regarding progress on the application. It is the responsibility of those wishing to speak to check when the application is to be considered by Planning Committee by contacting the Planning Office, which will be able to provide details of the likely date on which the application will be heard. The procedure for registering the request to speak is set out above.

The Council will maintain a list of persons wishing to speak at Planning Committee.
Once the request to speak has been registered by the Council the speaker, if not attending in person, must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration.

If the third party does not wish to record a video, they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below. Speakers will also have the option to attend the meeting in person and addressing Planning Committee.

Content of the Speeches
Comments by the representative of the town/community council or objector, supporter or applicant/agent should be limited to matters raised in their original representations and be relevant planning issues. These include:

- Relevant national and local planning policies
- Appearance and character of the development, layout and density
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Speakers should avoid referring to matters outside the remit of the Planning Committee, such as:

- Boundary disputes, covenants and other property rights
- Personal remarks (e.g. Applicant's motives or actions to date or issues about members or officers)
- Rights to views or devaluation of property.

Procedure at the Planning Committee Meeting

The procedure for dealing with public speaking is set out below:

- The Chairman will identify the application to be considered
- An officer will present a brief summary of the application and issues with the recommendation
- The Local Member, if not a member of Planning Committee will be invited to speak for a maximum of 4 minutes by the Chairman. The Local Member, at the discretion of the Chairman may be allowed to use their additional 2 minute summing up time at this point, if this is requested.
- The representative of the community or town council will then be invited to speak for a maximum of 4 minutes by the Chairman
- The Chairman will then invite, in turn, the objector and/or supporter to speak for a maximum of 4 minutes each
- The Chairman will invite the Applicant or Appointed Agent (if applicable) to speak for a maximum of 4 minutes.
- Time limits will normally be strictly adhered to although the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking
- Speakers may speak only once
- Committee Members may then raise questions with officers
- Planning Committee Members will then debate the application, commencing with the Local Member if a member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
- Immediately before the application is put to the vote, the Local Member will be invited to sum up, speaking for no more than 2 minutes provided that they have not already used their 2 minute summing up time.
- The community or town council representative or objector/supporter or applicant/agent may not take part in the Members' consideration of the application and may not ask questions unless invited to by the Chair
- Where an objector or supporter or applicant/agent or community or town council has spoken on an application, no further speaking by or on behalf of that group will generally be permitted in the event that the application is considered again at a future meeting of the committee, however regard will be had to special circumstances that may justify an exception. The final decision lies with the Chairman.
- The Chairman's decision regarding a procedural matter is final
- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly
- When the motion has been seconded the Chairman shall identify the Members who

proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded

- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application. Where Members attend remotely, they shall be on camera at all times during the consideration of the application to be eligible to vote.

- Any Member who abstains from voting shall consider whether to give a reason for their abstention

- The Legal Officer shall count the votes and announce the decision.

37 OFFICER EMPLOYMENT PROCEDURE RULES

37.1 Recruitment and appointment

37.1.1 Declarations:

(a) the Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council;

(b) no candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

37.1.2 Seeking support for appointment:

(a) the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information;

(b) no councillor will seek support for any person for any appointment with the Council.

37.1.3 Recruitment and remuneration of Chief Officers:

(a) where the Council proposes to appoint a Chief Officer, within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006 [as amended], and the proposed remuneration of the post is £100,000 or more per annum, or it is otherwise not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

(i) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;

(ii) make arrangements for the post to be advertised publicly in such a way as is likely to bring it to the attention of persons who are qualified to apply for it (unless the proposed appointment is for a period of 12 months or less); and

(iii) make arrangements for a copy of the statement mentioned above to be sent to any person on request

(b) where a post has been advertised as provided above, the Council must:

(i) interview all qualified applicants for the post; or

(ii) select, or direct appropriate officers to select, a short list of such qualified applicants and interview those included on the short list;

(c) where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement;

(d) any decision to determine or vary the remuneration of Chief Officers (or those to be appointed as Chief Officers) must be made by full Council.

37.1.4 Appointment of the Chief Executive. The full council will make the appointment of the Chief Executive following the recommendation of a short list for such an appointment by a committee of the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

37.1.5 Appointment of Chief Officers, Statutory Officers and Deputy Chief Officers. The full Council will appoint statutory chief officers and statutory officers. A committee of the Council may appoint non-statutory chief officers and deputy chief officers. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

37.1.6 Other appointments:

(a) officers other than those listed above. Appointment of these officers (other than assistants to political groups) is the responsibility of the Chief Executive or their nominee, and may not be made by councillors;

(b) assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

37.2 Disciplinary Action and Investigations

37.2.1 Chief Executive, s151 Officer, Monitoring Officer, Head of Democratic Services:

(a) no disciplinary action (other than action to which paragraph (b) 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, its s151 officer or its Head of Democratic Services 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 [as amended] (investigation of alleged misconduct). The detailed rules appear below;

(b) 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 2 months beginning on the day on which the suspension takes effect.

37.2.2 Investigation of alleged misconduct - Chief Executive, s151 Officer, Monitoring Officer, Head of Democratic Services:

(a) subject to sub-paragraph (k), where it appears to the council that an allegation of misconduct which may lead to disciplinary action has been made against the above officers the council must appoint a committee ("an investigation committee") to consider the alleged misconduct;

(b) the investigation committee must:

(i) consist of a minimum of 3 members of the authority;

(ii) be politically balanced in accordance with section 15 of the 1989 Act; and

(iii) must, within one month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated;

(c) for the purpose of considering the allegation of misconduct, the investigation committee:

(i) may make such enquiries of the relevant officer or any other person it considers appropriate;

(ii) 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

(iii) may receive written or oral representations from the relevant officer or any other person it considers appropriate;

(d) where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person");

(e) 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 one 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 Welsh Ministers;

(f) the designated independent person:

(i) may direct:

(1) that the relevant authority terminates any suspension of the relevant officer;

(2) that any such suspension is to continue after the expiry of the period referred to in 35.2.1(b);

(3) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or

(4) 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;

(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:

(1) 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

(2) recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and

(3) must no later than the time at which the report is made send a copy of the report to the relevant officer;

(g) subject to sub-paragraph (h), the relevant officer and relevant authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation;

(h) where there is no agreement under sub-paragraph (g), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken;

(i) the relevant authority must consider the report prepared by the independent person within one month of receipt of that report;

(j) a relevant 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;

(k) these rules do not apply in the case of a Chief Executive who is also the Council Manager. For the purposes of these rules, any officer who was a relevant officer at the time of the alleged misconduct or when the reason for the proposed dismissal occurred (but is no longer so), shall be regarded as a relevant officer;

(l) a disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report along with representations from the officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of Chief Executive (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

37.2.3 Other Officers:

(a) appointment and dismissal of Officers below Chief Officer is the responsibility of the Chief Executive or their nominee, and may not be undertaken by councillors;

(b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer or statutory officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

37.3 Definitions

37.3.1 The following definitions are applicable:

(a) references to the 1989 Act are to the Local Government and Housing Act 1989;

(b) Chief Executive means the officer designated as the authority's Chief Executive under s54 of the LG and Elections Act 2021;

(c) Statutory Chief Officer means:

(i) the Chief Education Officer or Director of Education appointed under s532 of the Education Act 1996;

(ii) the Director of Social Services appointed under s.6 of the Local Authority Social Services Act 1970;

(d) Non-Statutory Chief Officer means:

(i) a person directly responsible to the Chief Executive;

(ii) any person who is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority;

(e) Deputy Chief Officer means a person who is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers (except for secretarial, clerical and support staff);

(f) s151 Officer means the officer appointed for the purposes of s151 of the Local Government Act 1972, s73 of the Local Government Act 1985 or s112 of the Local Government Finance Act 1988;

(g) Monitoring Officer means the officer designated under s5(1) of the 1989 Act;

(h) Head of Democratic Services means the officer appointed under s8 of the Local Government (Wales) Measure 2011;

(i) disciplinary action means, in relation to a member of staff of a relevant authority, any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does

not include failure to renew a contract of employment for a fixed term unless the relevant authority has undertaken to renew such a contract.

PART 5 – CODES AND PROTOCOLS

38 MONMOUTHSHIRE COUNTY COUNCIL CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

38.1 Introduction

38.1.1 The following code of conduct is the model code of conduct set out in The Local Authorities (Model Code of Conduct) (Wales) Order 2008 as updated. As such, and for the sake of consistency with investigations carried out by the Public Services Ombudsman of Wales and hearings by the Adjudication Panel for Wales, it is repeated here verbatim with original layout, referencing and content.

38.2 The Code of Conduct

PART 1
INTERPRETATION

1.— (1) In this code —

"Co-opted member", in relation to a relevant authority, means a person who is not a member of the authority but who —

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

"Meeting" means any meeting —

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

"Member" includes, unless the context requires otherwise, a co-opted member;

“Registered society” means a society, other than a society registered as a credit union, which is —

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

“Register of members’ interests” means the register established and maintained under section 81 of the Local Government Act 2000;

"Relevant authority" means—

(a) a county council,

(b) a county borough council,

(c) a community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(e) a National Park authority established under section 63 of the Environment Act 1995;

"You" means you as a member or co-opted member of a relevant authority; and

"Your authority" means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

(a) “Proper officer” means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

PART 2
GENERAL PROVISIONS

2.— (1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

6.— (1) You must —

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's Chief Executive;

(ii) the authority's s151 Officer;

(iii) the authority's Monitoring Officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3
INTERESTS

Personal Interests

10.— (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

[Note: subparagraph (b) is omitted.]

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2) (c) (i);

(iii) any person who employs or has appointed such persons described in 10(2) (c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2) (c) (i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.— (1) Where you have a personal interest in any business of your authority and you

attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1) (b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.— (1) Subject to sub-paragraph (2) below, where you have a personal interest in any

business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

(iii) a body to which you have been elected, appointed or nominated by your authority;

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

(i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2) (a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.— (1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4
THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

15.— (1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2) (a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2) (a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2) (a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

16.— (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" means (i) information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation or (ii) information, the disclosure of which would or could place you in breach of a legally or professionally enforceable duty of confidence.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value of £25.00, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

38.2.1 Monmouthshire County Council adopted this revised version of the Code of Conduct at its Annual Meeting on 12th May 2016.

39 CODE OF CONDUCT FOR EMPLOYEES

39.1 The Statutory Employee Code of Conduct

39.1.1 The following code of conduct is the model code of conduct set out in The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 as updated. As such, it is repeated here verbatim with original layout, referencing and content.

General Principles

1. The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

2. Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political Neutrality

3. Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

Relations with members, the public and other employees

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.

5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

Equality

6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

7. Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal Interests

8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

(1) any rules of their relevant authority on the registration and declaration by employees of financial and non - financial interests,

(2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

Whistleblowing

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

Treatment of Information

10. Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of Staff

11. Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

Investigations by Monitoring Officers

12. Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

39.2 The MCC Code of Conduct for Employees

39.2.1 To the extent that its provisions do not conflict with the foregoing statutory code, the Council has adopted (after appropriate consultation) the following Code of Conduct for Employees.

39.3 Introduction

39.3.1 The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code of Conduct is based on the recommendations of the Committee on the Standards of Conduct in Public Life. It applies to employees' conduct both within the council and when dealing with other organisations as a representative of the council. The principles detailed below are the basic ones governing all council employees.

39.3.2 The Code does not affect an employee's rights and responsibilities under the law; its purpose is to provide clear and helpful advice but all employees must comply with the Code.

39.3.3 This Policy should be read in conjunction with the council's Whistle Blowing procedure, the Dignity at Work policy and the Social Media Policy. This allows employees to disclose any wrong doing on the part of any employee or Councillor under The Public Interest Disclosure Act 1998. A breach of this Code may give rise to disciplinary action, which will be taken in accordance with the Council's Disciplinary Procedure.

39.4 Nolan Principles

39.4.1 The Code incorporates "The Seven Principles of Public Life":

(a) selflessness. Employees shouldn't take decisions which will result in any financial or other benefit to themselves, their family, or their friends. Decisions should be based solely on the Council's best interests;

(b) integrity. Employees shouldn't place themselves under any financial or other obligation to an individual or an organisation which might influence them in their work with the Council;

(c) objectivity. Any decisions that employees take in the course of their work, including making appointments, awarding contracts, or recommending individuals for rewards or benefits must be based solely on merit;

(d) accountability. Employees are accountable to the council as their employer. The council, in turn, is accountable to the public;

(e) openness. Employees should be as open as possible in all the decisions and actions that they take. They should give reasons for their decisions and shouldn't restrict information unless this is clearly required by council policy or by the law;

(f) honesty. Employees have a duty to declare any private interests, which might affect their work with the council;

(g) leadership. Employees in a leadership or managerial position should promote and support these principles by their leadership and example.

39.5 Standards

39.5.1 The aim of this code is to apply standards for all Monmouthshire County Council employees on the understanding that the citizens of Monmouthshire are entitled to expect the highest standards of conduct and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.

39.5.2 Employees will be expected to bring any deficiency in the provision of service or any impropriety or breach of procedure which would have a detrimental impact on the Council to the attention of the appropriate level of management.

39.5.3 The standards laid down in this Code are considered to be fundamental to the reputation of the Council. Any uncertainty about the meaning of this code is not accepted as a reason for failing to comply with it. If employees are in doubt they should seek advice from a Chief Officer.

39.6 Social Media

39.6.1 It's your own personal choice whether or not you participate in any kind of social media activity in your own time – the views and opinions that you express are your own. However, as a council employee you should be aware that any information which you post about Monmouthshire County Council cannot be kept entirely separate from your working life.

39.6.2 What you say openly online can be accessed around the world within seconds, it might be shared or re-published elsewhere (online or in print) and it will continue to be available for all to see in the future. You must be willing to take personal responsibility for anything that you say online.

39.6.3 The council would expect staff to make a distinction between their own views and those where they represent their employer. It may be appropriate to add a disclaimer to your personal blog or social media profile to make it clear that your personal accounts are your own – for example: "These views are my own not my employers".

39.6.4 Think about what capacity you're speaking in, particularly if you are commenting about Monmouthshire County Council. Make sure you avoid misunderstandings about whether you're speaking as part of your work or not. Seek further advice if you're unsure.

39.6.5 Check your online privacy settings so that you understand who can see the information you publish and who can view your personal information.

39.6.6 Respect privacy and confidentiality – make sure you don't publish any information that should be kept private.

39.6.7 Stay safe – don't give out personal details such as your address or phone number. Make sure that you're familiar with the council's policy about personal use of electronic communications in the workplace.

39.7 Relationships

39.7.1 The Local Community and Service Users. Employees should always remember the responsibilities to the citizens they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

39.7.2 Councillors. Employees are responsible to the Council through its senior managers and leaders. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be treated with caution.

39.7.3 Contractors:

(a) all relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by competition against other tenders, and no favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against. At all times the requirements of the Council's Contract Standing Orders must be applied;

(b) employees should let their Chief Officer know if they appoint or supervise contractors with whom they have a current or previous relationship in a private or domestic capacity;

(c) all members of the public, citizens, customers, colleagues and Elected Members should be dealt with fairly, equitably, with dignity and respect in line with the principles of the Equality Act 2010 and the policies of the Council.

39.8 Appointment and Employment

39.8.1 All appointments will be made on merit. It is unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post.

39.8.2 In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with them.

39.8.3 Similarly, employees should not be involved in decisions relating to discipline promotion or pay for any employee who is a relative, partner, etc.

39.8.4 Candidates will be disqualified if they canvass members or employees of the council directly or indirectly in connection with any appointment within the Council. Employees can give a written reference of a candidate's suitability for appointment, but they can't solicit for them or recommend them for appointment or promotion.

39.9 Politically Restricted Posts

39.9.1 The effect of including a local authority employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted post holders will automatically be disqualified from:

(a) standing for or holding elected office;

(b) acting as an election agent or sub agent;

(c) being an officer of a political party or of any branch of such a party or a member of any committee or sub-committee of such a party;

(d) canvassing on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election;

(e) speaking to the public at large or to a section of the public with the apparent intention of affecting public support for a political party.

39.9.2 These restrictions are incorporated as terms in the employee's contract of employment.

39.9.3 Politically restricted posts fall into two broad categories: specified posts and sensitive posts.

39.9.4 Specified posts:

(a) Head of the Paid Service (Chief Executive);

(b) Statutory Chief Officers;

(c) s151 Officer;

(d) non-statutory Chief Officers (officers reporting to the Chief Executive);

(e) Deputy Chief Officers (officers designated as a Deputy);

(f) the Monitoring Officer;

(g) Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority.

39.9.5 Sensitive posts. A sensitive post is one which meets one or both of the following duties-related criteria:

(a) giving advice on a regular basis to the Council, to any committee or sub-committee of the Council or to any joint committee on which the Council is represented; or where the Council operates executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority;

(b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.

39.9.6 Teachers and Head Teachers are exempt from political restrictions and are not regarded as holding politically restricted posts whatever their role.

39.10 Political Neutrality

39.10.1 Employees work for the Council as a whole, including Elected Members and must ensure that the individual rights of all members are respected.

39.10.2 If employees are required to advise political groups, they must do so in a way which does not compromise their political neutrality.

39.10.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

39.11 Outside Commitments

39.11.1 Employees on Band G and above will need to obtain written consent from their Chief Officer prior to taking on any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which could conflict with the authority's interests or use Council premises or equipment for other than Council business.

39.12 Personal interests

39.12.1 Employees must declare in writing to their Chief Officer any financial or non-financial interests which could conflict with the Council's interests. A copy of this declaration should be sent to the Chief Executive.

39.12.2 Employees should tell their Chief Officer if they are a member of any organisation that isn't open to the public without formal membership and commitment or allegiance and which has secrecy about rules or membership or conduct.

39.13 Disclosure of Information

39.13.1 The Council's decision making process must be transparent and open. The Council must provide the public with clear and accessible information about how it operates. It must also ensure that there is an effective complaints procedure in place for the public to use when things go wrong.

39.13.2 The Council is committed to ensuring that all data collected, held or obtained under its control is dealt with in an ethical and legally responsible manner. Failure to do so would jeopardise the credibility of the council and may cause the council to breach disclosure legislation.

39.13.3 The Council's policy is that information will be made open and available. There are exceptions to this principle of openness where confidentiality is involved. Information may be withheld if, for example, it would compromise a right of personal or commercial confidentiality. This doesn't apply where there is a legal duty to provide information. Employees must not break the law in this area.

39.13.4 In particular, information mustn't be supplied about employees to any person outside the Council unless the consent of the employee is obtained first. This won't apply where there is a statutory duty to provide information, e.g. HMRC, DWP etc. or in the process of prevention or detection of fraud, as detailed below. If there is any doubt employees should raise the matter with their line manager.

39.13.5 Breaches of confidentiality will constitute a breach of this code which could result in disciplinary action, including dismissal. Under the Data Protection Act 2018, breaches of confidentiality can lead in certain circumstances, to legal proceedings against employees as individuals.

39.13.6 In order to ensure a co-ordinated approach to the Council's external relations, requests for information from the media should be dealt with by the Communications Manager or an employee authorised by a Chief Officer.

39.13.7 If in any doubt as to whether to divulge information to anyone the relevant line manager should be consulted.

39.14 Separation of roles during Tendering

39.14.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness and must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

39.14.2 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

39.14.3 Employees contemplating a management buyout or similar arrangement should, as soon as they have formed a definite intent, inform their Chief Officer and withdraw from the contract awarding processes.

39.14.4 Employees should ensure that no favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

39.15 Bribery and Corruption

39.15.1 Under the Bribery Act 2010 employees must be aware that it is a serious criminal offence to;

(a) bribe a person to induce or reward them to perform a relevant function improperly;

(b) request, accept or receive a bribe as a reward for performing a relevant function improperly;

(c) use a bribe to influence a foreign official to gain a business advantage.

39.16 Surveillance

39.16.1 There may be circumstances that warrant the authority to carry out covert surveillance. This will only be in situations where all other investigative options have been exhausted.

39.17 Use of Financial Resources

39.17.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

39.18 Hospitality

39.18.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be properly authorised by Chief Officers and recorded.

39.18.2 People making the offer of hospitality should be courteously but firmly declined and they should be informed of the procedures and standards operating within the authority.

39.18.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although insignificant items of token value such as pens, diaries, etc. are acceptable.

39.18.4 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.

39.19 Sponsorship - Giving and Receiving

39.19.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

39.19.2 Where the authority wishes to sponsor an event or service an employee nor any partner, spouse or relative must benefit from the sponsorship in a direct way without there being full disclosure to their Chief Officer of their interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

39.19.3 The Council and the citizens of Monmouthshire expect the highest standards of conduct from all employees, therefore we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. You can do this through the Whistle Blowing policy if you want. Remember that if you fail to inform us it may result in disciplinary action being taken against you for failing to tell us.

40 WHISTLEBLOWING POLICY

40.1 Introduction

40.1.1 In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council or School.

40.1.2 Monmouthshire County Council and School Governing Bodies expect the highest standards of conduct from all employees, and encourage employees and others with serious concerns about any aspect of the Council / School's work to come forward and voice those concerns in a safe environment. This policy enables employees to raise concerns at an early stage and in the correct way.

40.1.3 If you are considering raising a concern you should read this policy first. It explains:

(a) the types of issues/disclosures that can be raised;

(b) how the person raising a concern will be protected from victimisation and harassment;

(c) how to raise a concern;

(d) what the Council/School will do.

40.1.4 Whistleblowing is defined as:

"*The disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employer or their fellow employees' (Public Concern at Work Guidelines 1997).*"

40.1.5 Statutory protection for employees who whistle blow is provided by the Public Interest Disclosure Act 1998 ("PIDA"). The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns around conduct or practice within the Council/ school which is potentially illegal, corrupt, improper, unsafe and unethical or which amounts to malpractice.

40.2 Aim and Scope of Policy

40.2.1 The Council/School Governing Body is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices and will treat whistleblowing as a serious matter. In line with the Councils/ Governing Body's commitment to openness, probity and accountability, employees are encouraged to raise concerns which will be taken seriously, investigated and appropriate action taken in response.

40.2.2 In its application, this policy seeks to ensure that there is no discrimination against employees either directly or indirectly on grounds prohibited by the Equality Act 2010 which covers age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation This policy is inclusive of partners of the opposite or same sex.

40.2.3 The policy is designed to ensure that you raise your concerns about wrongdoing or malpractice within the Council/ School without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

40.2.4 The policy aims to:

(a) encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice;

(b) provide avenues for you to raise those concerns and receive feedback on any action taken;

(c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;

(d) provide reassurance that you will be protected from possible reprisals or victimisation if you have made disclosure in good faith and within the meaning of the PIDA.

40.3 Types of Issues/Disclosures that can be Raised

40.3.1 In legislation, the types of disclosure include the following:

(a) that a crime has been committed, is being committed, or is likely to be committed;

(b) that a person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;

(c) that a miscarriage of justice has occurred, is occurring, or is likely to occur;

(d) that the health & safety of an individual has been, is being, or is likely to be endangered;

(e) that the environment has been, is being, or is likely to be damaged;

(f) that information tending to show any of (a) to (e) above has been concealed or is likely to be deliberately concealed.

40.3.2 In addition to the above, and as further examples, this policy also covers whistleblowing relating to alleged:

(a) unlawful conduct;

(b) miscarriages of justice in the conduct of statutory or other processes;

(c) failure to comply with a statutory or legal obligation;

(d) potential maladministration, misconduct or malpractice;

(e) health and safety issues including risks to the public as well as risks to pupils and members of staff;

(f) action that has caused or is likely to cause danger to the environment;

(g) abuse of authority;

(h) unauthorised use of public or other funds, fraud, bribery or corruption;

(i) breaches of financial regulations or policies;

(j) mistreatment of any person;

(k) action that has caused or is likely to cause physical danger to any person or risk serious damage to Council or School property;

(l) sexual, physical or emotional abuse of members of staff, service users, or pupils;

(m) unfair discrimination or favouritism;

(n) behaviour which is discriminatory towards someone with a protected characteristic under the Equality Act 2010;

(o) racist incidents or acts, or racial harassment or intimidation;

(p) attempts to prevent disclosure of any of the issues listed.

40.4 Relevant Legislation

40.4.1 The Council recognises its responsibilities under the following legislation:

(a) The Public Interest Disclosure Act 1998;

(b) The Enterprise and Regulatory Reform Act 2013;

(c) Employment Rights Act 1999;

(d) The Equality Act 2010;

(e) The Bribery Act 2010;

(f) The Trade Union and Labour Relations (Consolidation) Act 1992.

40.4.2 The policy should be read in conjunction with the Council's:

(a) Codes of Conduct for both employees and County Councillors;

(b) Disciplinary Policy;

(c) Equality Policy;

(d) Grievance Policy;

(e) Guide to Volunteering.

40.4.3 If an employee is the subject of disciplinary or redundancy procedures they will not be halted as result of whistleblowing.

40.5 Policy Scope

40.5.1 This policy is intended to enable those who become aware of wrongdoing in the Council/School affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated. The Whistleblowing Policy is not intended to replace existing procedures:

(a) if your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures;

(b) if a client has a concern about services provided to him/her, it should be raised as a complaint to the Council (Tel: 01633 644 644);

(c) complaints of misconduct by County Councillors are dealt with under a separate procedure. For further information please contact the Council's Monitoring Officer Tel: 01633 644 644;

(d) complaints about school matters are dealt with under a separate procedure called the School's Complaints Policy and should be addressed to the Chair of Governors.

40.6 Who Can Raise a Concern?

40.6.1 The policy applies to all:

(a) employees of Monmouthshire County Council;

(b) employees of contractors working for the Council/School;

(c) those providing services under a contract or other agreement with the Council/School;

(d) voluntary workers working with the Council/School.

40.7 Safeguarding Whistleblowers – Our Assurances To You

40.7.1 The Chief Executive is committed to this policy. If you raise a genuine concern under this policy you will not be at risk of losing your job, or suffer any form of retribution, victimisation or detriment as a result. It won't matter if you are mistaken provided you genuinely believe that you are acting in the public interest. Of course we cannot extend this assurance to an individual who maliciously raises a matter they know to be untrue.

40.8 Your Legal Rights

40.8.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 (PIDA) which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest. The Act makes it unlawful for the Council/School Governing Body to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

40.9 Harassment and Victimisation

40.9.1 The Council/School Governing Body is committed to good practice and high standards and to being supportive of you as an employee/worker.

40.9.2 The Council/School Governing Body recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service.

40.9.3 The Council/School Governing Body will not tolerate any harassment or victimisation of a whistle-blower (including informal pressures) and will take appropriate action to protect you when you raise a concern in accordance with the PIDA provisions, and will treat such harassment and victimisation as a serious disciplinary offence or in the case of contractors, a breach of contract.

40.10 Confidentiality

40.10.1 Whilst a qualifying disclosure is expected to have substance, it is not expected that the employee raising the disclosure will need to prove it is true. It is the responsibility of the Designated Officer.

40.10.2 All disclosures will be treated in confidence and every effort will be made not to reveal your identity if that is your wish, unless disclosure is required by law.

40.10.3 In some circumstances, for example in disciplinary processes, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support.

40.10.4 The Council/School Governing Body will not place employees under pressure to give their name and will give due consideration to proceeding with investigating the concern on the basis of an anonymous allegation.

40.11 Anonymous Allegations

40.11.1 This policy encourages you to put your name to your allegation whenever possible - anonymous concerns are much less powerful and it will be much more difficult to provide feedback to you. Nonetheless anonymous concerns will be considered under this whistleblowing policy especially concerns raised relating to the welfare of children or vulnerable adults. In relation to determining whether an anonymous allegation will be taken forward the Council / School Governing Body will take the following factors into account:

(a) the seriousness of the issue raised;

(b) the credibility of the concern;

(c) the likelihood of confirming the allegation from attributable sources, and obtaining information provided.

40.11.2 The provisions of the Data Protection Act 2018 must be observed during the process, particularly in disclosure, use and processing of personal information.

40.12 Untrue Allegations

40.12.1 If an allegation is made which it is believed to be in the public interest but it is not confirmed by further enquiry or by an investigation, no action will be taken against the person who raised the initial concern. If, however, the enquiry/investigation shows that untrue concerns were malicious and/or vexatious or made frivolously or made for personal gain, then the Council / School Governing Body will consider taking appropriate action which could include disciplinary action.

40.13 Support For You

40.13.1 The Council/School Governing Body have a duty of care to their employees. Support for the individuals involved in this process is key to fulfilling this duty. Any concern that is raised will be taken seriously.

40.13.2 For those individuals who raise concerns and for those individuals who may have concerns raised about them, the Council/School Governing Body will do all it can to help you throughout the process. Support for employees will include the offer of access to welfare counselling and medical advice and support. Individuals will be advised to contact their Trade Union representative, or a work place colleague (not involved in the area of work to which the concern relates) for additional support. Individuals will also be offered an additional point of contact for support during the process.

40.13.3 Any meetings that may be required as part of the process can be arranged away from the workplace if necessary and individuals have the right to be accompanied by their trade union representative or work based colleague.

40.13.4 Unless there are legal reasons why this cannot be done, you and the person against whom allegations are made will be kept informed of the progress and outcome of any investigation by the Designated Officer.

40.14 How to Raise a Concern

40.14.1 Who to raise the concern with:

Concern Relates To	**Report To (becomes the designated officer)**
General concern / Member of staff/ colleague/Volunteer	Line Manager/Head-teacher
Line Manager	Head of Service / Head teacher
Head of Service / Head teacher	Chief Officer / Chair of Governors
Chief Officer	Chief Executive
Chair of Governors	Vice Chair of Governors
Chief Executive	Leader of the Council
Whole Governing Body	Chief Officer, Children & Young People
County Councillor	Monitoring Officer
Malpractice about child/children in a school*	Chief Officer, Social Care & Health
Malpractice about an adult(s) at risk*	Chief Officer, Social Care & Health

For any Chief Officer, Leader or Monitoring Officer please call 01633 644 644.

*If you feel that your concern has not been adequately addressed or if you think it will not be adequately addressed you should raise your concern with the Chief Officer, Social Care & Health as a whistleblowing concern.

40.14.2 If your concern is a safeguarding concern about a child or adult at risk (rather than about potential malpractice), this should be reported to Monmouthshire Children's Services or Adult Services respectively via normal Child Protection /Protection of Vulnerable Adults (POVA) processes. Tel: 01633 644 644.

40.15 Procedure for Making a Whistleblowing Allegation

40.15.1 If possible the concern should be put in writing for the avoidance of doubt. It should set out:

(a) the background and history of the concern;

(b) names, dates and places where possible;

(c) an explanation of the reason for the concerns.

40.15.2 If you feel unable to put the matter in writing you can still raise your concern verbally. Also if you feel that you cannot express your concerns with the Council / School Governing Body, you can also ask your Trade Union representative or work based colleague to raise the matter on your behalf and/or to support you in raising the concern. The above table provides a guide to whom a concern can be raised with - advice and support on this can be sought from People Services HR (01633 644644), the Legal department (01633 644 064) or your Trade Union representative.

40.15.3 If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process. This must take place even if the statutory authorities take the decision not to pursue a criminal investigation.

40.15.4 Normally, the person who the concern is raised with, or reported to, becomes the Designated Officer. The Designated Officer is responsible for making initial enquiries about the matter and for keeping all parties informed of progress and advising of the outcome. It may be necessary for the Council/School Governing Body to appoint a person other than the person to whom the allegation or concern was raised with/reported to.

40.16 What the Council/School Governing Body Will Do

40.16.1 A key principle for the Council/School Governing Body will be the public interest. In order to be fair to all employees, initial enquiries will be made by the Designated Officer / person appointed to decide whether an investigation is appropriate and if so what form it should take.

40.16.2 The concern raised may require the following:

(a) an enquiry internally in the Council/School;

(b) the need to be passed to the Police if it relates to alleged criminal activity;

(c) the need to be passed to Internal Audit, if the complaint is about financial management or financial propriety;

(d) the need to be referred through established child protection/POVA procedures.

40.16.3 At this stage concerns / allegations are neither considered founded or unfounded pending the investigation if deemed necessary.

40.17 Timescales

40.17.1 The Designated Officer or person appointed by the Council / School Governing Body to look into whistleblowing allegation will normally provide a written acknowledgement to you within 5 working days (except in the case of anonymous allegations):

(a) acknowledging the concern has been received;

(b) indicating how it is proposed to deal with the matter;

(c) giving an estimate of how long it will take to provide a final response;

(d) advising of the support available whilst matters are looked into;

(e) telling you whether further investigations will take place and if not, why not.

40.17.2 The Designated Officer or person appointed will write to you and the individual against whom the concern has been raised to acknowledge receipt and to indicate that the procedures have been commenced.

40.17.3 Depending on the nature of the allegation/concern, provision of a final response may take longer than 5 working days. If this is the case, the Designated Officer or person appointed will notify all individuals in writing providing an indication when the enquiry will be completed.

40.17.4 Where possible, enquiries will be completed within 10-15 working days from the date of receipt of the initial written response from the Designated Officer/person appointed.

40.17.5 If the enquiry extends beyond the timescales above all individuals concerned will be notified in writing by the Designated Officer or person appointed, providing an indication when the enquiry will be completed.

40.17.6 The Designated Officer/person appointed might investigate the concerns raised themselves or the Designated Officer might appoint an independent investigator to do so. As part of this process, the person who investigates the concerns raised will:

(a) look into the concern - seeking evidence and interviewing witnesses as necessary;

(b) maintain confidentiality wherever possible (but there is not a 100% guarantee that the whistle-blower can remain anonymous);

(c) if appropriate, refer the matter to Audit, if the complaint is about financial management or financial propriety in schools;

(d) if appropriate, for concerns of criminal behaviour refer the matter to the Police;

(e) if appropriate, for concerns of child protection or vulnerable adults, refer the matter through the established child protection/POVA procedures.

40.17.7 The amount of contact time between you and the Designated Officer or person appointed to consider and/or investigate the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood.

40.17.8 Any meeting with you can be arranged away from the workplace, if needs be, and a trade union representative or work based colleague may accompany you for support. You need to be assured that your disclosure has been properly addressed. Unless there are legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.

40.17.9 Following completion of the enquiry/investigation process, the Designated Officer or independent investigator will make a written report normally within 5 working days. This report will contain findings and make recommendations for the Designated Officer (if an independent investigator has been appointed) or the appropriate committee of the School Governing Body to consider.

40.17.10 The report will not contain your name as the whistleblower, unless you have expressly stated that you wish to be named.

40.17.11 On conclusion of any investigation, you and the person against whom the allegation is made, will be told the outcome of the investigation and what action has been done/proposed. If no action is to be taken, the reason for this will be explained. In addition, matters raised as part of the investigation may:

(a) be referred to the Police;

(b) be referred to the External Auditor;

(c) form the subject of an independent inquiry;

(d) be referred to an alternative policy (e.g., Disciplinary Policy or Grievance Policy);

(e) be resolved as an agreed action without the need for investigation.

40.18 How the Matter can be Taken Further

40.18.1 This policy is intended to provide you with a route within the Council/School to raise concerns. However, if you do not wish to raise concerns internally or if the concern has not been dealt with satisfactorily, the following are possible contact points. If you take the matter outside the Council/ School, you should ensure that you do not disclose confidential information unless that disclosure is privileged and relevant to the concern raised. Anyone proposing external disclosure should seek independent legal advice or contact the Public Concern at Work organisation.

40.18.2 External Contacts regarding whistleblowing:

(a) www.gov.uk/whistleblowing;

(b) ACAS – tel 0300 123 110;

(c) Citizen's Advice - www.citizensadvice.org.uk;

(d) Public Concern at Work - www.pcaw.org.uk https://twitter.com/WhistleUK https://www.facebook.com/publicconcernatwork tel 020 7404 6609;

(e) Education Workforce Council - www.ewc.wales tel 02920 460099;

(f) Care and Social Services Inspector for Wales - www.cssiw.org.uk tel 0300 7900 126;

(g) The Auditor for Wales - https://www.wao.gov.uk/whistleblowing tel 02920 320500;

(h) Children's Commissioner for Wales - www.childcomwales.org.uk tel 0808 801 1000;

(i) The Office of the Information Commissioner - https://www.ico.gov.uk tel 02920 678400;

(j) the Police;

(k) your local Councillor or AMs or MPs;

(l) Health & Safety Executive.

40.19 Review of the Policy

40.19.1 The effectiveness of the policy will be monitored in the following ways:

(a) the policy will be the responsibility of the HR Manager, in conjunction with the Monitoring Officer and Internal Audit, to review ensuring legal compliance and best practice;

(b) the HR Manager will be responsible for reporting on whistleblowing incidents and number of cases annually to the Governance and Audit Committee. The report will include a summary of the concerns raised, to which directorate /school they related. The report will not include any employee names;

(c) periodic internal audits of the effectiveness of the whistleblowing arrangements will be undertaken, including:

(i) recording of the number and types of concerns and the outcome of investigations;

(ii) feedback from individuals who have used the arrangements including staff awareness, trust and confidence in the arrangements;

(iii) any complaints of victimisation;

(iv) any complaints of failures to maintain confidentiality;

(v) any relevant litigation.

40.19.2 The outcomes from the monitoring of the policy will be reported to a relevant Chief Officer, the People Board and/or Governance and Audit Committee as required.

41 SCRUTINY AND EXECUTIVE PROTOCOL

41.1 Introduction

The Scrutiny and Executive protocol is a guide for elected Members and other parties outlining the interface between Scrutiny and the Executive and the procedural elements that underpin the relationship. Further information on Scrutiny will be provided in the Scrutiny handbook

41.2 Monmouthshire County Council's Scrutiny Arrangements

41.2.1 Scrutiny will act as a 'critical friend' to the Cabinet and other decision makers in order to promote better services, policies and decisions. Through their work, Scrutiny and Cabinet will agree to operate within the values of the Council: Openness, Teamwork, Flexibility, Fairness and Kindness. In compliance with s21 Local Government Act 2000 and Paragraphs 8 and 9 of Schedule 1 to the Act, Scrutiny Committees will:

(a) consider reports and make recommendations to inform and advise the Cabinet or Council or other decision-making bodies on improvements to policies and service delivery;

(b) hold the Cabinet to account for decisions, performance, risk management and budget management;

(c) enable the public to engage in the work of the Council by holding public meetings to inquire into matters of local concern.

Monmouthshire has 4 Scrutiny Committees, each with distinct terms of reference, which are detailed earlier in the Constitution.

41.3 General Roles

41.3.1 Within their terms of reference Scrutiny Committees will:

(a) review and/or scrutinise:

(i) decisions or actions taken;

(ii) policies or processes;

in connection with the discharge of any of the Council's functions;

(b) make reports and/or recommendations to the Council meeting and /or the Cabinet on the discharge of any of the Council's functions;

(c) consider any matter affecting the area or its inhabitants and make recommendations to any decision making body as appropriate.

41.4 Specific Functions

41.4.1 Scrutiny Committees may:

(a) assist the Council in reviewing service delivery and performance through in-depth analysis;

(b) review and scrutinise the decisions made by and the performance of the Cabinet and/or Committees and/or other Constitutional Bodies and the Council and/or any Chief Officers both in relation to individual decisions and over time;

(c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

(d) conduct research, community and other consultation in the analysis of service or policy issues and possible options;

(e) consider and implement mechanisms to encourage and enhance community participation in the development of policy or the improvement of services;

(f) question Members of the Cabinet and/or Committees and/or other Constitutional bodies and appropriate Officers about their proposed policies, decisions and performance;

(g) make recommendations to the Cabinet and / or appropriate Committee and/or other constitutional bodies and/or Council arising from the outcome of the Scrutiny process;

(h) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance;

(i) question and gather evidence from any person outside of the Authority (with their consent);

(j) assist the Council and the Cabinet in the review of its budget and policies by in-depth analysis of policy issues;

(k) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.

41.5 Setting the Work Programme and Agenda

41.5.1 At the beginning of the Scrutiny year (September), each Scrutiny Committee will agree an outline work programme for the year in consultation with the relevant senior Officers and take into account the views of the public and of partner agencies. Topics suggested for Scrutiny should be considered in line with the Scrutiny work programme topic selection criteria, the aim being to identify significant topics that will address a significant concern, will deliver a specific outcome and will add value to the work of the Council.

41.5.2 The most recent version of the Scrutiny Committee work programme will be reported to each Scrutiny Committee meeting to enable the Committee to review its content and include new items and to define the arrangements required for the next meeting. The updated Scrutiny Forward Work Programme will be presented by the Scrutiny Committee Chairs to meetings of the Council's Co-ordinating Board for the purpose of ensuring the clarity of topics being scrutinised and to avoid potential duplication in efforts. All Scrutiny work programmes will be made publicly available.

41.5.3 Individual agenda items, other than standing items, are to be determined in the first instance by the work programme that is agreed by the relevant Scrutiny Committee. The Scrutiny Committees agree their work programmes and the decisions to consider additional items or defer planned are made at the discretion of the chair in consultation with the Scrutiny Team.

41.5.4 The purpose of Scrutiny is to add value to the work of the Council. For this reason any items 'to note' i.e. that do not require a specific response from the Scrutiny Committee will be emailed to the Scrutiny Committee Members 'For Information', instead of being included on the agenda.

41.6 Evidence Gathering

41.6.1 Scrutiny Committees are entitled to gather evidence in connection with any review or inquiry they undertake as part of their agreed work plan. The Scrutiny Committee shall adopt methods of gathering evidence to inform their deliberations. These include, but are not limited to, task and finish groups, holding enquiries, going on site visits, conducting public surveys, holding public meetings, commissioning research, hearing from witnesses and appointing advisors and assessors. The knowledge of Councillors is also a valuable source of evidence and should be considered as part of each review / inquiry.

41.6.2 Scrutiny Committees shall be entitled to pay the reasonable fees and/or expenses of any individual or organisation assisting it, with the exception of Officers or Members of the Authority. Evidence gathering activity should not duplicate any other similar activity being undertaken by the authority or by other local agencies.

41.7 Attendance at Scrutiny Committees

41.7.1 A large part of evidence gathering will be through witnesses invited to give account directly to the Scrutiny Committee. Cabinet Members and Officers will not be expected to attend all Scrutiny Committee meetings, however, Scrutiny Committees are entitled under s21 of the Local Government Act 2000 to require any Member of the Executive or any Senior Officer to appear before it to give account for any matter within their responsibility or remit, particularly relating to:

(a) any particular decision;

(b) the extent to which the actions have been taken to implement Council policy;

(c) their performance

and it is the duty of those persons to attend if so required. Where in exceptional circumstances, the Member or Officer is unable to attend on the required date; the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

41.7.2 When a Scrutiny Committee wishes to invite a Cabinet Member, Officer or another individual to a meeting, it will:

(a) offer a minimum notice of 2 weeks;

(b) clearly outline the reason that the individual has been requested to attend and the likely areas upon which they are be expected to answer questions;

(c) identify whether any papers are required to be produced.

41.7.3 Where individuals are required to attend before the Scrutiny Committee, as in the case of Officers or Members, the Chair shall ensure that those assisting the Scrutiny Committee by giving evidence are treated with courtesy and respect.

41.7.4 Witnesses contributing evidence to Scrutiny Committees will be provided with feedback and whether further information is required as part of the Scrutiny.

41.8 Scrutiny Committee Meeting Procedure

41.8.1 Robust Scrutiny depends on effective questioning which relies on effective preparation. The meetings of Scrutiny Committees will operate as follows:

(a) main agenda items will be identified at the previous meeting in line with the agreed work programme. At this point potential witnesses and broad themes should be considered;

(b) prior to the meeting all Scrutiny Committee Members should be engaged in raising and discussing possible questions by email. The chair and vice chair of the Committee will facilitate this process;

(c) a pre-meeting for all Scrutiny Committee Members will be held typically 30 minutes immediately before the Scrutiny Committee meeting. The purpose is to ensure that Members are fully prepared for the Scrutiny Committee meeting and that the questioning strategy is clear;

(d) during the Scrutiny Committee meeting, the chair will be responsible for ensuring that questioning is effective and that the Scrutiny Committee achieves its objective;

(e) officers are invited to attend for their item and shall not be expected to remain at the meeting unless agreed with the Chair;

(f) at the close of the meeting, witnesses will be asked to leave to enable Scrutiny Committee Members to discuss their conclusions any recommendations arising from the meeting. These conclusions and recommendations will be reported to the relevant Cabinet Member(s) in the form of a Chairs' Letter. The session should also be used to review the effectiveness of the meeting and identify ways that future meetings could be improved.

41.9 Attending Call-in Meetings

41.9.1 The following arrangements apply to Call-in meetings:

(a) the Committee will invite the relevant Cabinet Member and/or Officer i.e. (the decision-taker) and any other Senior Officers the Committee considers appropriate to the meeting;

(b) in line with the Call-in Mechanism outlined in the constitution, the Committee is required to meet within 15 working days of the publication of the decision;

(c) the Committee will endeavour to offer appropriate notice to witnesses required to attend and will as far as possible ensure the scheduling of the Call-in meeting facilitates their attendance;

(d) in inviting Officers to attend, the relevant Chief Officer responsible will be consulted as a matter of courtesy;

(e) Scrutiny Committees welcome the views of additional Officers, however, to ensure consistency, transparency and openness, such Officers should indicate in advance of the agenda despatch (i.e. 3 working days prior to the meeting) that they wish to attend, with reasons for their attendance;

(f) additional Officers should advise the Scrutiny Manager that they wish to attend, which will be discussed and agreed with the Chair of the Scrutiny Committee. It is the discretion of the Committee to allow such Officers to take part in the meeting.

41.10 Responding to Scrutiny's Recommendations

41.10.1 Chairs Letters. Scrutiny Committees will agree outcomes of their meetings and detail the conclusions and any recommendations arising from any Scrutiny Committee meeting. The Scrutiny Committee may recommend amendments to a strategy or policy at their meeting and the Cabinet Member or Officer may accept the amendments at the meeting, which will be formally minuted.

41.10.2 The Chair may also formally raise concerns via a Chairs Letter directed to the relevant Cabinet Member(s) in person after the meeting has closed. In this instance, the Cabinet Member should respond in writing to the Scrutiny Committee within one month indicating whether the recommendation needs to be referred and what action (if any) they intend to take.

41.10.3 Scrutiny Workshops. Scrutiny Committees may undertake an in-depth review, which will normally take a number of months and be conducted according to an agreed terms of reference, with the findings being shared publicly in a findings report.

41.10.4 Scrutiny Committees will abide by the following principles when conducting in-depth reviews or workshops:

(a) involve the Cabinet Member at the commencement/early stages of a review to inform them of the terms of reference of the Task and Finish Group and the lines of inquiry that will be pursued;

(b) additional opportunities to involve the Cabinet Member throughout the review if felt appropriate;

(c) recommendations will follow logically from conclusions which will be clearly evidenced by reference to the findings of the review. Recommendations should not reflect unsupported personal opinion or political views. At this stage advice will be sought from the relevant Officers about the legal and financial implications of draft recommendations;

(d) when a review is nearing completion, invite the Cabinet Member to a meeting to discuss preliminary findings and if the Scrutiny Committee feels appropriate, test the viability of recommendations they wish to make;

(e) when a Scrutiny report has been agreed by Members of the Task and Finish Group, convene meeting with Cabinet Member to discuss the report's key findings and recommendations prior to the report being discussed at a public meeting (i.e. Scrutiny Committee).

41.10.5 If a Scrutiny Committee cannot agree on one single final report to the Executive then up to one minority report may be prepared and submitted for consideration with the majority report.

41.10.6 Once a Scrutiny Committee report has been agreed by the appropriate Scrutiny Committee, it will be submitted to the relevant Cabinet Member and published on the Council's website.

41.10.7 The report will then be scheduled in the Cabinet Forward Planner to be presented to a meeting of Cabinet within 6 weeks of it being agreed by the Scrutiny Committee.

41.10.8 The Chair of the relevant Scrutiny Committee will present the Report and accompanying recommendations to Cabinet. The relevant Cabinet Member will receive the Report on behalf of Cabinet but will not be required to respond to each of the recommendations individually at Cabinet.

41.10.9 Cabinet will be requested to "receive the report and consider the key findings and recommendations, responding to the relevant Scrutiny Committee within a 3 month period as to whether they accept (in part) or reject (in part) the Committee's recommendations together with rationale and actions that will be taken".

41.10.10 The Cabinet Member is responsible for:

(a) meeting with Officers once they have received the Scrutiny report to draft a response to the Scrutiny Committee based upon the Cabinet Response Template (detailed in Appendix A);

(b) after agreeing a draft response with Officers, reporting the draft response to the Cabinet for adoption;

(c) forwarding the Cabinet response to the Scrutiny Committee (following adoption by the Cabinet) and attending a Scrutiny Committee to discuss their response.

41.10.11 Scrutiny Committees will be responsible for monitoring progress against the recommendations and ensuring the return of the Cabinet Member to the Scrutiny Committee within a defined timescale.

41.11 Appendix A

Task and Finish Group – Cabinet Response			
Scrutiny Recommendation	**Accept (Plus Action)**	**Partially Accept (plus Rationale and Action)**	**Reject (plus Rationale)**
R1			
R2			

42 PROTOCOL ON MEMBER AND OFFICER RELATIONS

42.1 Introduction

42.1.1 The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

42.1.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

42.1.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

42.2 Roles of Members

42.2.1 Members undertake many different roles. Broadly, Members will:

(a) express political values and support the policies of the party or group to which they belong (if any);

(b) represent their electoral division and are advocates for the citizens who live in the area;

(c) be involved in active partnerships with other organisations as community leaders;

(d) contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations;

(e) help develop and review policy and strategy;

(f) monitor and review policy implementation and service quality;

(g) be involved in quasi-judicial work through their Membership of regulatory committees.

42.3 Roles of Employees

42.3.1 Briefly, Employees have the following main roles:

(a) managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services;

(b) providing advice to the Council and its various bodies and to individual Members in respect of the services provided;

(c) initiating policy proposals;

(d) implementing agreed policy;

(e) ensuring that the Council always acts in a lawful manner.

42.4 Respect and Courtesy

42.4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

42.5 Undue Pressure

42.5.1 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.

42.5.2 In their dealings with Employees (especially junior Employees), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

42.5.3 A Member should not apply undue pressure on an Employee either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

42.5.4 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. (The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)

42.6 Familiarity

42.6.1 Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

42.6.2 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.

42.6.3 For these reasons close personal familiarity must be avoided.

42.7 Breach of Protocol

42.7.1 If a Member considers that they have not been treated with proper respect or courtesy they may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Chief Officer responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

42.7.2 If an employee considers that a Member has contravened the protocol they should consult their line manager who will if necessary involve the Head of Service or Chief Officer. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

42.8 Provision of Advice and Information to Members

42.8.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

42.8.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.

42.8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

42.8.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.

42.8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

42.8.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

42.8.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that they represent. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).

42.8.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.

42.8.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

42.8.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

42.9 Confidentiality

42.9.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to them in confidence by anyone, or information acquired which they believes, or ought reasonably to be aware, is of a confidential nature, except where:

(a) they have the consent of a person authorised to give it;

(b) they are required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees to be subject to an agreement as directed by the Monitoring Officer not to disclose the information to any other person; or

(d) the disclosure is:

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the authority.

42.9.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

42.9.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

42.9.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, they should ask the relevant Officer, but treat the information as confidential in the meantime.

42.9.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

42.9.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then they must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

42.10 Provision of Support Services to Members

42.10.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

42.10.2 Correspondence. Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

42.10.3 Media. Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue they should contact the appropriate Chief Officer or Head of Service concerned or ask the Press Office to do so.

42.11 The Council's Role as Employer

42.11.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

42.12 Political Activity

42.12.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989. Such employees are prevented from:

(a) being a Member of Parliament, European Parliament or local authority;

(b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a);

(c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if their duties would be likely to require them to:

(i) participate in the general management of the party or branch; or

(ii) act on behalf of the party or branch in dealings with persons other than Members of the party;

(d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a);

(e) speaking to the public with the apparent intent of affecting public support for a political party; and

(f) publishing any written or artistic work of which they are the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

42.12.2 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

42.12.3 Usually the only Employees involved in attending group meetings will be the Chief Executive, Chief Officers and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

42.12.4 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officers/Heads of Service, and not to individual Members of the Council whatever office they might hold.

42.12.5 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

42.13 Sanctions

42.13.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

42.13.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Monitoring Officer.

42.14 Conclusion

42.14.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

43 LOCAL MEMBER CONSULTATIVE CHARTER

43.1.1 The Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.

43.1.2 Chief Officers and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.

43.1.3 Chief Officers will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.

43.1.4 Appropriate Chief Officers will ensure that, where the Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.

43.1.5 Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by the Cabinet or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.

43.1.6 Chief Officers and staff will regularly brief appropriate Cabinet Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.

43.1.7 Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the Leader. Local Members will be kept informed on the progress/outcomes of such petitions.

43.1.8 Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Community/Town Councils and the Public Services Ombudsman which relate to matters of any significance or sensitivity in a particular Electoral Division will be sent to the Local Member concerned.

43.1.9 Copies of all correspondence with AMs, MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. Copies will also be provided to the Leader.

43.1.10 Chief Officers and staff will ensure that as much local service information as possible is provided to local Members.

43.1.11 Services will provide every Member with an Officer Contact guide for the services they provide, including where appropriate local contacts.

43.1.12 Wherever appropriate, Services will make Local Members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.

43.1.13 In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.

43.1.14 As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.

44 LOCAL RESOLUTION PROTOCOL

44.1 Introduction

44.1.1 This Local Resolution Protocol ("the Protocol") has been established in accordance with the Ombudsman's guidance on the Code of Conduct for Members ("the Code") which states that *'low-level, member-on member'* complaints relating to breaches of the Code should be dealt with at a local level. The aim of the Protocol is to avoid the unnecessary escalation of situations which may damage personal relationships within the Council and the Council's reputation.

44.1.2 This Protocol does not prevent members from referring any complaint to the Ombudsman if they wish. However, members should be aware that the Ombudsman has made it clear that, in normal circumstances, it is expected that in the first instance members should exhaust the procedures set out in this Local Resolution Protocol before referring low-level complaints to the Ombudsman.

44.1.3 Whether or not a complaint is 'low level' in nature will depend upon the individual circumstances of each case. However, the Ombudsman's guidance states: *'typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code.'*

44.1.4 If you are unsure whether a matter you wish to complain about is within the remit of this protocol, then you should seek advice from the Monitoring Officer.

44.2 Scope

44.2.1 In order to fall within the scope of this Protocol complaints must meet all three of the following criteria:

- be made by an **elected** member of the Council and relate to a breach of the Member Code of Conduct **by another elected member**;
- be low-level in nature; and

- not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman.

44.3 Procedure

44.3.1 Complaints will be dealt with in accordance with the procedures set out below.

44.3.2 It is important that any allegations made under the Protocol are dealt with quickly and effectively with the co-operation of all parties involved. Each party must make themselves available to attend any meetings arranged under the Protocol as a matter of priority.

44.3.3 Both parties must agree to use the Protocol at the outset. If any member elects at any time to refer the matter to the Ombudsman for investigation, the Protocol process will be discontinued and cannot subsequently be resumed.

44.3.4 References within this protocol to the Monitoring Officer shall also include any other appropriate officer appointed in their place.

44.4 Stage One - Making The Complaint And Informal Resolution

44.4.1 Any member who wishes to submit an allegation under the Protocol should send the complaint to the Monitoring Officer. The complaint must be submitted to the Monitoring Officer within 30 days of the event that has given rise to the complaint occurring, or within 30 days of the substance of the complaint coming to the attention of the member submitting the allegation.

44.4.2 The complaint must set out the relevant details of the behaviour or conduct complained of and which paragraphs of the Code the member believes has been breached.

44.4.3 Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the Protocol or whether the complainant(s) should instead consider referring the matter to the Ombudsman.

44.4.4 If the Monitoring Officer determines that the allegation falls within the remit of the Protocol he/she will seek to try and resolve the matter informally with the agreement of all parties concerned.

44.4.5 All parties involved at Stage one will take into account any advice and guidance of the Monitoring Officer.

44.4.6 If the matter is not capable of resolution at Stage one the complainant may ask that the matter proceed to Stage two.

44.5 Stage Two – Mediation

44.5.1 Where informal attempts to resolve the complaint have been unsuccessful, and where the complainant wishes to continue to stage two of the Protocol, the Monitoring Officer shall convene a meeting of all relevant parties, including the complainant, the member who is the subject of the complaint and the relevant Group Leader(s). The Chair of the Standards Committee may also attend this meeting at their discretion.

44.5.2 This meeting shall be arranged as soon as reasonably practicable after the conclusion of stage one.

44.5.3 The purpose of the meeting shall be for the parties to attempt to agree a resolution of the complaint to the satisfaction of both parties.

44.5.4 All members shall engage constructively with mediation and make every reasonable effort to resolve the complaint.

44.5.5 Group Leaders shall have regard to their statutory obligation pursuant to s.52A Local Government Act 2000 to take reasonable steps to promote and maintain high standards of conduct by the members of their group.

44.5.6 Where a complaint remains unresolved following stage two, either member may refer the complaint to the Ombudsman.

PART 6 - SCHEDULE OF MEMBERS' REMUNERATION

45 MEMBERS' SCHEDULE OF REMUNERATION

45.1 Introduction

45.1.1 This Scheme is made under the Local Government (Wales) Measure 2011 with regard to Independent Remuneration Panel for Wales (IRPW) Regulations which apply to payments made to members and co-opted members of local authorities.

45.2 Basic Salary

45.2.1 A Basic Salary shall be paid to each elected Member of the Authority.

45.2.2 In accordance with the Regulations, the rate of the Basic Salary shall be reviewed annually as determined by the Independent Remuneration Panel for Wales.

45.2.3 Where the term of office of a Member begins or ends other than at the beginning or end of a year, their entitlement to the Basic Salary will be pro-rata.

45.2.4 No more than one Basic Salary is payable to a Member of the Authority.

45.3 Senior Salaries & Civic Salaries

45.3.1 Members occupying specific posts shall be paid a Senior Salary as set out by the IRPW. This can be found here - https://gov.wales/independent-remuneration-panel-wales and is also published on the MCC website here - https://democracy.monmouthshire.gov.uk/mgMemberIndex.aspx?bcr=1 .

45.3.2 In accordance with the Regulations, the rates of Senior Salaries and Civic Salaries shall be reviewed annually as determined by the Annual or Supplementary Report of the Independent Remuneration Panel for Wales.

45.3.3 Only one Senior Salary or Civic Salary is payable to a Member of the Authority.

45.3.4 A Member of the Authority cannot be paid a Senior Salary and a Civic Salary.

45.3.5 All Senior and Civic Salaries are paid inclusive of Basic Salary.

45.3.6 A Senior Salary may not be paid to more than the number of members specified by the Independent Remuneration Panel for Wales in its Annual Report and cannot exceed 50 percent of the total membership of the authority, except to include a temporary Senior Salary office holder providing temporary cover for the family absence of the appointed office holder.

45.3.7 A Member of the Authority in receipt of a Senior Salary cannot receive a salary from any National Park Authority (NPA) or Fire and Rescue Authority (FRA) for which they have been nominated.

45.3.8 Where the term of Senior Salary or Civic Salary of a Member begins or ends other than at the beginning or end of a year, their entitlement to the Salary will be pro-rata.

45.4 Election to Forgo Entitlement to Allowance

45.4.1 A Member may, by notice in writing delivered to the Proper Officer of the authority, personally elect to forgo any part of their entitlement to any salary, allowance or fee payable under this Scheme from the date set out in the notice.

45.5 Suspension of a Member

45.5.1 Where a Member of the Authority is suspended or partially suspended from their responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the part of the Basic Salary payable to them in respect of that period for which they are suspended will be withheld by the Authority (Section 155 (1) of the Measure).

45.5.2 Where a Member in receipt of a Senior Salary is suspended or partially suspended from being a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the Authority must not make payments of the Member's Senior Salary for the duration of the suspension (Section 155 (1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the member may retain the Basic Salary.

45.6 Repayment of salaries, allowances or fees

45.6.1 Where payment of any salary, allowance or fee has been made to a Member of the Authority or Co-opted Member in respect of any period during which the Member concerned:

(a) is suspended or partially suspended from that Members'/Co-opted Members' duties or responsibilities in accordance with Part 3 of the 2000 Act or regulations made under that Act;

(b) ceases to be a Member of the Authority or Co-opted Member; or

(c) is in any other way not entitled to receive a salary, allowance or fee in respect of that period,

the Authority will require that such part of the allowance as relates to any such period be repaid.

45.7 Payments

45.7.1 Payments of all allowances will be made by the Head of Democratic Services by direct bank credit in instalments of one-twelfth of the Member's annual entitlement on the 20th day of the month.

45.7.2 Where payment has resulted in a Member receiving more than their entitlement to salaries, allowances or fees the Authority will require that such part that is overpayment be repaid.

45.7.3 All payments are subject to the appropriate tax and National Insurance deductions.

45.8 Care Allowance

45.8.1 Care Allowance shall be paid to a Member or Co-opted Member, who has caring responsibility for dependant children or adults, or a personal care requirement, provided the Member incurs expenses in the provision of such care whilst undertaking 'approved' council duties.

45.8.2 Care Allowance applies in respect of children who are aged 15 or under and other persons for whom the Member or Co-opted Member can show that care is required. If a Member or Co-opted Member has more than one dependant the Member may claim more than one allowance, provided the Member can demonstrate a need to make separate arrangements for care.

45.8.3 Eligible Members may claim Care Allowance for actual and receipted costs up to a maximum amount not exceeding that determined by the IRPW. All claims for Care Allowance should be made in writing to Democratic Services detailing times, dates and reasons for claim. Receipts are required for both informal and formal care arrangements.

45.9 Family Absence

45.9.1 Members are entitled under the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 to a period of family absence, during which if they satisfy the prescribed conditions they are entitled to be absent from authority meetings.

45.9.2 When taking family absence Members are entitled to retain a basic salary irrespective of their attendance record immediately preceding the commencement of the family absence.

45.9.3 Should a senior salary holder be eligible for family absence they will be able to continue to receive their senior salary for the duration of the absence.

45.9.4 If the authority agrees that it is necessary to make a substitute appointment to cover the family absence of a senior salary holder the Member substituting will be eligible if the authority so decides to be paid a senior salary.

45.9.5 If the paid substitution results in the authority exceeding its maximum number of senior salaries, an addition to the maximum will be allowed for the duration of the substitution.

45.10 Co-optees' payments

45.10.1 A Co-optees' daily fee (with a provision for half day payments) shall be paid to Co-optees, provided they are statutory Co-optees with voting rights.

45.10.2 Payments will take into consideration travelling time to and from the place of the meeting, reasonable time for pre meeting preparation and length of meeting (up to the maximum of the daily rate).

45.10.3 The Monitoring Officer is designated as the "appropriate officer" and will determine preparation time, travelling time and length of meeting, the fee will be paid on the basis of this determination.

45.10.4 The Monitoring Officer can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before 4 hours has elapsed.

45.10.5 A half day meeting is defined as up to 4 hours.

45.10.6 A full day meeting is defined as over 4 hours.

45.10.7 The daily and half day fee for the Chairpersons of the Standards Committee and Governance and Audit Committee, as determined by the IRPW.

45.10.8 The daily and half day fee for other statutory Co-optees with voting rights is determined by the IRPW.

45.11 Travel and Subsistence Allowances General Principles

45.11.1 Members and Co-opted Members may claim travelling expenses when travelling on the Authority's business for 'approved duties' as set out by IRPW and accessible via the MCC website (link above). Where Members travel on the Authority's business they are expected to travel by the most cost effective means. In assessing cost effectiveness regard will be given to journey time. A Member who does not travel by the most cost effective means may have their claim abated by an appropriate amount.

45.11.2 Where possible Members should share transport.

45.11.3 The distance claimed for mileage should be the shortest reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.

45.11.4 Where a Member is suspended or partially suspended from their responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, any travel and subsistence allowances payable to them in respect of that period for which they are suspended or partially suspended must be withheld by the Authority.

45.12 Travel by Private Vehicle

45.12.1 The Independent Remuneration Panel for Wales has determined that the maximum travel rates payable should be the rates set out by Her Majesty's Revenue & Customs for the use of private cars, motor cycles and pedal cycles plus any passenger supplement.

45.12.2 Where a Member makes use of their private vehicle for approved duty purposes, the vehicle must be insured for business use. Proof of appropriate insurance must be provided to the Authority on request.

45.13 Travel by Public Transport

45.13.1 Rail/Coach Travel:

(a) unless otherwise authorised rail tickets will be standard class;

(b) Democratic Services will purchase requisite rail and coach tickets for Members in advance of journeys. In the unlikely event that a Member needs to purchase a ticket directly, payment will be reimbursed upon production of the used ticket and/or a receipt.

45.13.2 Taxi Fares:

(a) taxi fares will only be reimbursed where their use has been authorised for cases of urgency, where no public transport is reasonably available, or a Member has a particular personal need. Re-imbursement will be upon receipt only.

45.13.3 Air Fare (optional):

(a) travel by air is permissible if it is the most cost effective means of transport. Authorisation of the Head of Democratic Services is required and tickets will be purchased by Democratic Services.

45.14 Travel Abroad

45.14.1 Travel abroad on the Authority's business will only be permitted where authorised by Head of Democratic Services. Democratic Services will arrange travel and accommodation.

45.15 Other Travel Expenses

45.15.1 Members will be entitled to reimbursement of toll fees, parking fees, overnight garaging and other necessary travel associated expenses. Re-imbursement will be upon receipt only.

45.16 Overnight Accommodation

45.16.1 Overnight stays will only be permitted where the Authority's business extends to two days or more, or the venue is at such a distance that early morning or late night travel would be unreasonable. All overnight stays must receive prior authorisation from the Head of Democratic Services.

45.16.2 Overnight accommodation will be booked by Democratic Services. Wherever possible the overnight accommodation will be pre-paid or invoiced.

45.16.3 Direct booking of overnight accommodation by a Member will only be permitted in the event of an emergency. Reimbursement will only be made upon the production of a receipt and will be at a level deemed reasonable and not in excess of the rates set out by IRPW.

45.17 Subsistence Allowance

45.17.1 The day subsistence rate to meet the costs of meals and refreshments in connection with approved duties (including breakfast when not provided as part of overnight accommodation) is set out by IRPW. The maximum daily rate covers a 24 hour period and can be claimed for any meal that is relevant, providing such a claim is supported by receipt(s)

45.17.2 No provision is made for subsistence claims within the County.

45.18 Claims and Payments

45.18.1 A claim for travel and subsistence allowances must be made in writing before the specified payroll deadline for that calendar month in which entitlement to allowances arises and must be accompanied by the relevant receipts.

45.18.2 Allowances will be paid by the Head of Democratic Services by direct bank credit.

45.19 Pensions

45.19.1 The Authority shall enable its Members who are eligible to join the Local Government Pension Scheme.

45.20 Compliance

45.20.1 In accordance with the Regulations, the Authority must comply with the requirements of the Panel in respect of the monitoring and publication of payments made to members and co-opted members.

45.20.2 Members are reminded that expense claims are subject to both internal and external audit.