

# Pecyn Dogfennau Cyhoeddus

Penallta House,  
Tredomen Park,  
Ystrad Mynach,  
Hengoed CF82 7PG

Ty Penallta,  
Parc Tredomen,  
Ystrad Mynach,  
Hengoed CF82 7PG



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Am unrhyw ymholiad yn ymwneud â'r agenda hwn cysylltwch â Emma Sullivan  
(Rhif Ffôn: 01443 864420 Ebst: [sullie@caerphilly.gov.uk](mailto:sullie@caerphilly.gov.uk))

**Dyddiad: Dydd Iau, 20 Ionawr 2022**

Bydd y cyfarfod hwn yn cael ei recordio a bydd ar gael i'w weld trwy wefan y Cyngor, ac eithrio trafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig. Felly, bydd delweddau/sain yr unigolion sy'n siarad yn ystod y Pwyllgor Cynllunio ar gael i'r cyhoedd trwy'r recordiad ar wefan y Cyngor: [www.caerffili.gov.uk](http://www.caerffili.gov.uk)

**Mae croeso i chi siarad Cymraeg yn y cyfarfod, mae angen rhybudd cyfnod lleiafswm o 3 diwrnod gwaith os ydych yn dymuno gwneud hynny..**

Annwyl Syr/Fadam,

Bydd cyfarfod y **Cyngor** yn cael ei gynnal trwy Microsoft Teams **Dydd Mercher, 26ain Ionawr, 2022 am 5.00 pm** i ystyried materion a gynhwysir yn yr agenda canlynol.

Yr eiddoch yn gywir,

**Christina Harrhy**  
PRIF WEITHREDWR

## AGENDA

Tudalennau

- 1 I dderbyn ymddiheuriadau am absenoldeb
- 2 Cyhoeddiadau'r Maer.
- 3 Datganiad gan Arweinydd y Cyngor.

A greener place Man gwyrddach

Correspondence may be in any language or format | Gallwch ohebu mewn unrhyw iaith neu fformat



4 I dderbyn deisebau o dan Reol Gweithdrefn 28(3).

5 Cyflwyno Gwobrau.

6 Datganiadau o Ddiddordeb.

Atgoffi'r Cynghorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cynghorwyr a Swyddogion.

I gymeradwyo a llofnodi'r cofnodion canlynol:-

7 Council held on 16th November 2021.

1 - 14

8 I dderbyn ac i ateb cwestiynau a dderbyniwyd o dan Reol Gweithdrefn 10(4).  
Cwestiwn gan y Cynghorydd K. Etheridge i'r Aelod Cabinet dros Isadeiledd ac Eiddo, y Cynghorydd J. Pritchard.

Gofyn i'r Aelod Cabinet gadarnhau nifer y cytundebau ysgol wedi'u gosod ar dendr ar hyn o bryd ac amlinellu'r mesurau sydd ar waith i ymdrin â phlant agored i niwed yn benodol o ran tacsis i'r ysgol, ac yn ôl, yn y Fwrdeistref Sirol a'r tu allan iddi. Hefyd, hoffwn i'r Aelod Cabinet roi gwybod a oes unrhyw oedi o ran eu cludiant.

Cwestiwn gan y Cynghorydd R. Saralis i'r Aelod Cabinet dros Wasanaethau Cymdeithasol a Thai, y Cynghorydd S. Cook.

A all yr Aelod Cabinet dros Ofal Cymdeithasol a Thai esbonio'r hyn y mae Cyngor Bwrdeistref Sirol Caerffili wedi'i wneud i sicrhau'r incwm uchaf posibl i drigolion cymwys drwy gydol COVID-19?

I dderbyn ac ystyried yr adroddiad(au) canlynol:-

9 Hysbysiad o Gynnig – Ail Gartrefi.

15 - 20

10 Hysbysiad o Gynnig – Argyfwng Ynni Cenedlaethol.

21 - 26

11 Hysbysiad o Gynnig – Cydnabod Dydd Gwyl Dewi fel Gwyl Banc Swyddogol.

27 - 28

12 Diweddariad o Reoliadau Llywodraeth Cymru i Sefydlu Cyd-bwyllgorau Corfforaethol a Newidiadau Canlyniadol i Gydbwyllgor Rhanbarth Prifddinas Caerdydd.

29 - 130

13 Cynllun Gostyngiadau Treth y Cyngor.

131 - 134

14 Deddf Gamblo 2005 – Adolygiad o Ddatganiad y Polisi Trwyddedu.

135 - 232

15 Peilot Pleidleisio Uwch - Etholiad Llywodraeth Leol Mai 2022.

Nodi'r adroddiad canlynol a ystyriwyd fel eitem frys ac eithriedig gan y Cabinet

16 Y Lawnt, Rhymney - Materion Cwlfert a gor-rediad costau wedi hynny.

### **Cylchrediad:**

Pob Aelod a Swyddog Priodol

### **SUT FYDDWN YN DEFNYDDIO EICH GWYBODAETH**

Bydd yr unigolion hynny sy'n mynychu cyfarfodydd pwyllgor i siarad/roi tystiolaeth yn cael eu henwi yng nghofnodion y cyfarfod hynny, weithiau bydd hyn yn cynnwys eu man gweithio neu fusnes a'r barnau a fynegir. Bydd cofnodion o'r cyfarfod gan gynnwys manylion y siaradwyr ar gael i'r cyhoedd ar wefan y Cyngor ar [www.caerffili.gov.uk](http://www.caerffili.gov.uk) ac eithrio am drafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig.

Mae gennych nifer o hawliau mewn perthynas â'r wybodaeth, gan gynnwys yr hawl i gael mynediad at wybodaeth sydd gennym amdanoch a'r hawl i gwyno os ydych yn anhapus gyda'r modd y mae eich gwybodaeth yn cael ei brosesu.

Am wybodaeth bellach ar sut rydym yn prosesu eich gwybodaeth a'ch hawliau, ewch i'r [Hysbysiad Preifatrwydd Cyfarfodydd Pwyllgor Llawn](#) ar ein gwefan neu cysylltwch â Gwasanaethau Cyfreithiol drwy e-bostio [griffd2@caerffili.gov.uk](mailto:griffd2@caerffili.gov.uk) neu ffoniwch 01443 863028.

Gadewir y dudalen hon yn wag yn fwriadol





## COUNCIL

### MINUTES OF THE MEETING HELD VIA MICROSOFT TEAMS ON TUESDAY, 16<sup>TH</sup> NOVEMBER 2021 AT 5.00PM

#### PRESENT:

Councillor C. Andrews - Mayor  
Councillor J. Gale - Deputy Mayor

#### Councillors:

M. Adams, E.M. Aldworth, C. Bezzina, C. Bishop, A. Collis, S. Cook, C. Cuss, W. David, M. Davies, D.T. Davies, N. Dix, C. Elsbury, K. Etheridge, M. Evans, A. Farina-Childs, E. Forehead, J.E. Fussell, A. Gair, N. George, C. Gordon, R. Gough, D. Hardacre, L. Harding, A. Higgs, A. Hussey, M. James, V. James, L. Jeremiah, G. Johnston, G. Kirby, P. Leonard, C. Mann, P. Marsden, B. Miles, S. Morgan, B. Owen, T. Parry, L. Phipps, D.W.R. Preece, J. Pritchard, J. Roberts, R. Saralis, J. Scriven, G. Simmonds, S. Skivens, E. Stenner, A. Whitcombe, R. Whiting, L. Whittle, T.J. Williams, W. Williams, B. Zaplatynski

#### Together with:-

D. Street (Acting Chief Executive), R. Tranter (Head of Legal Services and Monitoring Officer), R. Edmunds (Corporate Director Education and Corporate Services), M.S. Williams (Corporate Director Economy and Environment), G. Jenkins (Acting Corporate Director Social Services), S. Harris (Head of Financial Services and S151 Officer), D. Gronow (Audit Manager), J. Morgan (Trading Standards. Licensing and Registrars Manager), D. Harris (Senior Trading Standards Officer), S. Richards (Head of Education Planning and Strategy), J. Williams (Assistant Director Social Services), E. Sullivan (Senior Committee Services Officer), S. Hughes (Committee Services Officer), Lisa Lane (Head of Democratic Services and Deputy Monitoring Officer).

### RECORDING, FILMING AND VOTING ARRANGEMENTS

The Corporate Director for Social Services and Housing reminded those present that the meeting was being filmed but would not be live streamed, however a recording would be available following the meeting via the Council's website – [Click Here to View](#). He advised that decisions would be made by Microsoft Forms.

#### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors A. Angel, J. Bevan, P.J. Bevan, D. Cushing, K. Dawson, C. Forehead, D. Harse, B. Jones, S. Kent, A. Leonard, G. Oliver, D. Price, J. Ridgewell, M.E. Sargent, J. Simmonds, and J. Taylor and C. Thomas together with Mrs C. Harry (Chief Executive)

#### 2. MAYOR'S ANNOUNCEMENTS

The Mayor referred to the many events and visits that she has undertaken since the last meeting.

The Mayor expressed her pleasure in being able to represent Caerphilly County Borough Council along with Caerphilly's Armed Forces Champion Councillor Alan Higgs at the Armed Reserved Forces and Cadets Annual Briefing.

The Mayor also attended the unveiling for the Display Board at Morgan Jones Park, Bargoed and along with the Leader of Council attended the Senghenydd Colliery Disaster Memorial Service which including performances from local school children. The Mayor was also able to attend the 1st Cray Scouts Presentation Evening and was very impressed with the children and young people present and was even able to present Duke of Edinburgh Awards to some of them. Finally, the Mayor attended Remembrance Day Services in Caerphilly, Bargoed and Deri.

In concluding her announcement, the Mayor congratulated Councillors Julian Simmonds and Adrian Hussey who were both celebrating milestone birthdays.

### **3. TO RECEIVE PETITIONS UNDER RULE OF PROCEDURE 28(3)**

Councillor Kevin Etheridge presented a petition on behalf of local residents requesting a Children's playground at Plas Mawr Field in Blackwood.

The Mayor accepted the petition which would be actioned in accordance with the Council's Constitution.

### **4. PRESENTATION OF AWARDS**

#### **Mrs Dilys Harris – Chartered Trading Standards Institute - CTSI Hero Award**

Members were advised that Dilys Harris, Senior Trading Standards Officer in the Public Protection Division together with her team are responsible for a wide variety of functions including Food Standards. Over the last year Dilys and her colleagues in the Greater Gwent Food Group worked tirelessly to develop a multi-lingual allergen awareness resource for food businesses, to help protect the estimated two million people living with a diagnosed allergy in the UK. The resources were launched in September and are available on the internet to watch and download free of charge for all food business operators, their employees and local authorities all over the UK.

Every year the CTSI present an award to the Trading Standards Hero, an Officer who has demonstrated exceptional dedication to consumer protection, who has gone above and beyond their duty and whose commitment has ensured vital work had been completed. In recognition of her work on this resource CTSI have designated Dilys Harris the 2021 Trading Standards Hero and presented her with the award at a ceremony in London on the 19<sup>th</sup> October 2021.

Council congratulated Dilys on this tremendous accolade and commended her on all her hard work on a resource that will have a positive impact on food businesses and those living with food allergies.

### **5. DECLARATIONS OF INTEREST**

Councillor C. Elsbury declared a personal and prejudicial interest in relation to Agenda Item No. 12 – Notice of Motion Day Centres in that close family and friends use day services and

as such would leave the meeting when the item was discussed and would take no part in the debate or vote.

**6. MINUTES - COUNCIL HELD ON 5<sup>TH</sup> OCTOBER 2021**

RESOLVED that the minutes of the Council meeting held on 5<sup>th</sup> October 2021 (minute nos. 1-19) be approved as a correct record and signed by the Mayor.

**7. MINUTES - SPECIAL COUNCIL HELD ON 14<sup>TH</sup> OCTOBER 2021**

RESOLVED that the minutes of the Special Council meeting held on 14<sup>th</sup> October 2021 (minute nos. 1-4) be approved as a correct record and signed by the Mayor.

**8. TO RECEIVE AND TO ANSWER QUESTIONS RECEIVED UNDER RULE OF PROCEUDRE 10(2)**

Question to the Leader of Council from Councillor G. Simmonds.

To ask the Leader of Council what sanctions are available to the Leader, Cabinet and Council where public servants in the employ of Caerphilly County Borough Council are shown to have acted outside the approved policy or strategy of the Authority.

Response from the Leader of Council.

The Council, as the employer of staff, has agreed policies and procedures in place to investigate members of staff, if their conduct or behaviour is deemed to necessitate such action. The sanction available to the Council will depend upon the findings of the disciplinary process but could range from no action to dismissal.

Should you, or any other Elected Member, have any specific examples of officers acting outside approved policies or strategies of the Authority, you should forward your concerns to Lynne Donovan, Head of People Services.

Supplementary Question from Councillor G. Simmonds.

I am concerned about that despite spending millions on policies, strategy and planning public servants in the employ of Caerphilly can ignore the Council's planning policy and strategy, I'm referring to planning where public servants can recommend for acceptance areas clearly outside the settlement boundary of our land use strategy document i.e. the LDP which is a statutory development policy.

I am also concerned about the declared carbon neutrality strategy of Caerphilly the first 6 houses built by this Council in decades have been outfitted with gas boilers and I wondered where this leaves the Code of Conduct for Public Servants of Caerphilly Council in regard to Policy, Strategy and Planning?

The Leader advised that she would provide a response to the Councillors supplementary question in writing following the meeting.

**9. TO RECEIVE AND TO ANSWER QUESTIONS RECEIVED UNDER RULE OF PROCEDURE 10(4)**

1. Question to the Deputy Leader and Cabinet Member for Infrastructure and Property from Councillor C. Bezzina.

Can the Deputy Leader and Cabinet Member for Infrastructure and Property tell us what steps this Council is going to take to promote public transport?

Response from the Deputy Leader and Cabinet Member for Infrastructure and Property

From the outset I would like to stress that as Cabinet Member for Infrastructure I'm very keen to promote public transport as a viable option for residents across the borough. I have quite a bit of experience boarding busses for most of my life. Having only gained a driving licence in March 2020, travelling by public transport was how I got about my day to day business. I'm therefore aware of the pros and cons of public transport service as things stand.

There are some significant challenges ahead of us. Bus travel has been severely affected by the Covid-19 pandemic, with passenger numbers plummeting, and the requirement for social distancing and additional cleansing requirements adding further burdens and costs on operators. While the Council and Welsh Government have stepped in to support the sector with substantial financial assistance, officers from the Council sit on the South East Wales Bus Funding Group, the number of passengers currently travelling remains low and is approximately 60% of the pre pandemic figures.

In addition to the difficulties as a result of the Covid-19 pandemic, the bus industry is currently experiencing a critical shortfall of drivers, which is resulting in many short notice service cancellations and full-service withdrawals across the South East Wales region. As a result of both of these issues the bus network has not returned to the levels enjoyed by residents prior to March 2020. Sickness absence is also an issue facing operators in the region.

Throughout the pandemic, the Council's Integrated Transport Unit has endeavoured to keep public transport information updated as much and as quickly as possible, even against a background of reduced/changing bus frequencies and has administered whatever financial support has been available for the industry from Welsh Government as quickly as possible.

Since becoming Cabinet Member for Infrastructure I've been Caerphilly's member on the Regional Transport Authority. This authority is one of ten local authorities in the Cardiff Capital Region that meets to discuss integrated transport across the region. My role is to put Caerphilly's case forward, and this is what I have done to date, and this is what I intend to keep doing.

In July, the leader sent a letter to Lee Waters MS, Deputy Minister for Climate Change in relation to the Welsh Governments commitment to lift the ban on local authorities running municipal bus companies during this Senedd term. We both support legislation to pave the way for more opportunities for public transport to be taken into public ownership as we believe public transport, run locally, will provide greater stability for the industry.

In recent months I have been engaged in constructive talks with the Aneurin Bevan Health Board, Transport for Wales, Operators, Officers and the Senedd Member for Caerphilly, who approached me in my cabinet capacity to discuss potential bus services to the Grange University Hospital. These talks are still at a preliminary stage, but Transport for Wales have supplied myself and all parties around the table and indicative map they're considering. In order to advance these talks further, more meetings are in

the pipeline. It is my job as Cabinet Member for Infrastructure to work to ensure all avenues are pursued, so I will update members further.

In spite of the challenges we face as a local authority, I'm keen that we consider innovative schemes that promote bus travel. We're considering launching a temporary fares reduction scheme to encourage and increase long – term patronage. Going forward, we want to link any potential scheme with supporting our town centres and to improve our climate change obligations. I'm aware that for many residents, travelling by public transport is not even presently considered. I want to help to change this view by promoting schemes that will offer residents a reason to board public transport”.

2. Question to the Deputy Leader and Cabinet Member for Infrastructure and Property from Councillor K. Etheridge.

To ask the Cabinet Member to explain and define the exploratory talks he and the Caerphilly Member of the Senedd have had with the Aneurin Bevan University Health Board including the content in regard to a potential transport routes from all areas within the Caerphilly County Borough locations to the Grange Hospital, as correspondence I have received refers to Caerphilly only?

Response from the Cabinet Member for Infrastructure and Property.

Thank you, Cllr Etheridge for your question. I can confirm that in my role as Cabinet member for Infrastructure I have been engaged in constructive talks with the Aneurin Bevan Health Board, Transport for Wales, Operators, Officers and the Senedd Member for Caerphilly, who approached me in my cabinet capacity to discuss potential bus services to the Grange University Hospital. These talks are still at a preliminary stage, but Transport for Wales have supplied me and all parties around the table an indicative map they're considering. Whilst discussions are still at any early stage, I can confirm that a potential cross valley route to travel through Nelson, Ystrad Mynach, Blackwood, Pontllanfraith, Newbridge and Crumlin are being considered. I am in discussions with all parties about the potential new service reducing travelling times for passengers boarding the service. I can inform members that today I have been in discussions with Transport for Wales regarding current bus services. For members attention I can confirm the number 29 Newport bus runs from Friars Walk in Newport to the Grange University Hospital. The estimated journey time is 26 minutes. Notable bus services from within Caerphilly Borough to Newport include the number 50, 56, and 151. The current situation is not something that I'm content with, so In order to advance talks further, more meetings are in the pipeline.

I recognise that public transport to the Grange University Hospital is an issue that some members have also raised in the press and have actively supported. As is usually the case with any proposed changes, many discussions take place prior to announcements being made. It is my job as Cabinet Member for Infrastructure to work to ensure all avenues are pursued, so I will keep members updated.

## **10. NOTICE OF MOTION – REVIEW OF COUNCIL CONSTITUTION AND MEMBER PROTOCOL**

Consideration was given to the Notice of Motion which was received from Councillor K. Etheridge and was supported by Councillors D. Cushing, N. Dix, A. Farina-Childs, C. Mann, B. Owen, G. Simmonds, T. Parry, J. Taylor and L. Whittle. It was noted that the Notice of Motion had been considered by the Environment and Sustainability Scrutiny Committee at its meeting on the 28<sup>th</sup> September 2021 and was not supported.

Councillor Etheridge outlined his Notice of Motion which called on Council to review the Councils Constitution and Members Protocol with an emphasis on the procedure of delegated powers within the Authority on major decisions made, which may have implications for all elected members during their term of office, with the remit of looking at engagement and consultation with respective ward Members prior to implementation and called for the establishment of an all-party working group to be set up and report recommendations with the implementation taking place prior to the May 2022 elections of changes which are required.

Particular reference was made to the Call-In Process and whether some form of appeal procedure could be implemented that Members could go to should a request be refused by the Monitoring Officer. Reference was also made to the Leader's Statements to Council which did not currently allow questions and queried if these could be shared with Group Leaders to encourage collaborative working.

Members expressed their confidence in the Council's constitution which had served the Council well for many years and which they accepted as a working document being updated as and when required in terms of changes to legislation, terms of reference, delegated powers or policy documents, with revisions reported to the Annual Meeting of Council. Members pointed out that there were numerous avenues available to Councillors to become involved in decision making processes be that via pre-decision scrutiny, forward work programming, addressing Cabinet and Scrutiny and via notices of motion and questions to Council.

A Member expressed concern that there were issues within certain areas, delegated powers and member officer protocol was felt to be two such areas, and the Member explained what he considered to be a lack of response to questions he had raised. Reference was made to Section 10.5 of the Officer's report and the work being done by the All Wales Monitoring Officers Network on a draft standardised constitution to be adopted by all Local Authorities and it was felt that a standardised constitution would be a positive step forward.

A Member emphasised the need for the constitution to be an evolving document moved on with proper process in an open and transparent manner.

Members debated constitutional processes and procedures and the various opportunities available to Members to bring forward constructive arguments and opposing positions.

The Monitoring Officer detailed the call-in process and reiterated the grounds, as contained within the constitution, for the consideration of a call-in request and confirmed with Members that judging the validity of a call-in was the responsibility of the Monitoring Officer. Where a call-in request had been refused in the past it was primarily because pre-decision scrutiny had already taken place.

In terms of the draft standardised constitution, the Monitoring Officer confirmed that work was ongoing, but the document should be able to be brought forward for consideration at the end of this Council term. Members were asked to note that there would be some regional variations but were assured that it would incorporate all the new provisions contained within the Local Government and Elections (Wales) Act 2021.

Following consideration and discussion it was moved and seconded that the notice of motion be supported and by way of Microsoft Forms and verbal confirmation and in noting that there were 16 For, 36 Against and 2 Abstentions the motion was declared lost.

RESOLVED that the motion not be supported.

## **11. NOTICE OF MOTION – NINE MILE POINT PLANNING DECISION**

Consideration was given to the notice of motion received from Councillor K. Etheridge and supported by Councillors M. Davies, N. Dix, A. Farina-Childs, R. Gough, C. Mann, B. Owen, T. Parry and G. Simmonds.

Members noted that the notice of motion had first been considered by the Environment and Sustainability Scrutiny Committee on the 26<sup>th</sup> October 2021 and was not supported.

Councillor Etheridge introduced his notice of motion which requested that Council undertake a full investigation into the Hazrem planning decision.

This investigation should include within its remit any advice given by Planning Officers and advice given on the procedures and policy prior to and during the Planning Committee meeting when the application was originally considered, and any subsequent advice given to Hywel and Hazrem on conditions. Any relevant information provided to Planning Committee Members prior to the decision (including views of objectors and agents). We request that the investigation also consider any discussions or information provided prior and after the submission of the Judicial Review and during if information requested by residents.

This investigation should also detail any potential costs incurred as a result of the legal proceedings and provide a full account of the case law and finding of the advice given by the Monitoring Officer and outside counsel in regard to all matters especially the decision that no Environment Impact Assessment was required and to the oral hearings of Judicial Review. This will include information given to the Leader / Cabinet and the Corporate Management Team, and why members and residents were refused discussion and communication to achieve a compromise prior to a judicial review submitted by a Dr Platt.

Councillor Etheridge emphasised his view that a full public enquiry was only right and proper on this matter which he felt, warranted more than an investigation under the Corporate Complaints process. Councillor Etheridge also referenced Freedom of Information requests that he had made in relation to the minutes of certain meetings.

Members were advised that a comprehensive review had taken place under the Corporate Complaints process and this had subsequently been referred to the Ombudsman. Members believed this next stage in the process should be completed before consideration was given to any further action.

Members of the Planning Committee that considered the original application and were present for this matter, requested clarification as to whether there was a conflict of interest that they needed to declare, particularly as they were the decision makers at the time and asked if would it be appropriate for them to take part in the debate and vote. The Monitoring Officer confirmed that there was nothing that would negate nor stop their participation, as this was not a matter of a closed mind and furthermore, they could add value to the debate.

A Member outlined his comments to scrutiny, as he had been part of the Planning Committee that had considered the application in 2015. He expressed agreement with the comments made by previous Members that Council should await the findings of the Ombudsman the matter having rightly been through the Corporate Complaints process.

Members debated whether the Corporate Complaints process could be viewed as independent when it is conducted and governed by internal processes and Officers. A Member expressed the opinion that an internal investigation could not be viewed as independent and the public needed to have confidence that when mistakes are made this Council would acknowledge them, apologise and learn from them and the most open and transparent way to do this would be through a full public enquiry and external investigation.

Members further debated the veracity and motivation for the notice of motion and a plea was made for all Members to treat each other with respect. Members were reminded that the Ombudsman was an independent body and the matter now rested with the Ombudsman's Office, assurances were given that should the outcome of that investigation identify any failings they would be looked at.

Having been fully considered it was moved and seconded that the motion be supported.

In accordance with Rule of Procedure 15.4 (1) a request was made for a recorded vote and was supported by 10 Members.

For the Motion

Councillors: C. Bishop, M. Davies, N. Dix, C. Elsbury, K. Etheridge, A. Farina-Childs, J.E. Fussell, R. Gough, M. James, P. Leonard, C. Mann, B. Owen, T. Parry, J. Roberts, G. Simmonds, S. Skiven, L. Whittle (17).

Against the Motion

Councillors: M. Adams, E.M. Aldworth, C. Andrews, C. Bezzina, A. Collis, S. Cook, C. Cuss, W. David, D.T. Davies, M. Evans, A. Gair, J. Gale, N. George, C. Gordon, D. Hardacre, L. Harding, D Havard, A. Higgs, A. Hussey, V. James, L. Jeremiah, G. Johnston, G. Kirby, P. Marsden, B. Miles, S. Morgan, L. Phipps, D.W.R. Preece, J. Pritchard, R. Saralis, E. Stenner, A. Whitcombe, R. Whiting, T. Williams, W. Williams, B. Zaplatynski (36)

The motion was declared lost.

RESOLVED that the motion not be supported.

## **12. NOTICE OF MOTION – DAY CENTRES**

Consideration was given to the notice of motion received from Councillor C. Mann and supported by Councillors A. Angel, P. Bevan, C. Bishop, D. Cushing, M. Davies, J.E. Fussell, R.W. Gough, S. Kent, M. James, T. Parry, J. Roberts, M.E. Sargent, S. Skivens, J. Taylor and L. Whittle. The motion proposed that in view of significant public concern about suggested changes to the council's day care services, the Plaid Cymru group calls on the council to return to providing a full service of hours at day centres, pending an extensive review. We also call on CCBC not to withdraw previous transport arrangements for service users.

The proposals, as they stand, have caused immense distress and anxiety for carers and some of the most vulnerable members of our society which is having a detrimental effect on their Mental Health and Wellbeing.

We are concerned that the existing consultation exercise has not gone out to all Carers and those vulnerable individuals they care for. A better system of communication with service users and families is badly needed so that they are a proper part of the decision-making process.

In the meantime, there should be a moratorium on any changes taking place for at least 12 months with a final decision on any changes being considered by the full council.



Councillor Mann presented his notice of motion and confirmed that he had amended the wording to the second paragraph since its presentation to the Social Services Scrutiny Committee at its meeting on the 1<sup>st</sup> November 2021.

The Member referred to concerns expressed to him on the pressures faced by families and carers in respect of the revised service provision which he felt were not proportionate leaving carers unable to cope. The Member queried whether a reasonable compromise could be reached that would bring a move back to a restoration of hours.

Concerns were expressed that given the current infection rates that any increase in hours would put vulnerable service users at high risk and the Council would also be placed in the position of breaking Welsh Government regulations and its own risk assessments.

Members noted the regulations that applied within a social care setting and how the maintenance of social distancing regulations restricted the number of service users that could be safely accommodated in a room. It was noted that provision was prioritised, and assurances were given that no day centres would be closed, however Welsh Government guidance would be followed, and Members were advised that social services were currently providing 1577 hours of day services.

Reference was made to the debate at Social Services Scrutiny Committee and the concerns expressed by the Co-opted Members to the committee with regarding any increase in numbers that would be service users at risk of infection, and Council was advised that they had not supported the motion.

Councillor Mann confirmed that he would not advocate any breaking of COVID regulations but sought a realistic return to full occupancy for the benefit of service users, carers and families. Reference was made to the initial wording of the motion and concern was expressed that the language used might have been upsetting for those working in a social service setting. This was acknowledged by the Member and regret was expressed in this regard.

The Acting Chief Executive thanked the Member for the change in wording of the motion and outlined the tremendous work being done by Social Services staff. He confirmed that there were specific regulations that related to Health Care provision, and these were dramatically different to those that governed hospitality and sporting events. He emphasised that day service users were extremely vulnerable individuals, and he would not put a single service user at risk of infection and with infection rates increasing, service provision would continue to be provided in line with risk assessments and statutory regulations.

A Members referenced the greater level provision being provided by other Local Authorities and queried if hours of provision could be increased by even the smallest amount to ease the burden on families, without increasing risk.

A Member referenced her personal experience of COVID as a nurse on a COVID ward and the impact of the virus on vulnerable people and emphasised the continued need to be vigilant against infection.

Clarification was sought on the liability position of the Council should it break COVID regulations and the Acting Chief Executive confirmed that should the Council go against regulations and its own risk assessment it would be liable for any injury or death. Members were advised that as it was his statutory responsibility to ensure the safety of the Councils service users, he would not allow any person to be put at risk. In response to the Members question on increasing provision he confirmed that 1570 hours were currently being provided and these hours would be increased as quickly and as safely as possible. The

Officer reminded Members that the virus had and continues to have an impact on staff, both through illness and isolation requirements which would in turn impact on service delivery levels. In terms of provision levels at other authorities it was noted that 21 of the 22 were offering similar levels to Caerphilly with 1 Council not opening any centres at all.

Members expressed their thanks to all NHS Staff and to Councillor Andrews for her and her colleague's efforts. Councillor Andrews confirmed that she would pass these on to her colleagues.

In terms of the consultation, the Acting Chief Executive confirmed that this would be reviewed, revised and would be conducted in conjunction with People First.

A Member acknowledged that there were huge issues facing social services, families and service users and there would be no easy solution and clarification was sought as to what support was being provided to carers. The Acting Chief Executive advised that the Unpaid Carers Team were identifying and accessing carers and this data would be used to try and rectify any issues and help in any way possible.

Councillor Mann as proposer voiced his thanks and appreciation for those providing front line services and in conclusion asked Members to recognise the impact on families and carers and support the motion.

Having been fully considered it was moved and seconded that the motion be supported, by way of Microsoft Forms and verbal confirmation and in noting there were 11 For, 35 Against and 1 Abstention the motion was declared lost.

RESOLVED that the notice of motion not be supported.

### **13. NOTICE OF MOTION – LOCAL ENERGY BUSINESS CAMPAIGN**

Consideration was given to the Notice of Motion presented by Councillor C. Mann and jointly supported by the Leader of Council and Leader of the Independents Group and also supported by Councillors P. Bevan, S. Cook, C. Gordon, N. George, L. Phipps, E. Stenner, R. Whiting, A. Whitcombe, J. Roberts, M. Adams, C. Andrews, D.T. Davies, J. Taylor, W. Williams, C. Elsbury, G. Johnston, P. Leonard, E. Forehead, R. Gough, T. Parry, C. Thomas and G. Kirby.

The motion sought Council approval to recognise the very large financial setup and running costs involved in selling locally generated renewable electricity to local customers resulting in it being impossible for local renewable electricity generators to do so, that making these financial costs proportionate to the scale of a renewable electricity supplier's operation would create significant opportunities for local companies, community groups and councils to be providers of locally generated renewable electricity directly to local people, businesses and organisations, if they wished, and that revenues received by such local companies, community groups or councils that chose to become local renewable electricity providers could be used to help improve the local economy, local services and facilities and to reduce local greenhouse gas emissions.

The motion further asked Council to Note that the Parliamentary Environmental Audit Committee, as a result of its 2021 Technological Innovations and Climate Change inquiry, recommended that a Right to Local Supply for local energy suppliers be established to address this.

That Council is accordingly asked to resolve to support the Local Electricity Bill, currently supported by a cross-party group of 264 MPs and which, if made law, would establish a Right to Local Supply which would promote local renewable electricity supply by making the setup and running costs of selling renewable electricity to local customers proportionate to the size of the supply company; and inform the local media of this decision, write to local MPs, asking them to support the Bill, and write to the organisers of the campaign for the Bill, Power for People, (at Camden Collective, 5-7 Buck Street, London NW1 8NJ or info@powerforpeople.org.uk) expressing its support.

Councillor J. Pritchard confirmed that he had supported the notice of motion formally although his name had not been recorded on the motion. Councillor B. Owen also advised Council that he would have formally supported the motion but had been on holiday when it had been circulated, both Members requested that their support for the motion be recorded.

Councillor Mann introduced the motion and detailed the reasons for its proposal, he thanked the Mayor for allowing the motion to be dealt with, without being first discussed at Scrutiny.

Members expressed their full support for the motion and acknowledged the headway the Council was already making in terms of green energy production projects. Members emphasised the importance of carrying communities with us in terms of green initiatives and how they integrated with planning and place shaping proposals. The importance of bringing in stakeholders from the private sector was commented on and Members welcomed and were reassured by the comments on partnership and community involvement.

Having been fully considered it was moved and seconded that the motion be supported, by way of Microsoft Forms and verbal confirmation this was unanimously agreed.

RESOLVED that the notice of motion be supported.

## **REPORTS OF OFFICERS**

Consideration was given to the following reports.

### **14. PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL LETTER 2020/21**

Consideration was given to the report which sought to inform Council of the publication of the Annual Letter for 2020/21 in respect of Caerphilly Council by the Public Services Ombudsman for Wales.

Members noted that the Public Services Ombudsman for Wales issues an Annual Letter to each Local Authority in Wales which sets out a summary of all complaints received and investigated by his office during 2020/21. Members were referred to Appendix 1 of this report which detailed the letter in respect of Caerphilly County Borough Council.

Following consideration and discussion it was moved and seconded the report and the content of the Public Services Ombudsman for Wales Annual Letter be noted.

RESOLVED that the content of the Annual Letter be noted.

### **15. MEMBERSHIP AND CHAIRING ARRANGEMENTS OF THE GOVERNANCE AND AUDIT COMMITTEE TO TAKE EFFECT FROM MAY 2022**

Consideration was given to the report which asked Council to determine the size and composition of the Governance and Audit Committee to meet the requirements of the Local Government and Elections (Wales) Act 2021. Council was also asked to note that in accordance with the Act, the Chair of the Committee must be a lay member and that both changes would be implemented following the elections in May 2022 and the Council's Constitution would be updated accordingly at this time.

Members noted the recruitment process for the appointment of the lay members and the proposal for a panel consisting of three members of the Governance and Audit Committee, who would make the appointments without a requirement to seek subsequent approval at meetings of the Governance and Audit Committee and Council.

Following consideration and discussion it was moved and seconded that the recommendations contained within the Officer's report be approved and by way of Microsoft Forms and verbal confirmation and in noting there were 40 For and 1 abstention this was agreed by the majority present.

RESOLVED that: -

1. Following the elections in May 2022 the revised composition and size of the Governance and Audit Committee will be 12, comprising 8 Elected Members and 4 Co-opted Lay Members (currently 13 with 1 lay member and 12 elected members).
2. The Governance and Audit Committee Chair will be one of the Co-opted Lay Members.
3. A Panel of the Governance and Audit Committee comprising of 3 Members will undertake the entire recruitment process of the lay members including shortlisting, interviewing and appointment (with support from relevant Officers) be agreed.

#### **16. PURCHASE OF LAND AT GROVESIDE ROAD, OAKDALE, BLACKWOOD FOR ALTERNATIVE ALLOTMENT PROVISION**

Consideration was given to the report which had been considered as an urgent item by Cabinet on the 27<sup>th</sup> October 2021.

The constitution requires that any decision taken as a matter of urgency must be reported to the next available meeting of Council, giving the reason for its urgency. There the report was presented to Council for Members' information.

Members noted the reasons for the urgency and the decision taken by Cabinet

RESOLVED that the report be noted.

The meeting closed at 19.40 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 26<sup>th</sup> January 2022 they were signed by the Mayor.

MAYOR

Gadewir y dudalen hon yn wag yn fwriadol



## **COUNCIL – 26<sup>TH</sup> JANUARY 2022**

**SUBJECT: NOTICE OF MOTION – SECOND HOMES**

**REPORT BY: CORPORATE DIRECTOR EDUCATION AND CORPORATE SERVICES**

### **1. PURPOSE OF REPORT**

- 1.1 Council is asked to consider the Notice of Motion as set out in paragraph 5.1 of the report and make an appropriate recommendation. In accordance with Rule 11(3) of the Constitution, the Mayor has agreed to allow the motion to be dealt with at Council, without being first discussed at an overview and scrutiny committee in order to expedite business.

### **2. SUMMARY**

- 2.1 A Notice of Motion has been received from Councillor John Roberts and is supported by Councillors A. Angel, C. Bishop, A. Farina-Childs, R.W. Gough, J. Taylor, C. Mann L. Whittle, P. Marsden, S. Cook, J. Pritchard and T. Parry.
- 2.2 The Notice of Motion meets the criteria set out in the Council's Constitution and is in accordance with the Council's Rules of Procedure now referred to Scrutiny for consideration.

### **3. RECOMMENDATION**

- 3.1 Council are asked to consider the Notice of Motion outlined in paragraph 5.1 and make an appropriate recommendation.

### **4. REASONS FOR THE RECOMMENDATION**

- 4.1 In accordance with the Council's Constitution.

### **5. THE REPORT**

#### **5.1 Notice of Motion**

There is growing concern about the impact of second homes on communities across Wales and the effect on the ability of local residents to buy homes in communities in

which they have been brought up. In Caerffili County Borough there are more than 230 second homes already.

In total, there are more than 1,200 properties lying empty here in Caerffili, some for more than five years or even a decade. They are often left to rot, sometimes causing huge problems for neighbours and communities.

With nearly 5,000 people on the council housing waiting list, strong action is needed.

We call on the council to look at all available options, including financial penalties, to help tackle the growing issue of empty properties in Caerffili. We instruct officers to bring back a report detailing options as soon as possible.'

## **6. ASSUMPTIONS**

- 6.1 As a notice of motion is a procedural matter and must be dealt with in accordance with Council's Constitution, no assumptions have been made.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 This report does not require an Integrated Impact Assessment as it relates to a procedural matter under the Council's Constitution.
- 7.2 The procedural rules regarding a Notice of Motion are contained within Council's Constitution as adopted in May 2002. The Council's Constitution sets out the framework for the decision-making roles and responsibilities.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 There are no financial implications associated with this report.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no personnel implications associated with this report.

## **10. CONSULTATIONS**

- 10.1 There has been no consultation undertaken.

## **11. STATUTORY POWER**

- 11.1 Local Government Act 2000

Author: Emma Sullivan (Senior Committee Services Officer)

Appendices: Appendix 1 Signed copy of Notice of Motion.





Gadewir y dudalen hon yn wag yn fwriadol

**NOTICE OF MOTION – SECOND HOMES**

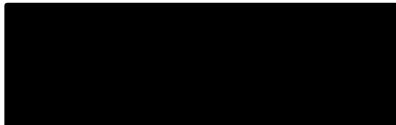
To consider the undersigned Notice of Motion standing in the name of County Borough Councillor J. Roberts and supported by the Members listed.

‘There is growing concern about the impact of second homes on communities across Wales and the effect on the ability of local residents to buy homes in communities in which they have been brought up. In Caerffili County Borough there are more than 230 second homes already.

In total, there are more than 1,200 properties lying empty here in Caerffili’, some for more than five years or even a decade. They are often left to rot, sometimes causing huge problems for neighbours and communities.

With nearly 5,000 people on the council housing waiting list, strong action is needed.

We call on the council to look at all available options, including financial penalties, to help tackle the growing issue of empty properties in Caerffili. We instruct officers to bring back a report detailing options as soon as possible.’



Signed: Councillor J. Roberts

Supported by: Councillors A. Angel, C. Bishop, A. Farina-Childs, R.W. Gough, C. Mann, J. Taylor, L. Whittle, P. Marsden, S. Cook and J. Pritchard and T. Parry

Gadewir y dudalen hon yn wag yn fwriadol



## **COUNCIL – 26<sup>TH</sup> JANUARY 2022**

**SUBJECT: NOTICE OF MOTION – NATIONAL ENERGY CRISIS**

**REPORT BY: CORPORATE DIRECTOR EDUCATION AND CORPORATE SERVICES**

### **1. PURPOSE OF REPORT**

- 1.1 Council is asked to consider the Notice of Motion as set out in paragraph 5.1 of the report and make an appropriate recommendation. In accordance with Rule 11(3) of the Constitution, the Mayor has agreed to allow the motion to be dealt with at Council, without being first discussed at an overview and scrutiny committee in order to expedite business.

### **2. SUMMARY**

- 2.1 A Notice of Motion has been received from Councillor P. Marsden and is supported by Councillors E.M. Aldworth, J. Pritchard, N. George, E. Stenner, A. Whitcombe, R. Whiting, S. Cook, M. Evans, C. Andrews, D. Havard, R. Saralis, W. David, S. Morgan, M. Adams, B. Miles, A. Collis, G. Kirby, A. Higgs, E. Forehead, J. Ridgewell, D. Price, C. Thomas, C. Bezzina, L. Jeremiah, A. Hussey, D. Harse, D. T. Davies, C. Forehead, W. Williams, T. J. Williams, G. Johnston, C. Mann, K. Etheridge. P. Leonard, D. Preece, A. Gair, A. Farina-Childs, C. Thomas, J. Stone, L. Harding, A. Leonard.
- 2.2 The Notice of Motion meets the criteria set out in the Council's Constitution and is in accordance with the Council's Rules of Procedure now referred to Scrutiny for consideration.

### **3. RECOMMENDATION**

- 3.1 Council are asked to consider the Notice of Motion outlined in paragraph 5.1 and make an appropriate recommendation.

### **4. REASONS FOR THE RECOMMENDATION**

- 4.1 In accordance with the Council's Constitution.

### **5. THE REPORT**

## 5.1 Notice of Motion

This council recognises the unprecedented energy crisis facing many households across Caerphilly, Wales and the UK. In the coming months more and more households will see increases of a magnitude never seen before as the energy price cap is removed or energy deals come to an end.

This comes on top of a cost of living crisis created by the Impacts of Brexit and the Covid Pandemic which have already seen an unprecedented squeeze on people's incomes.

Inflation remains very high which is putting huge pressure on household budgets as earnings have not kept pace with prices, leaving family budgets squeezed and people worse off.

The additional costs of day to day living are already impacting negatively on every household across Caerphilly but even more so on families who are living close to the bread line many of whom still need to visit food banks and will now be faced with the terrible choice of heating their home or putting food on the table. This is Tory Britain.

As a Council, we will continue to do everything within our power to help mitigate energy costs by signposting residents to the number of financial support options available to improve the energy efficiency of residents homes as home owners as well as our significant investment in our Council homes to make them cheaper to heat and live in.

However, the help families need to deal with the cost of living crisis can only be fixed by decisive action by the UK Government.

Therefore this motion calls on Council to write to the Prime Minister and Chancellor of the Exchequer and call for the immediate implementation and action for the following :-

- A reduction in VAT for Energy Bills to help families and householders
- An introduction of a new lower price cap on energy bills to protect households from excessive price rises
- The implementation of grants or interest free loans to encourage the take up of renewable energy solutions such as domestic Solar / PV for private homeowners and local businesses

## 6. ASSUMPTIONS

- 6.1 As a notice of motion is a procedural matter and must be dealt with in accordance with Council's Constitution, no assumptions have been made.

## 7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 7.1 This report does not require an Integrated Impact Assessment as it relates to a procedural matter under the Councils Constitution.

7.2 The procedural rules regarding a Notice of Motion are contained within Council's Constitution as adopted in May 2002. The Council's Constitution sets out the framework for the decision-making roles and responsibilities.

## **8. FINANCIAL IMPLICATIONS**

8.1 There are no financial implications associated with this report.

## **9. PERSONNEL IMPLICATIONS**

9.1 There are no personnel implications associated with this report.

## **10. CONSULTATIONS**

10.1 There has been no consultation undertaken.

## **11. STATUTORY POWER**

11.1 Local Government Act 2000

Author: Emma Sullivan (Senior Committee Services Officer)

Appendices: Appendix 1 Signed copy of Notice of Motion.

Gadewir y dudalen hon yn wag yn fwriadol



**NOTICE OF MOTION – NATIONAL ENERGY CRISIS**

To consider the undersigned Notice of Motion standing in the name of County Borough Councillor P. Marsden and supported by the Members listed.

This council recognises the unprecedented energy crisis facing many households across Caerphilly, Wales and the UK. In the coming months more and more households will see increases of a magnitude never seen before as the energy price cap is removed or energy deals come to an end.

This comes on top of a cost of living crisis created by the Impacts of Brexit and the Covid Pandemic which have already seen an unprecedented squeeze on people's incomes.

Inflation remains very high which is putting huge pressure on household budgets as earnings have not kept pace with prices, leaving family budgets squeezed and people worse off.

The additional costs of day to day living are already impacting negatively on every household across Caerphilly but even more so on families who are living close to the bread line many of whom still need to visit food banks and will now be faced with the terrible choice of heating their home or putting food on the table. This is Tory Britain.

As a Council, we will continue to do everything within our power to help mitigate energy costs by signposting residents to the number of financial support options available to improve the energy efficiency of residents' homes as homeowners as well as our significant investment in our Council homes to make them cheaper to heat and live in.

However, the help families need to deal with the cost of living crisis can only be fixed by decisive action by the UK Government.

Therefore this motion calls on Council to write to the Prime Minister and Chancellor of the Exchequer and call for the immediate implementation and action for the following: -

- A reduction in VAT for Energy Bills to help families and householders
- An introduction of a new lower price cap on energy bills to protect households from excessive price rises
- The implementation of grants or interest free loans to encourage the take up of renewable energy solutions such as domestic Solar / PV for private homeowners and local businesses



Signed: Councillor P. Marsden

Supported by: Councillors E.M. Aldworth, J. Pritchard, N. George, E. Stenner, A. Whitcombe, R. Whiting, S. Cook, M. Evans, C. Andrews, D. Havard, R. Saralis, W. David, S. Morgan, M. Adams, B. Miles, A. Collis, G. Kirby, A. Higgs, E. Forehead, J. Ridgewell, D. Price, C. Thomas, C. Bezzina, L. Jeremiah, A. Hussey, D. Harse, D. T. Davies, C. Forehead, W. Williams, T. J. Williams, G. Johnston, C. Mann, K. Etheridge. P. Leonard, D. Preece, A. Gair, A. Farina-Childs, C. Thomas, J. Stone, L. Harding, A. Leonard.

Gadewir y dudalen hon yn wag yn fwriadol



## **COUNCIL – 26<sup>TH</sup> JANUARY 2022**

**SUBJECT: NOTICE OF MOTION – RECOGNITION OF ST DAVID’S DAY AS AN OFFICIAL BANK HOLIDAY**

**REPORT BY: CORPORATE DIRECTOR EDUCATION AND CORPORATE SERVICES**

### **1. PURPOSE OF REPORT**

- 1.1 Council is asked to consider the Notice of Motion as set out in paragraph 5.1 of the report and make an appropriate recommendation. In accordance with Rule 11(3) of the Constitution, the Mayor has agreed to allow the motion to be dealt with at Council, without being first discussed at an overview and scrutiny committee in order to expedite business.

### **2. SUMMARY**

- 2.1 A Notice of Motion has been received from Councillor Teresa Parry and is supported by C. Mann, J. Roberts and C. Elsbury.
- 2.2 The Notice of Motion meets the criteria set out in the Council’s Constitution and is in accordance with the Council’s Rules of Procedure the Mayor has agreed to allow the motion to be dealt with at Council.

### **3. RECOMMENDATION**

- 3.1 Council are asked to consider the Notice of Motion outlined in paragraph 5.1 and make an appropriate recommendation.

### **4. REASONS FOR THE RECOMMENDATION**

- 4.1 In accordance with the Council’s Constitution.

### **5. THE REPORT**

- 5.1 The Notice of Motion for consideration by Council is as follows

*I call on the Council to follow the lead of Gwynedd Council to allocate Dydd Gwyl Dewi / St Davids Day as an official Bank Holiday for all staff working for CCBC.*

*I also wish that this Council ask the Welsh Government to implement our National Patron Saints day as a National Bank Holiday in Wales.*

## **6. ASSUMPTIONS**

- 6.1 As a notice of motion is a procedural matter and must be dealt with in accordance with Council's Constitution, no assumptions have been made.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 This report does not require an Integrated Impact Assessment as it relates to a procedural matter under the Councils Constitution.
- 7.2 The procedural rules regarding a Notice of Motion are contained within Council's Constitution as adopted in May 2002. The Council's Constitution sets out the framework for the decision-making roles and responsibilities.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 There are no financial implications associated with this report.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no personnel implications associated with this report.

## **10. CONSULTATIONS**

- 10.1 There has been no consultation undertaken.

## **11. STATUTORY POWER**

- 11.1 Local Government Act 2000

Author: Emma Sullivan (Senior Committee Services Officer)



## COUNCIL – 26<sup>TH</sup> JANUARY 2022

**SUBJECT: UPDATE ON WELSH GOVERNMENT REGULATIONS TO ESTABLISH CORPORATE JOINT COMMITTEES AND RESULTANT CHANGES TO THE CARDIFF CAPITAL REGION JOINT COMMITTEE**

**REPORT BY: CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 To set out an interim governance and delivery model sufficient to implement the statutory requirements for establishment of the South East Wales Corporate Joint Committee (CJC). To set out the 'twin-track' approach to operating the Cardiff Capital Region (CCR) City Deal alongside the initial 'bare minimum' phase of CJC mobilisation ahead of the SE Wales CJC setting its first statutory budget on 31<sup>st</sup> January 2022.
- 1.2 To appraise Council of the next phases of progress in line with resolving the current barriers to full implementation of an integrated 'lift and shift' approach which seeks to eventually, bring together the CCR City Deal and the CJC into one coherent model of regional economic governance.

### **2. SUMMARY**

- 2.1 The report provides an update to Council on Welsh Government Regulations to establish Corporate Joint Committees and sets out the interim governance and delivery model to implement the statutory requirements for CJC's as set out by Welsh Government.
- 2.2 The report sets out the next phases of progress via the implementation of a "lift and shift" approach which seeks to eventually bring together the CCR City Deal and CJC into one coherent model of regional economic governance.
- 2.3 The detail within the report is in a common format which is being presented to all 10 CCR member Councils through January 2022 with the aim of agreeing the common set of recommendations.

### **3. RECOMMENDATIONS**

It is recommended that Council:

- 3.1 Notes the interim governance and delivery model for implementation of the SE Wales Corporate Joint Committee and the 'twin track' arrangements proposed across operation of CCR City Deal, alongside initial enactment of a 'bare minimum' CJC – and until such time the proposed 'lift and shift' approach can occur.
- 3.2 Notes the requirement for the CJC to set and approve a budget on or before 31 January 2022 and the steps set out in the report to enable this.
- 3.3 Notes the risks and issues set out in the report which require ongoing monitoring, mitigation and management.
- 3.4 Notes the request made by CCR of WG to amend the CJC regulations to change the date on which immediate duties commence under the Regulations from 28 February 2022 to 30 June 2022.
- 3.5 Notes the draft Standing Orders at Appendix 1 which set out the initial requirements and operating model for the CJC as well as initial business for the inaugural meeting on 31 January 2022.
- 3.6 Notes the work ongoing by CCR and its constituent Councils to work with WG, Audit Wales and advisors as appropriate, to help inform resolution of the remaining issues wherever possible.
- 3.7 Supports the Leader of the Council in her duty to consider and set the first budget of the SE Wales CJC on 31 January 2022 in order to ensure the Council is complying with the legislation as required.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 The formation of CJC's as provided for in the Local Government and Elections (Wales) Act and will, over time, alter the landscape and governance of some strategic economic well-being, strategic planning and transportation functions currently undertaken by the constituent councils making up the CJC across the South East Wales Region or Welsh Government or another Welsh Government sponsored public body. WG hope they act as the catalyst to the development and implementation of collaborative arrangements across local government, where regional planning and delivery makes sense, using them as a means of maximising outcomes for the people of Wales by maintaining local democratic accountability, reducing complexity and making the best use of resources.
- 4.2 WG has published the regulations to establish the South East Wales CJC and set out, at a macro level, how the CJC would operate. Further detail and discussion will continue between the Welsh Government and 22 Welsh councils to set out clearly, the scope of the functions the CJC's will be responsible for.
- 4.3 In South East Wales, the Cardiff Capital Region Joint Cabinet has sought to be proactive and has agreed to transfer the functions under the City Deal agreement, previously approved by UK Government, Welsh Government and the ten councils in March 2016, to the South East Wales Corporate Joint Committee.

## **5. THE REPORT**

- 5.1 The Welsh Government's SEW Corporate Joint Committee Regulations 2021 establish a Corporate Joint Committee (CJC) for the ten Councils that constitute the Cardiff Capital Region. The legislation came into effect on 1 April 2021 and the first statutory duty of the CJC for SE Wales is to set its budget on or before 31 January 2022. A set of immediate 'commencement duties' requiring the CJC to begin work on preparation of a Strategic Development Plan, a Regional Transport Plan and enactment of economic wellbeing powers were due to be adopted by the SE Wales CJC on 28<sup>th</sup> February 2022.
- 5.2 A significant body of work has been undertaken by CCR and its constituent councils in preparation for enactment of a corporate entity CJC, given this objective has been a matter of long-term collective endeavour. The direction set through successive business plans, has set the course for evolution from a single funding programme – City Deal – to the multiple funding functions and accountabilities of a wider City Region via a CJC. Work to date has scoped the vision, functions and mission to decipher the 'best fit' opportunities; assess the current Joint Cabinet Committee model to appraise benefits, limitations and opportunities; assess options for a new delivery structure via a CJC; and determine optimal processes for implementation.
- 5.3 On inception of CCRCD in March 2016, the mission was to make CCR more investable, competitive and resilient – promoting inclusive growth and the aim of 'no place gets left behind'. It recognised the 'think local, act regional' mandate and the principle, that through working together everyone achieves more. This is particularly pertinent in the case of market facing functions such as the economy, housing, land-use and transport where markets don't respect administrative boundaries and where supply chains, connectivity, clusters and innovation diffusion 'spill over' and straddle geographies.
- 5.4 In this way, the establishment and underpinning ambition of the CCR City Deal has already accomplished shared purpose across all 10 Councils and much of the heavy lifting to translate this into projects and programmes has been done. Trust, strong relationships, and a commitment to place-based priorities has reinforced the profile, partnerships and reputation. The operation of the Investment and Intervention Framework Fund provides an incentive for continued co-operation and collaboration.
- 5.5 Following successful passage through Gateway Review #1, Regional Cabinet has scaled up ambitions through a new 5-year strategic business plan and an Investment Prospectus that sets out asks and offers in the order of £4.2BN investment to deliver 33,500 high skill jobs, £3.75BN leverage and £2.5BN GVA. This is significant because in a new world of Levelling-up, Connecting the Union, the UK as a Science Superpower and a new Programme for Welsh Government – investment will be secured competitively. It follows that CCR must be able to compete to win resources; develop new financial flexibilities and develop propositions to work with Welsh and UK Governments to address challenges of Covid, Climate and low growth-productivity.

### **Core Principles of Regional Economic Governance in the CCR**

- 5.6. Whilst CCRCD has achieved much to date, there are also constraints. CCR City Deal is supported by an Accountable Body delivery structure and as effective as this has been, relies upon complex back-to-back arrangements with constituent Councils and does not afford the benefits of being able to act direct; to have its own balance sheet;

to acquire and hold assets and importantly, to borrow. CCR has thus outgrown its initial structure and operating model and needs to evolve to properly capitalise on investment and opportunities for the region.

5.7 Notwithstanding support for evolution, the CCR City Deal Joint Working Agreement (JWA) – its core values, principles and ways of working – must be maintained. Experience shows that regional collaboration works best when Councils retain absolute control over CCR decision-making, and it follows that any future CJC should follow the principles behind the current JWA. Efficiency of structures streamlined governance and having a future-proofed approach which is capable of providing CCR with optimum flexibility to partake in additional investment programmes beyond the City Deal are therefore key objectives for the CJC. The hard work has already been undertaken since the CJC is not the vision or strategy – it is simply the vehicle or mechanism for optimal delivery of CCR’s vision and strategy. Core principles are thus intended to:

- Retain the principles and ways of working set out in the JWA, emphasising concurrence with local arrangements, building additionality over time and on a case-by-case basis and as required by the CJC
- Establish a strong system of multi-tier governance and distributed leadership, with the CJC setting its own compelling vision and aims and objectives
- Recognise that devolution has many faces and the need to work with both Welsh and UK Governments & ensure CCR has access to all available investments & opportunities
- Reinforce a positive-sum game. The uniqueness of the model of LA democratic legitimacy and localism sits at the heart of CJC which will be controlled and led by LAs.
- Pose no threat to LA services with the assumption that functions, services and resourcing are pulled from the centre not local authorities. No local power, functions, services or resources will be lost or displaced – unless a case is made and supported by LAs (such as Regional Bus) - and LAs will also deal directly with UK Government and Welsh Government and continue to deliver large-scale projects including those of regional, national and international significance and supported by both governments. This will emphasise absolute concurrence and compatibility with local arrangements.
- The CJC is capable of adopting Welsh Government’s policy position and ambitions for a system of regional economic governance – and is equally able to respond in the face of the growing presence of UK Government in Wales. CCR is able to act as a neutral space in the middle, working positively with both bodies to ensure the region is positioned optimally to see challenges and opportunities through the prism of ‘place’ and adopt a sense of enlightened self-interest. With regional investment and ‘localism’ central to developing policy, CCR must deliver for the region, Wales & UK.

## **Making Progress**

5.8 With the above principles in mind, at its meeting of the 20 September 2021, Regional Cabinet approved a report that established the ‘Lift and Shift’ principle (Appendix 2). This meant moving across the CCR City Deal Funding Agreement into the CJC, as the preferred model for CCR’s transition to one integrated model of regional public investment. The report further set out a comprehensive Transition Plan to oversee the process of evolution and a critical path for achieving key milestone dates.



- 5.9 The report described a number of live risks and issues, relating to a series of unresolved matters concerning the implications of CJsCs' financial status for taxation purposes and borrowing and their impacts. It was stated that work would continue to be undertaken with CCR's advisory team and WG to resolve the issues sufficiently in allowing for Lift and Shift model to be implemented in early 2022. A letter was also provided from the WG Minister for Finance and Local Government to reiterate this intent and the report sought to commit to a 'no worse off' principle, on this basis as at the point of transition.
- 5.10 In the intervening period, it has become clear that the risks and issues highlighted will not be resolved sufficiently to support 'lift and shift' of the CCR City Deal into the CJC – and by the date of CJC budget setting on 31 January 2022. This is mainly because the issues that require resolution, namely s.33 (VAT) status, need the approval of bodies such as HMRC and HM Treasury (HMT) and these clearly sit outside the sphere of direct influence and control of WG. In addition, further issues have arisen in respect of Corporation Tax. This is a complex matter not addressed so far in the Regulations; and could have significant implications to the CCR operating model unless similarly addressed through an application to HMT for relevant dispensations. Work is underway on addressing this, with CCR supporting WG's business case application to HMRC for the relevant dispensations.
- 5.11 In other words, there remain a number of substantially unresolved matters, that unless addressed and resolved prior to full 'lift and shift' implementation and are understood and mitigated against ahead of 'bare minimum' implementation – could have a significant impact. On the latter point, even basic activities under a 'bare minimum' CJC may still incur a level of irrecoverable VAT and as such an initial scaled back approach which reduces such a potential risk is proposed.
- 5.12 The impacts of all these issues are not standalone and consideration will need to be given to the matter of seeking UKG support regarding the timing and transfer of the existing CCRCD Funding Agreement to the CJC. In addition, it must be understood that these are complex and inter-connected issues and there are no 100% guarantees of success. Wider financial status issues are bound up within making the case for s33 status and in essence, the need to demonstrate the intent and effect of the CJC legislation, which is for them to be 'creatures of LAs' and 'part of the LG family'.
- 5.13 CCR has made representations to WG on these issues, including seeking a re-setting of the statutory budget timeframe. WG has advised that this is not possible due to timescales and the need to carry out statutory consultation on any proposed changes. However, the issues raised are recognised and understood and implementation on the basis of a pragmatic and proportionate provisional approach is supported. Additionally, legal advice has been taken on the risks and challenges posed to CCR of 'doing nothing' and it is clear that CCR's constituent Councils must be minimally compliant at this stage.
- 5.14 The 'bare bones' implementation of the CJC legislation will therefore need to be 'twin-tracked' with continuation of the current Joint Committee/Accountable Body-led model for delivering the CCR City Deal for the time being. This dual approach is unavoidable and will provide business continuity for City Deal delivery.
- 5.15 WG has also set out that the date of commencement of immediate duties around preparation of the Regional Transport Plan, Strategic Development Plan and economic wellbeing powers, can be changed from the original date set for SE Wales of 28 February 2022 to 30 June 2022 – thus, falling in line with other CJC regions.

This report recommends that this later date is accepted in order to better align with the proposed bare minimum approach.

- 5.16 Further background information pertinent to this is set out in the Report to Regional Cabinet of 13 December 2021 (appendix 3).

### **Next Stages**

- 5.17 Whilst the above issues are complex and require the re-doubling of efforts across WG with support from CCR and its technical and legal advisory team and its constituent LAs, it is recognised that where progress can be made, then it should be made.
- 5.18 The 'bare minimum' model proposed in this report, thus offers a pragmatic way of enabling the ten member Councils of CCR, to begin implementing the CJC requirements and adopting statutory duties – whilst at the same time – supporting WG to progress the resolution of issues, which are preventing a transition to Lift and Shift at this time.
- 5.19 This means putting in place a series of steps that will define the critical path between now and 31 January 2022 (the date by which the CJC must approve its budget), in order to ensure compliance with the legislation, but in ways which protects CCR's ten constituent Councils' short and long-term position and wherever possible, safeguards against any detriment.
- 5.20 On the basis of external advice and technical support, the proposed 'bare minimum' model will enable CCR to demonstrate it has commenced transition, ensuring compliance with the legislation and regulations. It is essentially creating the outline of the CJC as an absolute statutory minimum and as an interim holding position only. It will include:
- Setting minimal nominal budgets and the amounts payable by each constituent local authority for the operation of the CJC no later than 31 January 2022;
  - Agreeing with the Auditor General for Wales the CJC audit scope and fee, which is proportionate and reflects the CJC's bare minimum operations;
  - Adopting model Standing Orders and any basic supplements – i.e. scheme of delegations (draft attached at Appendix 1);
  - Arrangements to place any staff at disposal of CJC – again this will be on the basis of proportionality;
  - Establish statutory sub-committees e.g. Audit and Governance Committee etc.;
  - Appoint Chair/ Vice Chair/s – which can mirror existing CCR arrangements; and,
  - Establish practical arrangements in respect of the CJC's basic infrastructure as a separate legal entity – accounting & reporting requirements, bank account, VAT registration, minimum insurances, proportionate records scheme etc.
- 5.21 The bare minimum model will operate on the expectation that the absolute minimal operational activity required will be undertaken. Therefore, any extraneous activity such as production of a business plan; meetings of the CJC beyond initial budget setting/ 'establishment'; meetings of the Audit and Governance Committee; and staffing arrangements beyond those linked to the above – is unlikely to take place.

- 5.22 In order to provide a level of certainty to all CJC stakeholders and constituent councils, the bare minimum model, will be predicated on being in place until the 31 March 2023. However, should the issues be resolved sooner, there is provision for the budget requirement to be re-visited in-year and as 'lift and shift' becomes do-able and is supported through the relevant financial status issues being resolved. This means that for the initial operating period - a nominal budget is set – with the clear expectation of minimal expenditure against it. This is an important principle. If even low-level expenditure can be justified, the advice is there is a strong case to avoid incurring such expenditure if it can be demonstrated that it would “prejudice the CJC’s position or suffer any detriment”.
- 5.23 Therefore, whilst a provisional budget can be set, and actions taken to set-up and ‘ready’ the CJC – it does not follow that enactment beyond this is necessary – at least until such time the CJC is ready to be operable and lift and shift can occur. The timeframe outlined above will be kept under constant review throughout the year as the outstanding matters are progressed and future reports will be brought back to Cabinet/ Council as required.
- 5.24 The CJC will be required to comply with all necessary regulations and legal requirements. The principle of ‘proportionality’ will be adopted in assessing bare minimum compliance, along with the requirement to minimise any adverse budgetary impacts. It should be noted that the two duties to begin preparation of both a Regional Transport Plan and Strategic Development Plan will commence in 2022/23. As per paragraph 17 above, it is now proposed this date is re-set as 30 June 2022 and this has been communicated with Welsh Government. Whilst there are no immediate actions required in relation to the commencement duties, some progress will need to be demonstrated from July 2022 and plans for such will be presented to the CJC during the year.
- 5.25 This pragmatic, proportionate and reasonable approach will require key stakeholders to adopt a shared endeavour approach. As a result, consultation and engagement is ongoing with Audit Wales and Welsh Government.
- 5.26 It is envisaged that once a timescale is known to enable the recommencement of ‘lift and shift’, the original Transition Plan and arrangement set out in the report of 20 September 2021 can be re-activated.
- 5.27 It should also be noted that in setting this process in plan, the clear milestone to work towards is budget setting for the CJC on or before 31 January 2022. Approval of the budget requires unanimous support of CJC constituent councils. Brecon Beacons National Park Authority will feature as part of this in relation to the estimated budget for preparing an SDP and as such, ongoing communication and engagement is taking place.
- 5.28 Whilst work led by WG on behalf of all regions/ constituent CJs in Wales, is underway with HMRC and HM Treasury on the outstanding issues named in this report, there are further updates to note. The SE Wales CJC is not a ‘levying body’ with an expectation that ‘Connected Body’ status can be secured to enable access to the LG Pension Scheme. In relation to access to Public Works Loan Board borrowing, at the relevant future point, WG has had initial positive discussions with HMT that suggest borrowing capability through this medium, can be considered and potentially, developed.

- 5.29 Work continues to be put in place regarding arrangements for interim accounting systems, processes and relevant systems infrastructure for the CJC. This is being carried out in partnership with RCT Council, which will be providing basic 'transactional services' for the initial period of 'bare minimum' CJC operation. CCR City Deal will continue to be supported by the 'Lead Council/ Accountable Body' mechanism. This reflects the arrangements underpinning the twin-tracking approach which will be needed, at least initially and until the remaining issues are resolved.

## **Risks and Issues**

- 5.30 There are several risks related to the proposed approach. However, if the bare minimum model principles set out above are adopted and risks continually mitigated against by the detailed technical work that is ongoing and continued liaison with WG and Audit Wales, it is suggested that these can be kept in check, monitored and managed. This means that Value for Money issues can be responded to in as much, that the CJC keeps expenditure to the bare minimum during this interim period and on the basis of no significant detriment to its short or long-term operating model.
- 5.31 Other risks concern the resources now needed to implement 'bare minimum' with the aim being to meet these nominal costs from existing resources, albeit there will be some effect given efforts that will need to now be fully channelled to getting work done in an ever-decreasing timeframe. Timeframes present a further risk in that at this time, there is no clear point at which lift and shift occurring can be accurately estimated – however, this could be clarified via WG shortly. Arguably, the bigger issue is guaranteeing successful outcomes – although it is anticipated a strong case will be made to both HMRC and HMT and it remains the strong intent, and wider effect, of the WG legislation for CJs to be part of the LG landscape and treated as if a Local Authority.
- 5.32 It should also be noted that the identification of risks to date, has arisen through work 'on the job'. Further risks that only become apparent through the process of application and implementation cannot be ruled out.
- 5.33 Potential risks around potential for double taxation at the point of lift and shift are unpreventable, with work needed ongoing to develop the conversations, flexibilities where they exist and pragmatism to deal with such eventualities. The possibility of fragmented legacy accounts also requires analysis and conclusions to be presented at the relevant time.

## **6. ASSUMPTIONS**

- 6.1 All assumptions have been incorporated into the body of the report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 An integrated Impact Assessment has not been undertaken, however, in developing the plan for the CJC and considering its endorsement, regard should be had to:
- The Welsh Language (Wales) Measure 2011 and the Welsh Language Standards;
  - Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2)

advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief – including lack of belief, and.

- The Well Being of Future Generations (Wales) Act 2015. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CCRCD) must set and published wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, the Regional Cabinet should consider how the proposed decision will contribute towards meeting the wellbeing objectives set by each Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Regional Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, Regional Cabinet must:
  - look to the long term.
  - focus on prevention by understanding the root causes of problems.
  - deliver an integrated approach to achieving the 7 national well-being goals.
  - work in collaboration with others to find shared sustainable solutions.
  - involve people from all sections of the community in the decisions which affect them.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 CJC's will ultimately be funded by their constituent councils. The interim position in relation to the setting of the first CJC nominal budget by 31<sup>ST</sup> January 2022, standing orders and audit arrangements are set out in paragraphs 5.20, 5.22 and 5.23 above.
- 8.2 It is worth noting that the criteria arrangements will be incorporated into the current financial contributions made by the constituent councils.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 The CJC will ultimately have the flexibility to agree the staffing and resourcing required and to determine the approach it takes to such matters.
- 9.2 As set out in paragraph 5.20 above the current position in the creation of the outline of the CJC as an absolute statutory minimum and as an interim holding position it will include making arrangements to place any staff at the disposal of the CJC on the basis of proportionality.

## **10. CONSULTATIONS**

- 10.1 The subject matter contained within this report was the subject of an all members seminar held on 27<sup>th</sup> September 2021.
- 10.2 Any responses from the consultees listed below have been included within the report.

## **11. STATUTORY POWER**

- 11.1 Local Government and Elections (Wales) Act 2021.

Author: Christina Harray, Chief Executive

Consultees: Councillor Philippa Marsden (Leader of Council)  
Councillor James Pritchard (Deputy Leader and Cabinet Member for Infrastructure and Property)  
Councillor Eluned Stenner (Cabinet Member Performance, Economy and Enterprise)  
Councillor A. Whitcombe (Cabinet Member Sustainability, Planning and Fleet)  
Dave Street (Corporate Director Social Services & Housing)  
Mark S Williams (Corporate Director Economy and Environment)  
Robert Tranter (Head of Legal Services and Section 151 Officer)  
Steve Harris (Head of Financial Services & S151 Officer)  
Lynne Donovan (Head of People Services)  
Dave Street (Corporate Director Social Services and Housing)  
Richard Edmunds (Corporate Director Education and Corporate Services)  
Marcus Lloyd, Head of Infrastructure  
Rhian Kyte, Head of Regeneration and Planning

## **Appendices**

- Appendix 1 Draft CJC Standing Orders
- Appendix 2 Report to Regional Cabinet – Establishment of CJC Preferred Governance and Delivery Option & Transition Model – 20 September 2021
- Appendix 3 Report to Regional Cabinet – Reframing Approach to SE Wales CJC – 13 December 2021



COUNCIL – 26<sup>TH</sup> JANUARY 2022

**PUBLIC INTEREST TEST – EXEMPTION FROM DISCLOSURE OF DOCUMENTS  
PARAGRAPH 16 OF SCHEDULE 12A LOCAL GOVERNMENT ACT 1972**

**SUBJECT: UPDATE ON WELSH GOVERNMENT REGULATIONS TO ESTABLISH  
CORPORATE JOINT COMMITTEES AND RESULTANT CHANGES TO THE  
CARDIFF CAPITAL REGION JOINT COMMITTEE – APPENDIX 1**

**REPORT BY: MONITORING OFFICER**

I have considered grounds for exemption of information contained in appendix 1 of the report referred to above and make the following recommendations to the Proper Officer:-

**EXEMPTIONS APPLYING TO THE REPORT:**

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Paragraph 16).

**FACTORS IN FAVOUR OF DISCLOSURE:**

There is a public interest in the way in which the Council operates.

**PREJUDICE WHICH WOULD RESULT IF THE INFORMATION WERE DISCLOSED:**

Appendix 1 of the report includes information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

**MY VIEW ON THE PUBLIC INTEREST TEST IS AS FOLLOWS:**

On that basis I feel that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider these factors when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.

**RECOMMENDED DECISION ON EXEMPTION FROM DISCLOSURE:**

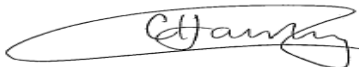
On the basis set out above I feel that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, and that appendix 1 of the report should be exempt.

Signed: 

Date: 20<sup>th</sup> January 2022

Post: Head of Legal Services and Monitoring Officer

I accept the recommendation made above.



Signed: \_\_\_\_\_  
Proper Officer

Date: 20<sup>th</sup> January 2022

Gadewir y dudalen hon yn wag yn fwriadol



By virtue of paragraph(s) 16 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

Gadewir y dudalen hon yn wag yn fwriadol

20 SEPTEMBER 2021

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## **ESTABLISHMENT OF CORPORATE JOINT COMMITTEE – PREFERRED GOVERNANCE & DELIVERY OPTION & TRANSITION MODEL**

### **REPORT OF CARDIFF CAPITAL REGION DIRECTOR & PROGRAMME BOARD**

#### **AGENDA ITEM 6**

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*Appendix 1 to this report is exempt from publication because it contains information of the kind described in paragraph 16 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of part 4 of Schedule 12A to the Local Government Act 1972*

#### **Reasons for this Report**

1. To set out and seek the approval of the Regional Cabinet for a preferred governance and delivery option to underpin the evolution of the current City Deal Joint Committee from a contractual structure to a corporate body via a statutory Corporate Joint Committee (CJC) ahead of commencement of functions on 28 February 2022.
2. To cement the core principles on which the model to establish the CJC will be based, emphasising concurrence with local delivery structures and arrangements which maintain and build on the principles and integrity of the current set-up, under the Joint Working Agreement. This will simply see a continuation of the direction established through City Deal – albeit better supported to evolve and adapt the structures, powers and levers provided by the CJC legislation.
3. To set out and seek endorsement of a set of functions, inclusive of the ‘immediate duties’ prescribed in the legislation, proposed to be delivered through the CJC as it develops and matures. The other potential functions outlined in this paper will need to be negotiated with Welsh Government.
4. To establish all transition arrangements, including governance, planning, monitoring and reporting, alongside an overview of the resources and capacity required to deliver, by way of a Transition Plan which incorporates the establishment of a Transition Board which will report to and advise Regional Cabinet and oversee progression towards and beyond the 28 February 2022 (‘go live’ date).
5. To present all relevant HR and TUPE considerations, as prescribed in the regulations and in order to create a sustainable operating platform for the CJC.
6. To describe the risks that are present at this time and mainly emerge as a result of the ongoing work by Welsh Government to consult on and conclude putting in place the

regulatory framework within which CJs will operate. To set out how such issues are being mitigated and the approach to seeking to ensure that on inception of the CJC, CCR is in a 'no worse position' (than at present) with the finalised sets of regulations providing optimal structures and provisions for the CCR to achieve its stated aims and objectives over time.

## **Background – History of Cardiff Capital Region**

7. The Welsh Government's SEW Corporate Joint Committee Regulations 2021 (Regs) establish a Corporate Joint Committee (CJC) for the CCR. The functions the CJC will exercise come into effect on 28 February 2022 by when CCR will transition to the CJC.
8. The process leading up to this, must be future-proofed and aligned with CCR's long-term objectives in order to reinforce collective endeavour. The direction set through successive annual business plans and more recently, a new 5-year Strategic Business Plan, has set the course for evolution from a single funding programme – City Deal – to the multiple funding functions and accountabilities of a wider City Region. Work to date has scoped the vision, functions and mission to decipher the 'best fit' opportunities; assess the current Joint Cabinet Committee model to appraise benefits, limitations and opportunities; assess options for a new delivery structure via a CJC and determine optimal processes for implementation. This report reflects the culmination of this work, as well as the need to continue working proactively with WG to shape the regulations in ways which help realise synergistic benefits.
9. On inception of CCRCD in March 2016, the mission was to make CCR more investable, competitive and resilient – promoting inclusive growth and the aim that 'no place gets left behind'. It recognised the 'think local, act regional' mandate and that through working together everyone achieves more. This is particularly pertinent in the case of market facing functions such as the economy, housing, land-use and transport where markets don't respect administrative boundaries and where supply chains, connectivity, clusters and innovation diffusion 'spill over' and straddle geographies.
10. In this way, the establishment and underpinning ambition of the CCRCD has already accomplished shared purpose across all 10 Councils and much of the heavy lifting to translate this into projects and programmes has been done. Trust, strong relationships, and a commitment to place-based priorities has reinforced the profile, partnerships and reputation. The operation of the Investment and Intervention Framework Fund provides an incentive for continued co-operation and collaboration.
11. Following successful passage through Gateway Review #1, Regional Cabinet has scaled up ambitions through a new 5 year strategic business plan and an Investment Prospectus that sets out asks and offers in the order of £4.2BN investment to deliver 33,500 high skill jobs, £3.75BN leverage and £2.5BN GVA. This is significant because in a new world of Levelling-up, Connecting the Union, the UK as a Science Super Power and a new Programme for Welsh Government – investment will be secured competitively. It follows that CCR must be able to compete to win resources; develop new financial flexibilities and develop propositions to work with Welsh and UK Governments to address challenges of COVID, Climate and low growth-productivity.

## **Core Principles**

12. Whilst CCRCD has 'outgrown' its initial structure and operating model, the blueprint of the Joint Working Agreement (JWA) – its core values, principles and ways of working – must be maintained. Experience shows that regional collaboration works best when

Councils **retain absolute control** over CCR decision-making and the new governance model must therefore follow the principles behind the current JWA. Efficiency of structures, streamlined governance and having a future-proofed approach which is capable of providing CCR **with optimum flexibility** to partake in additional investment programmes beyond the City Deal – are key objectives. The hard work has already been undertaken since the CJC is not the vision or strategy – it is simply the vehicle or mechanism for optimal delivery of CCR’s vision and strategy. Core principles are thus:

- The option underpinning the governance/ delivery model (as set out below) is one of ‘lift and shift’ – building upon 4 years of regional public investment under the JWA and continuing the trajectory established by City Deal
- Retaining the principles and ways of working set out in the JWA, emphasising concurrence with local arrangements, building additionality over time and on a case by case basis and as required by the Regional Cabinet or CJC
- A strong system of multi-tier governance and distributed leadership, with the CJC setting its own compelling vision and aims and objectives
- Setting out the part needing to be played by Welsh Government in respect of the adopted OECD recommendations on a system of National Regional Governance
- Recognising that devolution has many faces and the need to work with both governments & ensure CCR has access to all available investments & opportunities
- A positive-sum game. The uniqueness of the model of LA democratic legitimacy and localism sits at the heart of the CJC which will be owned, controlled and led by LAs. The CJC & LAs are one and the same – with CJC being developed for, with & by LAs.
- There is no threat to LA services with the assumption that functions, services and resourcing are being pulled from the centre not local authorities. No local power, functions, services or resources will be lost or displaced – unless a case is made and supported by LAs (such as Regional Bus) - and LAs will also deal directly with UK Government and Welsh Government and continue to deliver large-scale projects including those of regional, national and international significance and supported by both governments. This will emphasise absolute concurrence and compatibility with local arrangements.
- CCR CJC is capable of adopting Welsh Government’s policy position and ambitions for a system of regional economic governance – and is equally able to respond in the face of the growing presence of UK Government in Wales. CCR is able to act as a neutral space in the middle, working positively with both bodies to ensure the region is positioned optimally to see challenges and opportunities through the prism of ‘place’ and adopt a sense of enlightened self-interest. With regional investment and ‘localism’ central to developing policy, CCR must deliver for the region, Wales & UK

## **Governance & Delivery Options**

13. Building upon all of the above, CCR’s appointed legal advisors Pinsent Masons, has been commissioned to undertake an independent appraisal of governance and delivery options – attached at Appendix 1. This has been shared and debated extensively within the membership of Regional Cabinet.

14. Four main options have been assessed. These are:
- I. **Do nothing** – stay as is. This option is insufficient since it is contrary to WG policy. In addition, it would fail to address the current barriers of CCR’s existing operational and delivery model and would not provide scope for growth beyond CCRD – a factor that is ever critical in the post-Pandemic world.
  - II. **Like for like** - the CJC acts as the decision maker (in place of the Regional Cabinet) and the Accountable Body continues to act as the conduit for project delivery. This option is straightforward with continuity benefits. However, it equally fails to address the current barriers of CCR’s existing delivery model (which stem from an over reliance and burden on the Accountable Body); fails to take advantage of the CJC opportunities and the ability to deliver via a corporate body distinct to the Councils; and places a continued requirement upon the Accountable Body, as well as continuation of protracted back-to-back agreements.
  - III. **Lift and Shift** – progressive and developmental option. The CJC acts as the decision maker (in place of the Regional Cabinet) and acts as the conduit for project delivery (in place of the Accountable Body). This is an efficient and viable option that moves out of the Accountable Body-led approach and satisfies the immediate requirement to transition to a CJC (albeit existing projects would need to remain with the Accountable Body – subject to assessment). There are risks in that a wide range of risk profiles will sit under one body meaning limited scope to shield the CJC from project delivery risk. Further, the scope for future-proofing is limited. It does however, provide scope for the CJC model to evolve and establish subsidiary delivery vehicles on a project-by-project basis where there is a compelling case to do so. In other words, to mitigate risks presented, the delivery structure would need to continually evolve over time.
  - IV.  **Holding-Company** structure – group structure approach. This would see the CJC act as the decision maker and hold-co/ strategic anchor. The CJC, as a separate legal entity, would incorporate two wholly owned subsidiaries to deliver current and pipeline CCR projects, which, mirrors the existing arrangement under the JWA (i.e. separation of decision-making and project delivery) – albeit in a corporate guise. This is akin to a Committee/sub-Committee approach and would bring a number of financial benefits and ability to mitigate risk. It is also in line with the approach taken to date, with trading vehicles established and equity share (e.g. CSC Foundry Ltd) .
15. Having debated the options – the emerging preferred option is #3 above – to lift and shift. However, it should be recognised that this will need to operate as an evolutionary and dynamic model in view of legal advice to mitigate the risks presented. In that, Option 3 offers safe harbour for the transition but can evolve over time and on a business case by business case basis where inevitably, a compelling case will be presented to establish a subsidiary delivery vehicle in the short term. This has the benefits of limiting the extent of change and satisfying immediate requirements in a consensual way, with the capability to evolve as projects come forward and require optimal delivery structures to maximise benefits. Option 3 is highly likely to quickly require subsidiaries to be established and this must be understood, given prospects for limited partnerships and joint ventures to house proposals currently in the pipeline, requiring the CJC to hold the interest direct. However, it should be stressed that such proposals and others in the future, will not be implemented until compelling Outline and Full Business Cases have been presented and approved by the CJC.

## Decision-making

16. The South East Wales Corporate Joint Committee Regulations 2021 (the Establishment Regulations) came into force on 1 April 2021 to establish the body corporate known as the South East Wales Corporate Joint Committee and the functions the CJC will undertake once they come into force on 28 February 2022.
17. The Establishment Regulations contains key provisions in respect of the CJC, including its membership and how it makes decisions. Under the Regulations the CJC's membership comprises 10 council members, one for each constituent council which constitute the CCR, and a member from the Brecon Beacons National Park Authority who is only permitted to vote on matters relating to the strategic planning function. The Regulations also provide that the member for each Council shall be the executive leader or the elected mayor (depending how the Council operates).
18. As such, it is the members of the CJC (executive leaders of the constituent councils) which make decisions on behalf of the CJC as a separate corporate body. The Establishment Regulations provide that the members vote in relation to any matter to be decided by the CJC and that each member shall have one vote (save for the Brecon Beacons National Park Authority which can only vote on matters relating to the strategic planning function and with discussions will be ongoing). The CJC makes decisions by majority, save for certain decisions which require the member's unanimous approval. This is consistent with the manner in which the CCR has operated to date under the JWA and the clear intention is to follow the same governance model under the CJC. The Regulations also provide that determining an alternative voting procedure for the CJC or how the CJC's budget will be funded are decisions requiring unanimous approval.
19. The CJC is required under the Establishment Regulations to make standing orders for the regulation of its proceedings and business to supplement the constitutional provisions set out in the Regulations. As such, the standing orders which supplement the Regulations are intended to mirror and codify the existing governance provisions under the JWA. The standing orders will then be approved and adopted by the CJC's members which are the authorised decision-makers of the CJC under which each Council will be represented and each Council will have an equal vote. To be clear, the standing orders and the Regulations themselves will then replace and supersede the existing JWA (and no further JWA or any other form of articles of association will be required). The JWA will, from that point, have served its purpose and will cease to have effect; on the clear understanding that the principles and terms contained within the JWA will have been transposed into the governance model for the CJC via the Establishment Regulations and the standing orders.
20. Although the JWA will not apply to the CJC, it is in essence a contract between the ten Councils. Therefore in order to bring the contract to an end formally, under the terms agreed by each Council when signing up to the JWA, each Council will be required to provide formal written notice of termination of the JWA. This will require a decision of each Council to instruct an appropriate officer to serve formal written notice in accordance with Clause 2.1.2 of the JWA. This can be done at any point after the inception of the CJC and is purely a formality of contractual administration
21. There is therefore no requirement for each Council to separately decide upon a matter in respect of the CJC before this decision can be passed and adopted by the CJC. Instead, such authority and power is vested in the CJC's members to make decisions on behalf of the CJC (including approval and adoption of the standing orders).

## **Proposed initial functions**

22. The initial functions for the CCR CJC, as prescribed by the Establishment Regulations, relate to preparation of Regional Transport Plan, Strategic Development Plan and the exercise of Economic Wellbeing powers (already utilised by CCRCD).
23. Other potential functions are aspirations to be negotiated with Welsh Government as enacted 'transfers of power' over agreed periods of time. These include: City-region tourism and place branding, Inward Investment, future iterations of the Valleys Taskforce and Regional Park, aspects of business support, regional engagement, Regional Bus and strategic planning and delivery around regional-Energy. Alongside this, there may well be longer-term aspirations that will see the CJC evolve and build its maturity and delivery credentials. Finally, there will be scope for alignment of property/ housing funds, and the adjacency benefits of Innovation and R&D given the developing funding landscape, R&D Places Strategy, Innovation Strategy and emergent Innovation Deals.
24. Economic Development/ Place Leads within the region have contributed to this thinking and there is a strong sense of compatibility. There is a shared view that the proposals below are made on a 'no threat' basis to LAs which remain best placed to undertake local and hyper-local activity around economic development, planning, transport with LAs retaining all existing wellbeing powers and ability to determine local planning with the CJC empowering and supporting local, regional and national delivery. Where it is requested that functions be devolved to regions – this is about a decentralisation approach and achieving alignment and concurrency with local arrangements.
25. Capturing the above ambition in a consensual way, will be achieved via the development of the Regional Economic Framework. This will play the role of further supporting Welsh Government's continued work with the OECD on establishing optimal structures for instituting a national system of Regional Economic Governance within Wales. From a UK Government perspective, this structure and approach gives confidence of the region's ability to act directly, as a single regional entity and access wider resources and collaborations.

## **Model for Transition**

26. The process for establishing the CJC will not be straightforward, particularly given the need to balance legacy issues, with new statutory requirements; continuing to focus on delivery of CCRD while opening doors to new opportunities and potential – all whilst continuing to build the support, backing and assistance of multiple stakeholders, partners and networks. The work will be complex and will involve legal and regulatory tasks that will inform the framework of wider actions – relating to existing projects, investments and structures – whilst paving the way for new ones. It will include a strong focus on financial mechanisms and building human capital and investing in culture – alongside providing for stakeholder needs, partner engagement and a robust approach to communication and marketing. Developing a transition model must therefore be focussed on key interconnected areas of activity:
  1. Legal and Regulatory;
  2. HR, People and Culture;
  3. Finance and Resourcing;
  4. Stakeholder engagement, partnerships and communications; and



## 5. Functions and strategy.

27. A draft of the full Transition Plan with detail on each of the workstreams, is attached at Appendix 2 and it is intended that this is a living and dynamic document. It is proposed a CCR Transition Board is established to oversee progress in all 5 areas, developing the intersects and maximising connections, sequence and alignments. It is proposed the Transition Board is a sub-group of Regional Cabinet with support of wider stakeholders. The Transition Board will have the power only to make recommendations and provide advice to Regional Cabinet as decision-makers:
- I. CCR Cabinet Chair (Chair)
  - II. CCR Cabinet Vice Chairs and Leader of WLGA as relevant
  - III. Chair of RTA
  - IV. CCR Director and COO
  - V. CCR Monitoring Officer
  - VI. s151 Officer representative
  - VII. 1 member of Programme Board/ 1 Economic Development Lead
  - VIII. Chair of REGP/ Investment Panel
  - IX. Prof Kevin Morgan – (OECD alignment)
  - X. Supporting officers, representatives of Audit Wales, WG and UKG's as relevant and advisory team members to attend and participate as required. Any Member of Cabinet is able to join Transition Board meetings at any time and will receive all necessary documentation.
28. Draft Terms of Reference are attached at Appendix 3. It is proposed that the Board reports into the wider CCR Cabinet/ Shadow CJC. It is further proposed that under the overarching Transition Board, operational workstream groups based on activity programmes that will align and connect across the Transition Board's scope of work. It is suggested that members of the REGP, Programme Board, Economic Development/ Place leads, Accountable Body, core staff members and wider partners and stakeholders as is appropriate, take places as part of this more detailed work and activity – to be driven by the Programme Team and CCR's advisory team.

### **Resourcing the Transition Plan**

29. CCR comprises a strong team drawn from all areas of the public, private, government and HEI sectors. With individuals drawn from the likes of Innovate UK, financial services industry, HEIs and the region's industrial clusters – there is a strong focus on business discipline and commercial-experience. This is matched by the talents of proud long-standing entrepreneurial public servants. Supported by private sector members of Investment Panel, REGP and the Business Council who continue to give of their valuable time pro bono – as well as an expert advisory support team and a highly effective Accountable Body – Team CCR has been carefully established to be more than the sum of its parts.
30. The Programme Team will be led by the CCR Director with day-to-day operational leadership of the programme team being provided by the Chief Operating Officer. This

will be supported by a small, technical team, for which a Project Manager will be appointed to provide oversight and co-ordination. The role of the Accountable Body in this regard, will continue to provide assurances to Regional Cabinet on the robustness of process and play a key role in stress-testing structures and procedures. The core programme team will be able to draw on expertise of the wider CCR team – both employees and members of the various advisory boards – and professional advisors as necessary. Appendix 4 outlines the planned use of Welsh Government resources to support the transition programme along with a matched contribution from the core CCR budget up to March 2022.

31. As outlined above, there is a body of work required to support the immediate transition from a CCR City Deal accountable body model to a CCR CJC model by 28 February 2022. This is seen as the first phase of the transition, and it is expected that the new CCR CJC team will continue to be supported by the Transition Board for the first 12-18 months of operation to ensure that the appropriate due diligence is undertaken on the programmes and functions that is proposed to be transition to the CCR CJC. This additional support from the Transition Board during this period will provide the headroom for the CJC to build its expertise to undertake these functions.
32. It should be noted the core principles and ways of working in the current JWA will be maintained in line with the 'lift and shift' delivery option. Any additionality will be developed on a case by case basis. CCR will adopt the Regulations provided by WG, with any remaining gaps to be supplemented and codified in line with existing JWA, in the form of CJC Standing Orders which will be brought back to Regional Cabinet once Regulations are finalised. As such the budget affordability envelope and assumptions upon which the current CCR City Deal programme operates – remain unchanged. This will be set out in the Business Plan for the CJC and the Revenue Budget which will be set ahead of 31 January 2022. Should the case be made for changes or additionality, this will be set out on a proposal-by-proposal basis and developed through the annual business plan mechanism and fully engaged and consulted upon via the programme network of Chief Executives and S151 officers.

## **HR and Staffing Implications**

33. The proposed Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (“the Proposed Regulations”) which have recently been consulted on require the CJC to appoint three statutory officers, comprising a Chief Executive, a Chief Finance Officer and a Monitoring Officer (“Executive Staff”). The Establishment Regulations allow flexibility how the CJC may employ staff (including Executive Staff) in that it may employ them directly or it may enter into arrangements with constituent Councils for their staff to be placed at the disposal of the CJC.
34. In addition to the above, prior to the transfer of the CCR functions to the CJC, detailed consideration will need to be given to whether and to what extent TUPE applies.
35. Currently staff working for the CCR are employed by constituent authorities as CCR does not have the ability to employ staff directly. Those staff are subject to the terms and conditions, policies and procedures of the constituent authorities. The CJC is its own legal entity, and therefore will have liability for any staff it employs. Further, the Establishment Regulations state that staff employment by constituent authorities and placed at the disposal of the CJC will be treated as a member of staff of the CJC for the purposes of any enactment relating the CJC. Therefore, prior to the transfer of CCR functions, and prior to the direct employment of staff by the CJC or the placing of any

staff at its disposal, the CJC will need to develop a comprehensive suite of employment policies and procedures that will apply to CJC's employees, as well as template employment contracts for the staff that it employs directly.

36. In considering the above, the CJC will need to comply with the requirement in the Establishment Regulations that staff employed by the CJC must be appointed on terms and conditions (including terms and conditions as to remuneration) that are 'substantially similar to those of officers within a constituent council undertaking responsibilities which the CJC considers to be reasonably comparable.' Given that there are ten constituent Councils, each with its own different structures, employment terms and conditions, policies and procedures, the CJC will need to consider how best to comply with this obligation, whether it be adopting the most advantageous of these terms and conditions, or adopting a median position.
37. Further clarity is required from Welsh Government and the LGPS in relation to access of CJC staff to the LGPS, including the relevant fund as Constituent Councils currently overlap between The Cardiff & Vale of Glamorgan Pension Fund, The Greater Gwent (Torfaen) Pension Fund, and the Rhondda Cynon Taf Pension Fund. This whole area of HR/TUPE activity will be led on by the relevant employing organisations' Chief Executive Officers with the Chair of Programme Board.

## **Risks & Issues**

38. Notwithstanding the timeframe for the commencement of the substantive functions of the CJC (28 February 2022), the supplementary sets of regulations to put in place the underpinning regulatory framework CJs will operate within continue to be developed and consulted upon. Whilst this creates a potential mis-alignment of timeframes in some respects, in others it provides an opportunity to co-develop and shape the provisions. There are however, some identified issues that remain to be resolved which CCR has highlighted and continues to work collaboratively with WG on. These include but are not limited to:
  - the guiding principle is that the CJC will 'be part of the local authority family' and will benefit from the existing powers that the CCR have relied upon to date; the process and timing for ensuring that all such powers are afforded to the CJC are to be confirmed with WG;
  - the 'public body' status of the CJC and important points of detail around the VAT status and implications for accounting, investment planning, pension arrangements and systems operations;
  - the timing and process for the novation of the City Deal funding agreement to the CJC;
  - the application of the Public Procurement Regulations and the Subsidy Control Regime to the CJC, as we expect to be the case, to be confirmed.
39. There is a potential risk of misalignment and the ramifications of issues such as VAT exemption status and the need for the regulations to be in place in order to create a stable platform from which CCR can plan and deliver. Meetings are therefore ongoing with WG officials to co-develop and shape regulations accordingly, to tease out key principles, apply legal tests and challenges and identify potential for unintended consequences. WG officials have confirmed that the spirit of the regulations

accommodates CCR's requirements and objectives – however acknowledge more work is needed to more fully develop the regulations to effect this. CCR has supplied a framework of the powers, considerations and flexibilities used to date and those that will be required in the future – in order to mitigate this risk and WG have provided a safeguard that they are seeking to ensure that as of 28 February 2022, CCR will be in a 'no worse off' position under the CJC compared to the current Accountable Body led model. Written confirmation to this effect is sought from WG and CCR Cabinet will be updated on progress and further report on this matter will take place as required.

40. A timeframe for negotiations with Welsh Government on additional powers and flexibilities will need to follow, in order to demonstrate enhancements will be made in line with their commitment to CJs being enabling tools that optimise regional delivery. In other words, there has to be a tangible benefit for the additional burdens and duties that will be placed upon the CJC, in order to demonstrate a positive 'net gain' position.

### **Financial Implications**

41. The report considers the approach to the transition of the Current Joint Committee, to a new Corporate Joint Committee entity for the South East Wales Region from 28 February 2022. Enabling legislation is in place which has created the new Corporate Joint Committee, with its associated powers and functions, and detailed supplementary regulations are being consulted upon by Welsh Government to support the operationalising of the entity. This includes appointment of key officers such as Responsible Finance Officer. The Corporate Joint Committees have the same financial reporting and disclosure requirements as existing local authorities, including compliance with relevant codes of practice where deemed to be relevant and proportionate. Together with WG as part of the consultation on regulations, it is essential that areas that could cause a concern to the effective operation or potential future development of CJC's are identified and considered at an early stage. This includes the entity's status in terms of VAT, scope of levying status and associated pensions arrangements (e.g. a 'Scheduled Body' or an 'Admitted Body'). This also needs to consider financial responsibility for any borrowing, lease, financial guarantee and similar future liabilities and risks.
42. Following the approval of the Joint Working Arrangement establishing the Joint Committee, Cardiff Council has been the accountable body. It has also separately taken the lead role in entering into relevant contracts on behalf of the partner authorities. This includes activities such as grant and loan agreements, ownership of assets, employment of staff and provision of services under Service Level Agreements. As part of the work towards transition and novation, any financial impacts on the accountable body in the short and very long term in respect to any residual liabilities will need to be considered. A sum of £250,000 has been made available by Welsh Government and Regional Cabinet have also allocated £250,000 from Joint Committee resources to support the activities of transition including professional advice. The Joint Committee allocation will be met from Reserves held and also any identified underspends in the 2021/22 revenue budget.
43. The accountable body has highlighted a number of initial areas for inclusion in the Finance and Resourcing activity, which may cut across other activities to be undertaken as part of the a transition plan set out in the report. These are listed below. The role of the Accountable body as part of the transition plan will continue to be that of supporting existing business as usual activities of the Regional Cabinet, provide assurance on the transition planning approach to a Corporate Joint Committee and

playing its part in provision of any technical advice as relevant as part of regional working groups supporting transition activities.

VAT / TAX - Systems	Funding / Grant Transfers
Contract Novation and Structures including City Deal Grant Novation	Insurance / Risk / Pensions
Statutory / Other returns	Accounting impacts and disclosures
Enterprise Resource Systems / SLA's / Staffing and Tupe	External and Internal Audit
Treasury Management and Banking	Scope, Budget setting and Business Plan development
Financial Policies / Procedures / Delegations / Governance	Strategic Finance / Resilience
CIPFA Codes – TM / Prudential Code / Fin Management	Accountable Body and other L.A impacts

44. As the report indicates, the structure and activities of the Corporate Joint Committee may evolve over time, subject to projects and activities undertaken. Some of the above requirements may need to be established in a proportionate way, seeking relevant advice and guidance where required. The above activities need to be considered in detail as part of the transition work over the next few months, including impact on staff, Financial Procedures and Governance processes. As part of such activities, one of the key requirements is to set a budget and business plan by 31 January 2022 in accordance with the requirements of the Establishment Regulations. The approach to setting a business plan and budget for City Deal is already in place as part of the processes of the Regional Cabinet where annual and 5 year rolling budgets and business planning takes place.
45. In respect to the delivery of the City Deal, the existing Joint Working Arrangements sets out each Local Authority's Revenue contributions towards the costs of operating the Regional Cabinet and Core City Deal Office functions. It also sets out maximum permitted increases. This is also supplemented where relevant by use of the Wider Investment Fund Top Slice where use is for City Deal activities. In respect to the latter and funds provided by WG and HMT towards City Deal, it is essential that eligibility of Wider Investment Fund grant resources for activities continues to be assessed, with clear criteria developed for use. The budget envelope and assumptions upon which the current CCR City Deal programme operates – remains unchanged and will be financial commitments already agreed by the 10 partner authorities.
46. The report sets out examples of initial functions and potential future activities as the Corporate Joint Committee matures to meet longer term aspirations and optimal delivery of regional objectives. Should the case be made for changes or additionality, this will be set out on a proposal-by-proposal basis and developed through the annual business plan mechanism and fully engaged and consulted upon via the budget process. Where additional activities are undertaken which are not currently within the

scope of existing Joint Committee operating revenue budgets and Revenue and Capital contributions agreed as part of the City Deal Wider Investment Fund, the costs and income of these activities will need to be costed and identified as part of CJC budget proposals by 31 January 2022 and annually thereafter. This is to include:

- where there are additional or reductions in budgetary requirements from local authorities;
  - whether additional activities are to be paid for as part of grant support from Welsh Government and or other grant funding providers;
  - where additional costs are to be met from within existing budgets;
  - where there are commitments to support credit arrangements or similar liabilities arising as part of approved investment plans.
47. This should be considered for revenue costs as well as the approach in respect to the servicing costs of any liabilities undertaken for capital expenditure and the operating costs of any financial or physical assets.
48. This will need to be considered as part of the annual budget setting process for the Corporate Joint Committee for inclusion in respective local authority budgets.
49. The budget for the Corporate Joint Committee is scheduled to be considered by Regional Cabinet at its meeting ahead of 31 January 2022.
50. The current Joint Working Arrangement and the principles of the financial model in respect to delivery of City Deal activities set out Local Authority Contributions towards the wider investment fund. The move to a Corporate Joint Committee does not change the quantum of the financial obligations of each authority in respect to the Wider Investment Fund, but may result in additional options in determining how such contributions can be managed, subject to confirmation of the sources of finance and terms upon which the CJC may be able to borrow (noting that the CJC will not have access to the PWLB).
51. The report sets out the preferred initial model for transition to a Corporate Joint Committee. Any future changes in delivery structures will be a matter for the Corporate Joint Committee, but where additional subsidiary type delivery structures are to be created, this should be done after clear options appraisal, consideration of the need for the structure to deliver the outcomes and associated financial implications. Such structures will need to be accompanied by robust governance processes for management and performance reporting for such delivery vehicles.

## Legal Implications

52. In 2021, the Senedd Cymru passed the following legislation:-
1. Local Government and Elections (Wales) Act 2021, Part 5 (Collaborative Working by Principal Councils) provides for process by which Corporate Joint Committees can be established, or amended; and
  2. The South East Wales Corporate Joint Committee Regulations 2021, Part 1 (Establishment and Area) of such regulations established a body corporate to be known as the South East Wales Corporation Joint Committee (“CJC”) for the purposes of CCR (together the “Establishment **Regulations**”).

53. The Establishment Regulations were made in order to provide the CCR with a corporate entity by which it can deliver the Cardiff Capital Region City Deal and attain wider economic growth in South East Wales.
54. The Establishment Regulations came into force on 1 April 2021 and established the CJC. The Regulations set out the CJC's functions which are to: prepare, review and revise a Strategic Development Plan; develop a Regional Transport Plan; and to undertake the economic well-being function.
55. The Regulations make clear that these functions of the CJC come into force on 28 February 2022. As such, CCR must be ready to 'go live' and operate via the CJC to discharge these functions by 28 February 2022. The Transition Plan appended at Appendix 1 sets out at Part 2 a project plan to implement CCR's initial transition to the CJC by the 'go live' date.
56. It should be noted that the standing orders and the Regulations themselves will replace and supersede the existing JWA (and no further JWA or any other form of articles of association will be required). This is on the clear understanding that the principles and terms contained within the JWA will have been transposed into the governance model for the CJC via the Establishment Regulations and the standing orders. The JWA will, from that point, have served its purpose and will cease to have effect. For completeness and to remove any ambiguity or uncertainty as to the role of the JWA, the Councils are to note that the JWA will lapse from this point.

### **Well-being of Future Generations (Wales) Act 2015**

57. In developing the proposals and in considering its endorsement regard should be had, amongst other matters, to:
  1. the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards,
  2. Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are : a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief – including lack of belief and

(c ) the Well Being of Future Generations (Wales) Act 2015. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CCRCD) must set and published wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, the Regional Cabinet should

consider how the proposed decision will contribute towards meeting the wellbeing objectives set by each Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils to act in a way that seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Regional Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, Regional Cabinet must:

- look to the long term;
- focus on prevention by understanding the root causes of problems;
- deliver an integrated approach to achieving the 7 national well-being goals;
- work in collaboration with others to find shared sustainable solutions;
- involve people from all sections of the community in the decisions which affect them.

58. Regional Cabinet must be satisfied that the proposed decision accords with the principles above. To assist Regional Cabinet to consider the duties under the Act in respect of the decision sought, an assessment has been undertaken, which is attached at Appendix 5.

### **Equality Act 2010**

59. In considering this matter, regard should be had, amongst other matters, to the Councils' duties under the Equality Act 2010. Pursuant to these legal duties the Regional Cabinet must in making decisions have due regard to the need to (1) eliminate unlawful discrimination (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are:

- age;
- gender reassignment;
- sex;
- race – including ethnic or national origin, colour or nationality;
- disability;
- pregnancy and maternity;
- marriage and civil partnership;
- sexual orientation;
- religion or belief – including lack of belief.



## RECOMMENDATIONS

60. It is recommended that the Cardiff Capital Region Joint Cabinet:

- (1) approve and endorse the establishment of Option 3 as the preferred 'lift and shift' model for the transition of CCR City Deal to the CJC and notes the core principles and rules of engagement that underpin it;
- (2) acknowledge that the CJC will evolve on a project-by-project basis and will have the authority to establish a subsidiary delivery vehicle(s) where there is a compelling case to do so (as approved by the CJC at the relevant time);
- (3) acknowledge that the CJC will approve and adopt the standing orders, to reflect the terms of the JWA and the provisions set out above;
- (4) acknowledge that the JWA will lapse and have no further effect from the date that the CJC adopts the standing orders (as explained above);
- (5) approve the proposed scope of functions for the CJC set out above and recognise that in addition to confirmed 'Immediate Duties' these will be subject to negotiation and established on an incremental basis;
- (6) approve the Transition Plan and delegate authority to the Director of Cardiff Capital Region City Deal, to implement the matters within such Transition Plan;
- (7) approve the Terms of Reference for, and approve the establishment of, the Transition Board;
- (8) agree the £500k funding contribution for the Transition Plan and process, with 50% secured from Welsh Government and 50% of CCR resources to be funded through both financial and staffing contributions;
- (9) request that the Councils each note the contents of this report and the decisions made hereunder to give effect to the CJC; and
- (10) bring forward a future report – to be led by the relevant Chief Executives and Chair of Programme Board on all HR and TUPE implications.

**Kellie Beirne & Programme Board**  
**Director, Cardiff Capital Region**  
**20 September 2021**

### Appendices

*Appendix 1 to this report is exempt from publication because it contains information of the kind described in paragraph 16 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of part 4 of Schedule 12A to the Local Government Act 1972*

**EXEMPT** Appendix 1 Governance and Delivery Options Report on CJC by Pinsent  
Masons  
Appendix 2 Transition Plan

Appendix 3  
Appendix 4  
Appendix 5

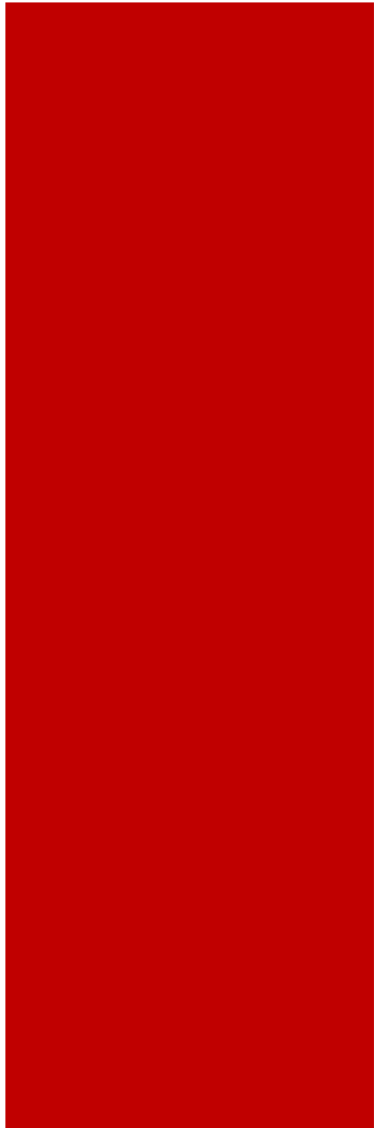
Transition Board Terms of Reference  
Resourcing Plan Sept 2021-February 2022  
Well-being of Future Generations Assessment



**Cardiff City Deal Capital Region**

**Transition to the South East Wales  
Corporate Joint Committee**

**DRAFT: Transition Plan**



**1. Background and purpose**

To date Cardiff Capital Region (“CCR”) has operated via a contractual structure. The ten local authorities comprising CCR (“Partner Councils”) entered into a joint working agreement dated March 2017 (“JWA”) which governs the relationship between the Partner Councils and their respective obligations and contributions in relation to delivering the Cardiff Region City Deal (“CRCD”).

The JWA:-

- established the Joint Committee to oversee and co-ordinate the discharge of the Partner Councils’ obligations in respect of the CRCD and to make decisions on behalf of CCR;
- appoint Cardiff Council to act as the Accountable Body and to implement and investments / projects approved by the Joint Committee on behalf of CCR.

The CCR therefore does not currently operate as a separate legal entity.

In 2021, the Senedd Cymru passed the following regulations:-

- Local Government and Elections (Wales) Act 2021, Part 5 (Collaborative Working by Principal Councils) of which provides the Welsh Ministers with the ability to establish a Corporate Joint Committee; and
- The South East Wales Corporate Joint Committee Regulations 2021, Part 1 (Establishment and area) of which establishes a body corporate to be known as the South East Wales Corporate Joint Committee for the purposes of the CCR (the “CJC”) (together the “Regulations”),

The Regulations were passed in order to provide the CCR with a corporate entity by which it can deliver the CRCD and attain wider economic growth in South East Wales (the “Region”). The Regulations came into force on 1 April 2021 and established the CJC.

The Regulations provides that the CJC’s functions are as follows:-

- preparing, reviewing and revising of a Strategic Development Plan;
- developing a Regional Transport Plan; and
- economic well-being function – the power to do anything which the CJC considers is likely to promote or improve the economic wellbeing of its area.

**The functions of the CJC come into force on 28 February 2022 which means CCR must be ready to ‘go live’ and operate via the CJC by 28 February 2022.**

The purpose of this Transition Plan is to provide CCR with:-

- **Part 1 - A roadmap for CCR’s transition to the CJC;** and
- **Part 2 - A project plan for “Stage 2 – Lift and Shift” to implement CCR’s initial transition to the CJC by 28 February 2022.**

## PART 1 – CJC ROADMAP

### 1. Vision and key principles

- To build regional institutional capacity to drive economic wellbeing in the Region that builds on the key principles, values and integrity of the current CRCD establishment. This would be an evolution and maturity to galvanising a regional approach to economic development and to accelerate the pace of delivery – with the ability to think local, see the world and act in the best interest of the Region.
- Reinforce that place is the prism through which CCR sees the world, and cities and regions as pragmatic enablers of progress due to their proximity to the real world challenges of their communities.
- Ensures that the Region ‘looks both ways’, is non-tribal and that the CCR is able to access all the investment/funds available to it – regardless of where these sit.
- Builds upon the good work going on at local level and ensures absolute concurrency with local arrangements, in order to build capacity and capability for those things done best at regional scale.
- Relies upon commitment to the Organisation for Economic Co-operation and Development’s (“**OECD**”) recommendations and the role of Welsh Government (“**WG**”) in establishing optimal national frameworks for regional development and regional public investment.
- To provide an appropriate legal framework and corporate delivery structure through which to continue to grow our aspirations for the Region and to secure funds and investments aligned to our core objectives which are open to other regions, but currently NOT to us, since the current underpinning legal framework is limited to the delivery of CRCD.
- To provide a route map for securing wider appropriate powers, in so much as they pertain to core purpose, to allow for strategic acquisitions, autonomy through balance sheet, borrowing power and wider levers and abilities. This is critical if we are to move beyond seeking a bigger slice of the pie, to making a fundamentally bigger pie.

Regions are best placed to deliver co-ordinated strategic impact and will be a critical footprint for the dimensions of economic development that do not respect administrative boundaries – infrastructure, agglomeration, R&D, clusters, net-zero and innovation.

There are 3 critical components to the CCR Prospectus for Evolution and Delivery:

- 5 year Strategic Business Plan which sets out objectives for regionalism and building regional institutional capability;
- The CCR Investment Prospectus for Place which is aligned to the recently published HMG Plan for Growth and makes a series of asks and offers in respect of regional investment, regional powers and regional development; and
- Passenger Rail Vision is a sub-set of the above, but makes a standalone case for investment in rail – for which successive studies demonstrate serious underfunding and in light of the Union Connectivity Review – immediate opportunities are presented.

## **2. The Journey...**

There are four main stages to the evolution and transition required.

**Stage 1 – Identifying the Opportunity:** Stage 1 is the process of self-reflection on how CCR currently operates and whether it is suited to the evolving local government landscape and regional challenges (that have been exacerbated by the impact of Covid-19). The CRCD delivered within the narrow confines of the JWA that has been established with a single funding programme in mind. The current JWA does not provide for wider regional powers, fiscal levers/ incentives, borrowing, programmes, direct acquisition and accounting and is thus, not a receptacle for receipt of funds beyond CRCD. This means the CCR is at a competitive disadvantage vis-a-vis other UK regions and Combined Authorities that have these powers and operating models. If CCR is to seize the opportunities available to comparable organisations / delivery vehicles across the UK and beyond just the delivery of CRCD in an environment in which new investment, opportunities and funding is rapidly developing and growing – wider development is urgently required.

**Stage 2 – Lift and Shift:** Stage 2 is simply about lifting and shifting the current set-up, structure and JWA into the corporate body of a CJC. Whilst 'lift and shift' can sound like for like, the difference here is that in line with the publication of the Regulations, at this point, CCR would become a corporate body – rather than just the vessel for CRCD, and, automatically

acquire the ability to act as a corporate regional structure with the 18 new statutory instruments attributed to it and the ability to apply as a Region directly for new and additional investment (albeit, initially, within the governance arrangements codified under the JWA).

**Stage 3 – Evolving & Optimising the CJC:** Stage 3 will focus on refining and optimising the CJC delivery model to enhance the impact we can make in the region and the pace of delivery. This will include reflecting on the existing barriers to delivery and learning and applying the lessons from other comparable organisations across the UK. This means ensuring adaptability for the future, adding powers in line with purpose and scope and scaling up ambitions and additionality. This will be an important phase as the CJC will start to bed in and find its place providing real co-ordinated strategic impact for the Region.

**Stage 4 – Future Plus:** Stage 4 is what we call ‘Future Plus’. The CJC, to be successful, should never stand still. It will need to continually adapt to fit future challenges and ensure alignment with investing and opportunity horizons. At this stage, the model and structure is optimised and consideration should be given to future development – for example, evolution of the CCR Office into a regional development entity and pursuing broader powers to facilitate our core objectives.

It should be noted the Transition Plan is a live, dynamic and iterative document. The Regulations are still being developed and consulted upon and as such, the document will need to be continually updated with the oversight of the Transition Board and Cabinet. All tasks listed below are therefore subject to the regulations.

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>	<b>Stage 3 – Evolving &amp; Optimising</b>	<b>Stage 4 - Future Plus</b>
	<b>NOW</b>	<b>July 2021-February 2022</b>	<b>February 2022-September 2023</b>	<b>September 2023 ongoing...</b>
<b>ACTIVITIES REQUIRED – LEGAL, REGULATORY AND FINANCE</b>	<ul style="list-style-type: none"> <li>Managing the Wider Investment Fund (“WIF”) for CRCD – developing, assessing, managing and monitoring project delivery</li> <li>Partnership provisions - oversee, coordinate and</li> </ul>	<ul style="list-style-type: none"> <li>JWA is adapted and amended to incorporate the new CJC provisions. CJC will broadly be subject to the same powers and duties as principal councils in the way they operate</li> </ul>	<ul style="list-style-type: none"> <li>Group governance structure to be developed, building on the guiding principles of the JWA, to align with the nature of future investment activity (e.g. corporate</li> </ul>	<ul style="list-style-type: none"> <li>Whilst the core legal and regulatory structure ought to be settled by this point, the CJC will need to continually adapt and evolve to meet the dynamic and evolving</li> </ul>

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
	<p>provide support to CRCD governance Regional Transport Authority, Regional Economic Growth Partnership, and Regional Business Council with an eye to future synergies and efficiencies.</p> <ul style="list-style-type: none"> <li>• Continue to operate via an Accountable Body model with Cardiff Council acting as the Accountable Body and contracting on CCR's behalf</li> <li>• Cardiff Council to continue financial management function for CCR and to monitor any impact on its own treasury function and borrowing capacity / headroom</li> <li>• Partner Councils to continue deploying resources / staff and support as required</li> </ul>	<ul style="list-style-type: none"> <li>• WIF novates across to CJC for all new investments and, where practicable / appropriate, existing investments</li> <li>• Project-by-project due diligence is undertaken to assess suitability to transfer across existing projects/investments to the CJC (e.g. tax implications)</li> <li>• Procurement and State aid assessments to be undertaken for existing projects to ensure novation is permissible</li> <li>• Initial preparatory work to begin on immediate duties (transport plan, SDP and general power of competence)</li> <li>• Determine budget requirements for first two financial years of CJC in line with the Regulations</li> <li>• Annual business plan to take new shape as CJC business plan</li> </ul>	<p>fund structures and investment boards) and schemes of delegation allocated to appropriate sub-groups / subsidiary vehicles to promote greater efficiencies within clear safeguards and to be done on a case by case basis</p> <ul style="list-style-type: none"> <li>• Accounting treatment and tax implications of any new SPVs or structures to be assessed to ensure no unintended negative consequences</li> <li>• Ability to comply with funding conditions for wider sources of funding to be assessed</li> <li>• Annual business planning to be undertaken and the development of the five year strategic vision for the CJC building upon</li> </ul>	<p>needs of the Region. This will involve ongoing monitoring and operating ahead of the curve to ensure the CJC is positioned to capitalise on new funding opportunities and helps to set the agenda</p> <ul style="list-style-type: none"> <li>• Continual assessment of other comparable organisations and drawing on lessons learnt in pursuit of CCR objectives</li> </ul>



	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
	<ul style="list-style-type: none"> <li>• Accountable Body to continue to employ staff and second to CCR Project Team as required (subject to Cardiff pay terms and conditions which may not necessarily support new CCR roles e.g. investment fund manager)</li> <li>• CCR to continue to call on Partner Councils to rely on their respective powers and local policies to support CCR projects / interventions (e.g. borrowing powers)</li> <li>• Continue to operate in absence of a joined up and strategic policy framework and powers across the region</li> </ul>	<ul style="list-style-type: none"> <li>• CJC Annual Revenue (operating) Budget to be set by 31<sup>st</sup> January 2022</li> <li>• Meeting with UK Government to confirm all arrangements (given WIF funds partly HMT underwritten) and seek necessary approvals</li> <li>• Transfer of all existing governance arrangements to the CJC – including scrutiny, audit, partnerships and advisory bodies.</li> <li>• Establishment of sub-committee structure, Terms of Reference and operating models</li> <li>• Production of REF in line with OECD requirements and WG policy implementation</li> <li>• The role of the Accountable Body to be assumed by the new CJC (save for any existing projects where not practical to novate across)</li> </ul>	<ul style="list-style-type: none"> <li>existing JWA business plan</li> <li>• Annual revenue budget planning and production</li> <li>• Annual accounts audit for CJC</li> <li>• External and internal audit regimes</li> <li>• Legal advice and assessments on a project-by-project and business case basis</li> </ul>	

	Stage 1 – <i>Identifying the Opportunity &amp; Continuing Status as CRCD</i> <b>NOW</b>	Stage 2 - <i>Lift &amp; Shift to CJC</i> <b>July 2021-February 2022</b>	Stage 3 – <i>Evolving &amp; Optimising</i> <b>February 2022-September 2023</b>	Stage 4 - <i>Future Plus</i> <b>September 2023 ongoing...</b>
		and regulated by new CJC board		
<b>NEW POWERS AND LEVERS AND DEVELOPMENTAL / PROGRAMMES</b>	N/A	<ul style="list-style-type: none"> <li>• Confirmation that CJsCs will be afforded existing Powers and Levers to ensure a ‘no worse position’</li> <li>• Economic wellbeing powers &amp; comprehensive borrowing powers (akin to the Greater London Authority and Greater Manchester)</li> <li>• Signing off list of powers, levers and considerations with WG – ahead 28 February 2022</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Co-ordinated CCR Place Branding</b> – sectoral/cluster development coordination; inward investment; and regional tourism promotion. This would be a front door for the region (not detracting from LA ability engage with investors)</li> <li>• <b>Economic development capabilities</b> – including business support and development services that compliments local delivery and draws from Welsh Government resources</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Strategic land use planning</b> at a regional implementation scale</li> <li>• <b>Incorporate other regional initiatives</b> that contribute to the economic well-being of the Region into the CJC e.g. Regional Valleys Park, Valleys programmes and InFuSe, and training and other potential programmes – subject to Regs</li> </ul>

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
			<ul style="list-style-type: none"> <li>• Tax Increment financing capability – subject to Regs</li>   <li>• <b>Economic wellbeing and regeneration capacity for the Region</b> – Net Zero Carbon focus digital infrastructure; and strategic land acquisitions</li>   <li>• Subject to regulations - assessment of borrowing capabilities and fiscal powers – to support e.g. borrowing, access to LGPS and wider initiatives – to be agreed</li>   <li>• Co-ordinated regional submissions to new UKG investment funds</li> </ul>	

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
			<p>under the banner of Plan for Growth</p> <ul style="list-style-type: none"> <li>• Strategic Regional Transport Planning – building on the RTA experience to date, and taking leadership on the commissioning of implementing the plans Regional Transport Plan</li> <li>• Working towards CCR SDP and SEWSPG</li> <li>• Manage multiple investment funds and programmes</li> <li>• Oversee, coordinate and provide support to the Regional Skills Partnership</li> <li>• Finalisation of all regulations for adoption</li> </ul>	

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
<b>HR ISSUES</b>	<p>N/A given structure plans approved for CRCD as part of Joint Committee Revenue Budget for 2021/22.</p>	<ul style="list-style-type: none"> <li>• Executive team appointments and appointments to statutory roles. This will be a key consideration for the Joint Committee.</li> <li>• Address any TUPE implications of existing staff transferring to the CJC (e.g. LGPS pension obligations and responsibility for any shortfall)</li> <li>• Joint Committee to take a view on the extent to which Accountable Body model continues to operate in particular, in regard to direct appointments to statutory roles vis-a-vis continued temporary reliance on Accountable Body</li> <li>• All relevant employment considerations, including arrangements for administering the payroll from the 28<sup>th</sup> February</li> </ul>	<ul style="list-style-type: none"> <li>• Scaling up of structures commensurate with growth and, in particular, recruit specialist staff (e.g. fund operation manager)</li> <li>• Any T&amp;C issues associated with regional economic development entity and moving away of individual partner council policies to new CJC policies (e.g. pay grading and performance bonus to attract and retain the appropriate specialist staff)</li> <li>• Wider organisational development and cultural considerations – policy environment, cultural conditions, ‘tone’ and identity</li> </ul>	<p>Should be natural evolution of scaling at this point commensurate to need and growth demands</p>

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
		2022 and linkages to the CJC’s accounting system and appropriate external bodies e.g. HMRC etc.  <ul style="list-style-type: none"> <li>• Relevant arrangements regards shared liabilities for costs and team structure</li> </ul>		
<b>STAKEHOLDER ENGAGEMENT &amp; GOVERNANCE</b>	N/A	<ul style="list-style-type: none"> <li>• Development of a Transition Board and shared programme board arrangements with WG, identifying key check-in points and areas of continued policy development</li> <li>• Strategic utilisation of programme board to offer oversight and advice to Joint Committee</li> <li>• Production and implementation of a comprehensive Stakeholder Engagement Plan for WG/ UKG/ partnerships, business, HE and community sector</li> </ul>	<ul style="list-style-type: none"> <li>• Alignment of economic strategy and purpose with new powers and incentives in order there is a clear sense of ‘why’</li> <li>• Roll-out of next phase of comms and engagement – particularly pertinent to any decision on a regional development entity</li> <li>• Continued evolution of sub-committees, partnerships and advisory structures</li> </ul>	Ongoing communication vertically and horizontally across structures and governance and colleague focus. This phase will be about building ‘the story’ of the CCR of which, CRCD will be one part.

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
		partners, Councils, WLGA and so on <ul style="list-style-type: none"> <li>Establishment of core workstreams as per the proposed model of governance and partnerships (including Governance and Audit Sub-Committee as per the Regulations)</li> </ul>		
<b>OPERATING IMPLICATIONS</b>	Business as usual	Base JWA model + additions, enhancements, new powers and provisions	<ul style="list-style-type: none"> <li>At this stage, the operating model will grow and develop in line with strategy and objectives and begin to bed in. Cultural considerations and tone/identity will be important at this stage.</li> <li>This phase of work is also likely to be aligned with outcomes of LG Elections</li> </ul>	Scaling and continued evolution. At this point, the structure operates as group of entities and business units with CRCD being just one of many funding and investment programmes.

	<b>Stage 1 – Identifying the Opportunity &amp; Continuing Status as CRCD</b>  <b>NOW</b>	<b>Stage 2 - Lift &amp; Shift to CJC</b>  <b>July 2021-February 2022</b>	<b>Stage 3 – Evolving &amp; Optimising</b>  <b>February 2022-September 2023</b>	<b>Stage 4 - Future Plus</b>  <b>September 2023 ongoing...</b>
<b>POLICY WORK</b>	N/A	<ul style="list-style-type: none"> <li>• Looking outward to best practice models across UK, Europe and beyond</li> <li>• Fiscal levers and incentives</li> <li>• Continuation of RIW/ OECD work agreed for new WG administration</li> <li>• One Region strategic plan for CCR – evolution from REF</li> <li>• New reporting and monitoring arrangements</li> <li>• Thematic development work as required from the Investment Prospectus</li> <li>• Continued work on regional public investment development and structures</li> <li>• Membership of OECD international regional observatory</li> <li>• COP 26 as CCR</li> <li>• MIPIM 2022 as CCR</li> <li>• Western Gateway development</li> <li>• Clusters strategy for CJC</li> </ul>	<ul style="list-style-type: none"> <li>• This phase of work should align with the completion of the next phase of work by OECD with WG on regional economic governance and the continued development of Regional Investment Wales.</li> </ul>	Continual adaptation to policy environment



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	Stage 1 – <i>Identifying the Opportunity &amp; Continuing Status as CRCD</i> <b>NOW</b>	Stage 2 - <i>Lift &amp; Shift to CJC</i> <b>July 2021-February 2022</b>	Stage 3 – <i>Evolving &amp; Optimising</i> <b>February 2022-September 2023</b>	Stage 4 - <i>Future Plus</i> <b>September 2023 ongoing...</b>
		<ul style="list-style-type: none"> <li>Continued support via REGP/ Cardiff University-led Partnership</li> </ul>		
<b>TRANSITION BUDGET</b>	N/A	<ul style="list-style-type: none"> <li>Welsh Government approval of £250,000 funding package, associated grant offer letter and completion of quarterly returns</li> <li>Cabinet approval of £250,000 match funding (staff and funds) to match WG £250,000 commitment and appropriate arrangements to track , account for and report against approved transition budget</li> </ul>	<ul style="list-style-type: none"> <li>Consideration of future transition budget requirements, if any</li> </ul>	N/A
<b>RESOURCE IMPLICATIONS</b>	N/A	<ul style="list-style-type: none"> <li>Execute Project Team arrangements in-line with the above</li> </ul>	Will need to be subject to comprehensive assessment of work programme and activity ongoing	Will need to be commensurate with new portfolios and programmes of activity moving into the region
<b>COMMUNICATIONS PLAN</b>	N/A	<ul style="list-style-type: none"> <li>Evolution of CCR Comms and Marketing work to a comprehensive plan for</li> </ul>	Evolving communications plan in line with the growing	Evolving communications plan in line with the

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		engagement/ comms for CJC • Business Council front and centre in relation to all communications and engagement with business community	scope and scale of provision	growing scope and scale of provision

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**PART 2 – PROJECT PLAN FOR STAGE 2 LIFT & SHIFT**

**1. Key Information**

**1.1 Project**

The incorporation of and transition to the CJC, as the new stewardship and decision making entity for the CRCDC, which will supersede and replace the current Joint Committee. The CJC will also act as conduit for delivery of projects / investments approved by the CJC (in place of the Accountable Body). The CJC may determine to incorporate subsidiary delivery vehicles on a project-by-project basis where there is a compelling case to do so. The intention is for the CJC's remit to extend beyond the CRCDC and to assume responsibility and stewardship for wider investment programmes that the CRCDC partners may secure from time to time.

**1.2 Project Team**

- (a) CCR (Kellie Beirne ("**KB**"); Rhys Thomas ("**RT**"); James Williams ("**JW**"); Nicola Butler ("**NB**"); Hrijinder Singh ("**HS**") Anil Hirani ("**AH**") and HR Officer (TBC)); and
- (b) Pinsent Masons LLP ("**Pinsents**").
- (c) Key service inputs will be required to support the work of the Project Team in the following areas:

Taxation assessment, VAT accounting & returns, accounting system, financial reporting, banking, pensions, information governance, insurances, procurement, payroll & tax returns, accounts payable, accounts receivable, ICT support & services, internal audit and external audit.

**1.3 Key Stakeholders**

- (a) Cardiff County Council, Monmouthshire County Council, Blaenau Gwent County Borough Council, Bridgend County Borough Council, Caerphilly County Borough Council, Merthyr Tydfil County Borough Council, Newport City Council, Rhondda, Cynon, Taff County Borough Council, Torfaen County Borough Council and The Vale of Glamorgan County Borough Council (the "**Partner Councils**");
- (b) The Brecon Beacons National Park Authority (the "**Authority**");

(and together the "Key Stakeholders") and

- (c) The Welsh Government ("WG").

1.4 **Key Dates**

- (a) 20 September - December 2021/ January 2022 – obtain Key Stakeholder approvals;
- (b) 31 January 2022 – agree annual budget for financial years 2021-2023 and annual business plan for financial year 2022-2023; and
- (c) 28 February 2022 - functions of the CJC come into effect.

1.5 **CJC: Approach to future subsidiary delivery vehicles**

CCR's current intention is to implement a Lift and Shift structure such that the CJC becomes the decision-making entity and the conduit for delivery for future CCR projects / investments. The CCR project team will undertake due diligence in respect of CCR's existing projects and investments to determine whether these should remain with the Accountable Body for delivery on CCR's behalf or transition to the CJC at the appropriate time. There is no expectation to transition any existing projects to the CJC in the immediate term.

The transition of the decision-making and project delivery function will satisfy CCR's immediate requirements to transition to the CJC. This will serve to improve CCR's existing operational model by: stepping away from the Accountable Body approach which impacts upon the Accountable Body's balance sheet / treasury management and requires entry into back-to-back agreements; and improved future proofing by ring-fencing any associated delivery risks for CCR projects / investments within the CJC rather than with the Partner Councils.

The intention is that future CCR projects and investments will be delivered by the CJC. It is, however, recognised that certain projects may require a separate corporate entity (e.g. joint venture or new investment programme). As such, the CJC will have the ability to incorporate subsidiary delivery vehicles if required on a project-by-project basis as part of the CJC's approval process.

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2. Project Plan to 'Go Live'

No.	Action	Action	Responsibility	Deadline
1.	<b>Workstream 1 – Preparation of and transition to the CJC entity</b>			
1.1	<b>Proposed Delivery Structure Report</b>	<p>Options appraisal to be prepared to determine the optimal delivery structure by which the CJC may efficiently deliver existing and future CCR projects (e.g. 'Like for Like' vs 'Lift and Shift' vs Holding Company structure).</p> <p>Financial advice required to consider and advise upon tax and accounting treatment along with any transfer pricing considerations (if any) in respect of the options.</p>	<p>Pinsents</p> <p>KPMG</p>	<p>June-July 2021</p> <p>September – October 2021</p>
1.2	<b>Engagement with WG</b>	<p>Engagement with WG to:</p> <ul style="list-style-type: none"> <li>• secure buy-in of CCR proposals for optimal delivery model for the CJC;</li> <li>• agree scope of powers to be granted to CJC at the outset and process to lobby for further powers in due course;</li> <li>• ensure the WG Implementation Regulations are aligned with and provide for CJC to incorporate delivery subsidiaries for individual projects / investments (and associated vires) (where required);</li> <li>• agree timeframe for and nature of WG Implementation Regulations (e.g. automatic novation of contracts and functions?).</li> </ul>	CCR and Pinsents	July-December 2021

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No.	Action	Action	Responsibility	Deadline
1.3	<b>Governance Arrangements / Standing Orders</b>	Engagement with Key Stakeholders to agree key principles in respect of governance arrangements and standing orders of CJC <sup>1</sup> .	CCR / Monitoring Officer sub-group	July-December 2021
1.4	<b>Funding transfer</b>	<p>CCR Finance Sub-Group to consider and advise upon the most appropriate route to transfer the following funding streams to the CJC:-</p> <ul style="list-style-type: none"> <li>• HMT / WG Funding Agreement for the CCR Funding currently in place between WG and Cardiff Council (as the Accountable Body) which is due to be refreshed following the Gateway Review;</li> <li>• £120m funding commitment of the Constituent Councils under the JWA;</li> <li>• Outstanding funding commitments payable under 'live' projects / investments (if to be transitioned from the Accountable Body to the CJC); and</li> <li>• Existing CCR operational budget.</li> </ul>	CCR Finance Sub-Group / AH / HS	July-December 2021
1.5	<b>Existing CCR Employees</b>	Consideration of whether the CJC should become the employer of the existing employees of the Constituent Councils that are engaged as members of the CCR Project Team and any associated TUPE or secondment considerations.	CCR / Pinsents	July-September 2021

<sup>1</sup> [PM/DN: We note that The South East Wales Corporate Joint Committee Regulations 2021 (the "Regulations") provides for the members of the CJC, which are responsible for decision-making, the quorum requirements, frequency of meetings, voting procedure, etc. However, there is still a requirement for the CJC to make standing orders for the regulation of its proceedings and business, which are not regulated by the Regulations and will need to be aligned with the terms of the JWA.]

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No.	Action	Action	Responsibility	Deadline
1.6	<b>Consideration of Services Requirements of CJC</b>	<p>Consideration of:-</p> <ul style="list-style-type: none"> <li>services required by the CJC (e.g. back-office support, IT services, finance/payroll services, HR services, etc);</li> <li>staffing requirements of the CJC;</li> <li>property requirements of the CJC (including lease / licence of CCR's project team's office and any associated contracts);</li> <li>how each of the above will be provided (e.g. via Constituent Councils or otherwise); and</li> <li>any external services required by CJC in respect of any existing projects to be transitioned and/or upcoming projects (e.g. fund advisory or management services).</li> </ul>	CCR / Pinsents	July-September 2021
1.7	<b>CJC Sub-Committees (Governance &amp; Audit, Standards, RTA, SDP, Scrutiny)</b>	Engagement with Key Stakeholders to determine the scope and composition of the governance / terms of reference for the required sub-committees and effective date/s for operation (guided by the Regulations).	CCR	September-December 2021
1.8	<b>Determining Budget for CJC</b>	Engagement with CCR Finance Sub-Group to determine budget requirements of CJC for financial years 2021-2022 & 2022-23.	CCR	September-December 2021
1.9	<b>Key Stakeholder approvals</b>	Key Stakeholders to obtain necessary approvals in connection with the implementation of the CJC to allow for legal documentation to be drafted and finalised ahead of the February 2022 deadline.	CCR	September – December 2021
1.10	<b>Development of Key Policies and Business Plans</b>	Initial drafts of Transport Policies, Strategic Development Plan, the CJC Business Plan, other key policies of the CJC (including any policies relating to the governance and audit sub-committee, CJC policy in relation to the approach to contracting between CJC, Constituent	CCR / Pinsents	September – December 2021



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No.	Action	Action	Responsibility	Deadline
		Councils and any future delivery subsidiaries to ensure compliance with procurement, vires and subsidy control, conflicts of interest policy, etc.) and policies required by law.		
1.11	<b>Operational Matters</b>	<p>Consideration of operational requirements of the CJC to be put in place prior to 28 February 2022, such as:-</p> <ul style="list-style-type: none"> <li>• setting up of a bank account(s) (approximate timeframes / information requirements);</li> <li>• review of existing insurance provision for CCR (e.g. officer and directors insurance, property insurance) and transferability to CJC; and</li> <li>• PAYE registration, Workplace Pension registration<sup>2</sup> and (if applicable) VAT registration.</li> </ul>	CCR	October 2021
1.12	<b>CJC Governance Agreement</b>	Initial draft of CJC Governance Agreement which will supplement the standing orders and set out governance arrangements for the CJC, based on the terms of the JWA, to be prepared and shared with Key Stakeholders.	Pinsents	September - November 2021
1.13	<b>Employment Documentation</b>	Initial drafts of any employment contracts / secondment agreements to be prepared.	CCR / Pinsents	September - December 2021
1.14	<b>Property Documentation</b>	Initial drafts of any property contracts required (e.g. lease between CJC and Constituent Council to service property requirements e.g. office space) to be prepared.	CCR / Pinsents	September - December 2021

<sup>2</sup> [PM/DN: We have assumed that any employees will be employed by the CJC and hence requirement for PAYE / Workplace Pension registration – to be confirmed)

Item 6 Appendix 2 - CORPORATE JOINT COMMITTEE TRANSITION PLAN

No.	Action	Action	Responsibility	Deadline
1.15	<b>Service Level Agreements</b>	Initial drafts of service level agreements for services required by CJC from Constituent Councils or otherwise to be prepared.	CCR / Pinsents	September - December 2021
1.16	<b>Applying for Wider Investment Programmes / HMT Grants</b>	Reviewing suitability and ability to apply for wider investment programmes and HMT grants in name of CJC.	CCR	September 2021 - Ongoing
1.17	<b>Initial CJC Meeting</b>	First CJC meeting to be held to enter into relevant documentation (including governance documentation), adopt key policies and budget for financial years 2021-2023.	CCR / Constituent Councils (to determine rotation basis and who will support/host the first meeting)	December - February 2022
<b>2.</b>	<b>Workstream 2 – Existing / Pipeline CCR Projects</b>			
2.1	<b>Due diligence exercise<sup>3</sup></b>	<p>Due diligence exercise to be undertaken in relation to existing CCR projects and CCR projects in the pipeline to understand:-</p> <ul style="list-style-type: none"> <li>• which existing projects (if any) are suitable for transfer to CJC (e.g. from a financial perspective, suitability and any tax implications of any transfers and how these may be structured (e.g. transfers of land) to avoid negative tax implications);</li> <li>• if suitable for transfer, any key contracts requiring early stakeholder engagement for the purposes of obtaining all necessary consents to novate);</li> <li>• if suitable for transfer, any requirements for funder consents;</li> </ul>	CCR / Pinsents / Financial Advisers	August – October 2021

<sup>3</sup> [PM/DN: We are not anticipating the transfer of existing CCR projects to the CJC where this is not suitable (e.g. transfer of CSC Foundry Limited to the CJC due to the negative tax implications).]

Item 6 Appendix 2 - CORPORATE JOINT COMMITTEE TRANSITION PLAN

No.	Action	Action	Responsibility	Deadline
		<ul style="list-style-type: none"> <li>if suitable for transfer, identifying contracts which may be assigned rather than novated; and</li> <li>[identifying any CCR projects in pipeline which is likely to justify incorporation of a subsidiary delivery vehicle, and if so, identifying operational requirements and intra-group services requirements of such subsidiary (e.g. bank account, insurances, PAYE registration, VAT registration back-office support, IT services, finance services, staffing requirements, property requirements, etc.) and how these will be provided (by CJC or otherwise).]</li> </ul>		
<b>3.</b>	<b>[Workstream 3 – Establishment of Required Subsidiary<sup>4</sup>]</b>			
3.1	<b>Governance Arrangements<sup>5</sup></b>	Preparation of template group Articles of Association. <sup>6</sup>	Pinsents	November 2021
3.2	<b>Intra-Group Service Level Agreements</b>	If required, initial drafts of service level agreements for services required by a subsidiary delivery vehicle from CJC or otherwise (e.g. Constituent Council).	Pinsents	November 2021
3.3	<b>Development of Business Plan and CJC Policies</b>	Preparation of Business Plan of any required subsidiary and CJC's key policies in anticipation of any future subsidiary vehicle (including procurement policy, FOIA policy, conflicts of interest policy, etc) and policies required by law.	CCR	December 2021
3.4	<b>Initial Incorporation Information</b>	Summary document to be produced setting out the basic incorporation information for the required subsidiary to include:-	Pinsents to produce	November 2021

<sup>4</sup> [PM/DN: We note this workstream will only be required if it is determined under Workstream 2 that there is a CCR project in the pipeline, which is likely to justify incorporation of a subsidiary delivery vehicle.]

<sup>5</sup> [PM/DN: We anticipate that any subsidiary's governance arrangements will reflect the CJC's governance arrangements and will accede to the CJC's Governance Agreement) agreed with the Key Stakeholders under Workstream 1.]

<sup>6</sup> [PM/DN: This will be a 'vanilla' set of bespoke articles of association. We anticipate that the detailed governance arrangements of any new subsidiary will be set out in the CJC Governance Agreement that will be kept confidential and that the articles of association, shared publicly, will simply mirror what is set out in the CJC Governance Agreement in a simplified form for Companies House.]

Item 6 Appendix 2 - CORPORATE JOINT COMMITTEE TRANSITION PLAN

No.	Action	Action	Responsibility	Deadline
		<ul style="list-style-type: none"> <li>• company name;</li> <li>• company registered office;</li> <li>• company accounting period; and</li> <li>• company directors.</li> </ul>	summary document  CCR to help starting to compile information from Key Stakeholders	
3.5	<b>Incorporation of Required Subsidiary (if any)</b>	Incorporation of required subsidiary (if any).	Pinsents	January 2022
3.6	<b>Ancillary Documents for Trading Subsidiaries</b>	Incorporation board minutes, companies house forms and statutory registers for required subsidiary (if any).	Pinsents	January 2022
3.7	<b>Company Secretary</b>	Appointment of company secretary to the required subsidiary (if any).  <i>(We would propose the same company secretary to ensure a consistent approach. We also note company secretary services may be undertaken by one of the Constituent Council's legal departments under intra-group SLA).</i>	CCR	TBC Post February 2022
3.8	<b>Auditors</b>	Appointment of auditors.	CCR	TBC Post February 2022

**Cardiff Capital Region (“CCR”)**  
**Corporate Joint Committee (“CJC”) Transition Board**  
**Draft Terms of Reference**

**PURPOSE**

The Transition Board’s principal role is to support, oversee and co-ordinate the transition of CCR’s existing operational model which entails decision-making via the Joint Cabinet Committee and project delivery via Cardiff Council as the Accountable Body to the CJC, in line with The South East Wales Corporate Joint Committee Regulations 2021 (the “**Regulations**”).

The purpose of the Transition Board will be to act as an advisory board and report to Regional Cabinet, as the ultimate decision makers on behalf of all 10 Partner Councils, in respect of the ongoing transition to the CJC and BBNPA in respect of the SDP.

The Transition Board will have a key role in facilitating the evolution and full transition, via oversight of a detailed Transition Plan that will have five key workstreams (as detailed below). In other words, the Transition Board will oversee and monitor the day-to-day matters undertaken by CCR’s professional advisors and project team in respect of the transition to the CJC across the five key workstreams and provide ongoing updates to the Regional Cabinet along with regular reports to Regional Cabinet in respect of any required decision making to be undertaken by Regional Cabinet in respect of the process. The key workstreams are:

- Legal and Regulatory;
- Finance and Resourcing;
- HR, People and Culture;
- Stakeholder engagement, communications and partnerships; and
- Functions.

The Transition Board will be responsible for ensuring the Transition Plan is implemented and will provide strategic support; channelling the expertise of CCR’s appointed professional advisors, with wider input from a range of external and internal stakeholders – to ensure the transition process is as seamless, effective and efficient as possible. The Transition Board will be a dynamic and engaged group of appropriate stakeholders with the ability to drive progress and recommend further activities and actions to be carried out.

**MEMBERSHIP**

The membership will comprise:

- I. Chair of Regional Cabinet (Chair)
- II. Vice Chairs of Regional Cabinet and Leader of WLGA
- III. Chair of Regional Transport Authority
- IV. Director of CCR and Chief Operating Officer of CCR
- V. CCR’s Monitoring Officer
- VI. Representative s151 Officer

- VII. 1 Member of CCR Programme Board / 1 Economic Development Lead
- VIII. Chair of REGP / Investment Panel
- IX. Professor Kevin Morgan, Cardiff University and Organisation for Economic Co-operation and Development Regional Investment Wales lead
- X. Supporting officers, representatives of Audit Wales, Welsh Government, UK Government as relevant and advisory team members to attend and participate as required

\*note any Member of Regional cabinet can attend at any time and will receive all documentation.

Support officers, representatives of Audit Wales and advisory team members will attend and participate as required.

### REMIT

The remit of the Transition Board will continue until the transition of CCR's decision-making and delivery function to the CJC is complete. It is anticipated that the first phase of the transition will be complete in order to enable the CCR to act via the CJC from and including 28 February 2022 (the 'go live' date under the Regulations when the functions of the CJC take effect).

Beyond this point, the Transition Board will continue to meet to oversee delivery of the second phase of the Transition Plan which will finalise the transition to the CJC beyond the immediate requirements for the 'go live' date under the first phase.

<b>Responsibility</b>	<b>Workstream lead/ Assessment</b>
<p>Legal and Regulatory:</p> <ul style="list-style-type: none"> <li>• Preparation of options appraisal of optimal delivery structure for CCR via the CJC;</li> <li>• Supporting CCR's project team in respect of its engagement with Welsh Government in respect of the more detailed regulations to be issued to supplement the Regulation;</li> <li>• Advising in respect of governance arrangements of the CJC;</li> <li>• Legal due diligence of existing CCR projects and investments and associated legal documentation to understand legal documents required to effect transition (e.g. novations, notices of assignment, any service level agreements, any property contracts to service CJC's property requirements);</li> <li>• State aid/ procurement appraisals</li> </ul>	<p>Pinsent Masons supported by Accountable Body and CCR's Monitoring Officer – wider liaison with Monitoring Officer's Group as required</p>

<ul style="list-style-type: none"> <li>• General legal advice in respect of transition (including employment matters and implications of transfer of existing CCR employees to the CJC (e.g. TUPE considerations));</li> <li>• Drafting legal documentation to effect any transition of existing CCR projects and investments;</li> <li>• Drafting governance documentation (including transposing existing Joint Working Agreement to create CJC Governance Agreement and input into wider constitutional documents (e.g. standing orders));</li> <li>• Development of certain policies and procedural matters of the CJC (e.g. Conflicts of Interest policy, any delegations policy, procurement policy, policies relating to the Governance and Audit Sub-Committee etc.);</li> <li>• Advising in respect of the Governance and Audit Sub-committee and any other sub-committees to be established by the CJC;</li> <li>• Input into the Business Plan for CJC;</li> <li>• Supporting CCR project team in respect of operational matters;</li> <li>• General legal advice to signpost any risks which arise during the transition process; and</li> <li>• If applicable, advising CCR in respect of the incorporation of any subsidiary delivery vehicle by the CJC if required by a CCR project;</li> <li>• Any other Legal or Regulatory matter as detailed in the Transition Plan.</li> </ul>	
<p>Finance and Resourcing:</p> <ul style="list-style-type: none"> <li>• Advise upon the most appropriate route to transfer existing CCR funding streams to the CJC (HMT/WG Funding Agreement;</li> </ul>	<p>Head of Finance, Risk &amp; Assurance supported by Accountable Body and s151 Officer Sub-group</p> <p>Professional advisers to be appointed to lead on certain aspects of this</p>

<p>Partner Councils' Funding; existing CCR funding commitments under live projects (if to be transitioned to the CJC) and existing CCR operational budget);</p> <ul style="list-style-type: none"> <li>• Advising on the CJC's budget requirements for its first two financial years (2021-2023) as required by the Regulations;</li> <li>• Setting financial planning arrangements in place (including setting up of bank account(s) for the CJC (approximate timeframes and collating information required by banks, PAYE registration and (if applicable) VAT registration);</li> <li>• Undertaking financial due diligence in respect of existing CCR projects in connection with any proposed transfer of the same to the CJC;</li> <li>• Advice on accounting treatment and application of tax matters (including tax advice in respect of any adverse tax implications of transferring any existing CCR projects to the CJC);</li> <li>• Financial modelling;</li> <li>• Balance sheet establishment and all necessary 'start-up' provisions;</li> <li>• Input into the Business Plan for CJC;</li> <li>• Liaison with UKG and WG on all financial/ T&amp;C issues; and</li> <li>• General advice in respect of any risks which arise during transition process from financial perspective;</li> <li>• Any other Finance or resourcing matter as detailed in the Transition Plan.</li> </ul>	<p>workstream (e.g. to provide tax and accounting advice).</p>
<p>HR, People and Culture:</p> <ul style="list-style-type: none"> <li>• Undertaking review of CCR's existing staffing arrangements (including terms of employment, benefits, pension, etc.) and</li> </ul>	<p>Relevant employing CEXs and Chair of Programme Board</p> <p>Pinsent Masons to provide legal advice in respect of employment matters (e.g. TUPE considerations).</p> <p>Relevant</p>



<p>collating information for legal workstream to analyse;</p> <ul style="list-style-type: none"> <li>• Advising on CJC's requirements (including executive team arrangements);</li> <li>• Creating cultural conditions and ethos/ value-set of the CJC; and</li> <li>• Producing HR policies and procedures for the CJC (including in respect of equality, diversity and inclusion);</li> <li>• Any other HR, People or Culture matter as detailed in the Transition Plan.</li> </ul>	
<p>Stakeholder engagement, communications and partnerships:</p> <ul style="list-style-type: none"> <li>• Establishing processes in respect of ongoing partnership/ collaborations;</li> <li>• Ensuring consistency of any communications of CCR in respect of its transition to the CJC;</li> <li>• Communications with key stakeholder groups in respect of the transition to the CJC (e.g. engagement with Partner Councils and Welsh Government);</li> <li>• Performance frameworks;</li> <li>• Investment strategy; and</li> <li>• Wider communications, storytelling and engagement with key groups (e.g. engaging with key stakeholders of existing CCR projects)</li> <li>• Any other Stakeholder engagement, communication or partnership matter as detailed in the Transition Plan..</li> </ul>	<p>Vice Chair of Regional Cabinet with support from REGP and the Communications Lead in CCR</p>
<p>Functions:</p> <ul style="list-style-type: none"> <li>• Agreement of initial functions of the CJC;</li> <li>• Consultation with relevant stakeholders (e.g. Brecon Beacons National Park Authority);</li> <li>• Negotiation with relevant bodies;</li> </ul>	<p>Programme Board lead &amp; COO</p>

<ul style="list-style-type: none"> <li>• Agreement of medium-longer aspirations and how these translate to potential 'transfers of functions'.</li> </ul>	
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**WIDER DUTIES**

Wider duties will require:-

- regularly liaising with CCR's appointed advisors and the key workstreams in respect of progress of the transition;
- full participation in regular meetings tasked with ongoing monitoring of the five key workstreams to implement the transition to the CJC;
- taking all reasonable steps to ensure the purpose of the Transition Board is adhered to and objectives of CCR in respect of the transition to the CJC are delivered upon;
- regularly reporting to the Regional Cabinet in respect of the progress of the transition of CCR to the CJC;
- making recommendations of the Transition Board in respect of the transition to the CJC to Regional Cabinet with all relevant supporting documentation to enable a decision to be made by Regional Cabinet; and
- Communicating effectively with wider partners and stakeholder in order that the wider 'CCR' family of bodies, groups, advisory boards and partnerships remain well-informed, highly engaged and understand their contribution and fit.

As such, the role of the Transition Board and its respective duties require sufficient time for input, contributions and ongoing 'steer' in respect of the transition to the CJC given the high-profile and important nature of the work to be undertaken.

The Transition Board, by its nature, will inevitably be a fast moving and fast-changing body, in order to mirror the issues and matters that will need to be effected. For this reason, it can be reasonably expected for the focus of the remit to shift and alter from time-to-time and as the evolution of the transition requires.

**FREQUENCY OF MEETINGS**

The Transition Board will meet at least monthly which shall be supplemented by such additional meetings as is required to fulfil the Transition Board's purpose and duties. Workstream activity will be ongoing during this period. It is anticipated that meetings will be held remotely but can be held in person / hybrid form where discussion requires intensity of interaction or a creative process.

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## **Resourcing Plan Sept 2021 – February 2022: Establishment of the South East Wales CJC**

### **1. Introduction and Context**

In order to ensure that the proposal for funding is seen in the correct context, it's important to reinforce at the outset the vision that the ten Leaders of the Local Authorities (CCR Regional Cabinet) in the Cardiff Capital Region (CCR) have set out in their work to date with the Cardiff Capital Region City Deal. The work to date with the CCR City Deal has set solid foundations and the move to a Corporate Joint Committee (CJC) is seen to build regional institutional capacity to further drive economic wellbeing in the Cardiff Capital Region. It builds on the key principles, values and integrity of the current CCR City Deal establishment and is seen as evolving and maturing to galvanise a regional approach to economic development and to accelerate the pace of delivery – with the ability to think local, see the world and act in the best interest of the region.

The CJC would reinforce that *place* is the prism through which CCR sees the world, and cities and regions are pragmatic enablers of progress due to their proximity to the real world challenges of their communities; and finally the CJC must ensure that the region 'looks both ways', be non-tribal and ensure that the CCR is able to access all the investment/funds available to it – regardless of where these sit.

The [CCR 5 year Strategic Business Plan](#) (approved December 2020) sets out a clear set of objectives for regionalism and building regional institutional capacity.

### **2. Proposal for funding**

In light of the invitation to submit a proposal for funding to the Welsh Government to support the set-up costs of establishing a Corporate Joint Committee in the Cardiff Capital Region, the CCR Regional Cabinet submits the following proposal.

#### **2.1 Programme Resources**

The CCR City Deal is already operating as a Joint Committee (known as CCR Regional Cabinet), and the experience of establishing the joint committee in 2016 is influencing the resource request for this endeavour. Strong programme management with a clear view on the desired outcome is crucial. As a result we propose to establish a strong programme management team with robust transition governance in place. The process will be overseen by a Shadow CJC from the summer onwards (the ten local authority leaders) and will be supported by a Programme Transition Board, chaired by a Chief Executive of one of the local authorities, supported by an operational programme team managed by the CCR City Deal team.

The programme management team will include experienced project management capability, supplemented by specialist expertise in regional economic policy, specialist external advice (legal, financial and HR), and communications and engagement support. The resource requirements for these areas are set out below.

### 2.1.1 *Project Management Capability*

The core project management capability will be provided by an experienced project manager supported by a dedicated project administrator. This capability is in the process of being sourced and is anticipated to be in place by 1<sup>st</sup> June 2020.

### 2.1.2 *Regional Economic Policy*

Entities such as Corporate Joint Committees are common practice in other nations across the United Kingdom and further afield in Europe. There is significant learning and input required from subject matter experts to ensure that the CCR CJC is established in such a way that it is fit for purpose to deliver against the strategic objectives as set out in the CCR five year strategic business plan. We will therefore buy-in expert regional economic policy advice to supplement the knowledge gained to date in operating the CCR City Deal.

### 2.1.3 *Specialist external advice*

In order to establish a fit for purpose CJC in the CCR, it is imperative that appropriate and relevant high quality legal, financial and HR advice is sought. Working with our advisors, we will consider the incorporation of, and transition to, the CCR CJC, as the new stewardship and decision making entity for the Cardiff Region City Deal, which will supersede and replace the current CCR Regional Cabinet, and the establishment of wholly owned subsidiaries of CJC for the sole purpose of implementing any projects / investments approved by the CJC (in place of the Accountable Body). The intention is for the CJC's remit to extend beyond the CCR City Deal and to assume responsibility and stewardship for new statutory duties (Regional Transport Planning, Strategic Development Planning and Economic Wellbeing), and wider investment programmes that the CCR partners may secure from time to time.

### 2.1.4 *Communications and Engagement Support*

The Cardiff Capital Region consists of approximately 50% of the Welsh population, ten of the twenty two local authorities (consisting of over 600 local councillors), and accounts for approximately 50% of the economic output of Wales. It is therefore crucial that the programme for establishing the CCR CJC is well articulated, communicated and engaged by a vast stakeholder group. We will therefore commit dedicated resources to this crucial endeavour.

## 3. **Desired Outcome**

The desired outcomes of the funding from Welsh Government, supplemented by a matching contribution from the ten partner local authorities, are:

- the development of a detailed business plan and budget for the CCR CJC for 2022/23;
- the development of operating policies for the CCR CJC;
- a suite of legal documents supporting the establishment of the CCR CJC and its operating subsidiaries;
- the novation of CCR City Deal activity and contracts, where appropriate, to the CCR CJC; and

- well executed stakeholder engagement ensuring all relevant partners across the region are signed up to the CCR CJC.

#### 4. **Resource Summary**

The CCR Regional Cabinet request the following resources to support the effective establishment and implementation of the CCR CJC:

<b>Activity</b>	<b>WG funding request</b>	<b>CCR contribution</b>	<b>RC</b>	<b>TOTAL</b>
Programme Management Capability	£41,250	£41,250		<b>£82,500</b>
Regional Economic Policy	£27,500	£27,500		<b>£55,000</b>
Specialist external advice (Legal, Financial, HR)	£156,750	£156,750		<b>£313,500</b>
Communications & Engagement Support	£24,500	£24,500		<b>£49,000</b>
	<b>£250,000</b>	<b>£250,000</b>		<b>£500,000</b>

We confirm that the activity proposed above is additional too, and complementary too, the core CCR City Deal activity and that the CCR City Deal nor the ten partner local authorities are in receipt of other funding for such activity from Welsh Government or the Welsh European Funding Office.

**17 May 2021**

# Future Generations Assessment Evaluation

(includes Equalities and Sustainability Impact Assessments)

<p><b>Name of the Officer completing the evaluation:</b></p> <p><b>Kellie Beirne</b></p> <p><b>Phone no: 07826 919286</b>  <b>E-mail: kellie.beirne@cardiff.gov.uk</b></p>	<p><b>Please give a brief description of the aims of the proposal: to set out the proposed strategic principles and approach for transition to CCR CJC.</b></p>
<p><b>Proposal:</b> CCR CJC Governance and Delivery arrangements – Transition Plan</p>	<p><b>Date Future Generations Evaluation form completed:</b> 20 September 2021</p>





**Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p><b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>The report and appendices set out a progressive approach for driving prosperity within the region as it evolves its functions to embed CJC provisions and regulations. The focus on a delivery and governance model provides for a stable platform for regional economic governance.</p>	<p>In order to maintain business continuity and a seamless transition the report is focused on concurrence and the principles of transition and adaptation through life and shift and future evolution.</p>
<p><b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p>	<p>The central contention of the report is that COVID-19, climate and low growth all poses a conundrum about the forward and how some of the behaviours around working together, innovating quickly and</p>	<p>A CJC will allow more freedom and flexibility and it is envisaged that climate and renewable energy for clean growth will be a key focus.</p>


Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
	rapidly adapting can be maintained as a positive legacy in the new working arrangements.	
<b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood	Inclusion is a core theme of the approach and balancing a focus on levelling up the region with other regions in the UK to ensure CCR accesses all of the opportunities available to it – thus supporting not just sectors and industries but communities and people.	ESG and equality and diversity focus to ensure emphasis on societal and community needs.
<b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected	Putting in place a framework for regional cohesion whilst enhancing localism will support delivery of scale projects that make a difference across the geography, in tandem with local policies and levers that ensure citizens can benefit.	Reference is made to two key documents – 5 year business plan and Levelling-up Prospectus which further enhances the positive aspects of a place based focus.
<b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	The principles look outward and focus on the FDI and international opportunities, which will be particularly important post-EU exit.	Proposal for radical decentralization of business functions and units currently operating at national level.
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	The document represents a distinctive regional strategic approach to developing the economy – foundational and tradeable and projects a distinctively Welsh approach to doing so.	The new corporate entity will require a full suite of bespoke policies and procedures in respect of the Welsh language.
<b>A more equal Wales</b> People can fulfil their potential no matter what their background or circumstances	The approach focuses on economic inclusion, levelling-up and a mission-driven approach capable of not just tackling economic problems – but societal ones too.	The CJC has at the heart of its purpose a commitment to 'no place is left behind' and

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
		promoting economic inclusion and addressing economic inequalities.

**2. How has your proposal embedded and prioritized the sustainable governance principles in its development?**

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>The CJC is a long-term construct and requires thinking ahead to provide a long-term platform for regional public investment.</p>	<p>Establishment of a Transition Board and Plan to broaden engagement and involvement.</p>
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>The principles of the structure recommended situate partnerships and the building of new institutional capacity at the heart of the new framework. One of the work streams established is on partnerships and engagement specifically.</p>	<p>Structures for sub committees, partnerships and advisory boards to be replicated and established.</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>The plan will be backed by a wider comms plan which has already included meeting with the various CCR Partnership groups.</p>	<p>Challenge funds will be another perspective to bring to bear in this context with the opening up of the civic innovation process.</p>
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>The mission-driven/ challenge-led approach embedded will be a key means of experimenting in the prevention space</p>	<p>In addition, the CJC will be a long term construct and will develop and further evolve over time.</p>



Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>The proposed impact assessments will give a comprehensive and ongoing overview of benefits, costs and results. Outcome focused reporting and accountability will be key to this.</p>	<p>This can be further reinforced in the CJC setting and when Cabinet and partners have access to greater freedoms and flexibilities.</p>

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	<p>Not relevant in this context since the principles, approach and ways of working apply to all prospective interests and stakeholders as will governance and delivery arrangements.</p>		<p>A full ESG agenda and diversity and inclusion reviews into partnerships and groups will help ensure this agenda is embedding in ways of working and the culture that is created.</p>
Disability	As above	As above	As above.
Gender reassignment	As above	As above	As above.
Marriage or civil partnership	As above	As above	As above.
Pregnancy or maternity	As above	As above	As above.

<b>Protected Characteristics</b>	<b>Describe any positive impacts your proposal has on the protected characteristic</b>	<b>Describe any negative impacts your proposal has on the protected characteristic</b>	<b>What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?</b>
Race	As above	As above	As above.
Religion or Belief	As above	As above	As above.
Sex	As above	As above	As above.
Sexual Orientation	As above	As above	As above.
Welsh Language	As above	As above	As above.

**7. Safeguarding & Corporate Parenting. Are your proposals going to affect either of these responsibilities?**

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	<b>Describe any positive impacts your proposal has on safeguarding and corporate parenting</b>	<b>Describe any negative impacts your proposal has on safeguarding and corporate parenting</b>	<b>What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?</b>
Safeguarding	Not directly relevant –however, building the future economy should have a profoundly positive impact on ability to safeguard the future of our residents		This is dependent upon the brief for regional education consortia and whether or not, it is intended to be grouped within CJs.
Corporate Parenting	Not directly relevant – however building strength in the economy should create opportunities for all of the young people entrusted in our care and makes a direct contribution to wellbeing.		

**5. What evidence and data has informed the development of your proposal?**

As above.

**6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

As above, the main implications will be in the delivery of this work.

**7. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.**

The impacts of this proposal will be evaluated on:

Quarterly via the IIF reports to Cabinet and quarterly performance and new annual business plan and budget all ahead of 31 January 2022.

Gadewir y dudalen hon yn wag yn fwiadol

**13 DECEMBER 2021**

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## **REFRAMING THE APPROACH TO DEVELOPING THE SOUTH EAST WALES CORPORATE JOINT COMMITTEE**

### **REPORT OF CARDIFF CAPITAL REGION DIRECTOR**

#### **AGENDA ITEM 4**

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*Appendix 1 to this report is exempt from publication because it contains information of the kind described in paragraph 16 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of part 4 of Schedule 12A to the Local Government Act 1972*

#### **Reason for this Report**

1. To appraise Regional Cabinet of the realisation of a number of issues that require a re-defining and re-directing of the approach CCR has proposed to take to the establishment of the South East Wales Corporate Joint Committee (CJC) along with a number of risks which remain live.
2. To set out an interim way forward that recognises in a pragmatic way, the need to make progress with initial implementation steps on a 'bare minimum' basis, in so far as they ensure compliance with the legislation and that CCR incurs no worsening of its position in relation to the unresolved issues.
3. To re-set the critical path towards the statutory budget setting date of on/before 31 January 2022, establishing all resource and sequential reporting requirements; and, in the interim period, standing down the Transition Board, until such time, the new path to 'lift and shift' is resolved, understood and resurrected.
4. To appraise Regional Cabinet of the work that continues to be undertaken with Welsh Government (WG), Audit Wales (AW) and other bodies, with a view to supporting resolution of the issues that currently prevent full transition to the 'lift and shift' model agreed by Regional Cabinet, which is predicated on ensuring a 'no worse-off' position.

#### **Background**

##### **The Issues**

5. At its meeting of the 20 September 2021, Regional Cabinet approved a report that established Governance and Delivery Option 3 'Lift and Shift' as the preferred model for CCR's transition to one integrated model of regional public investment

and economic governance under the CJC. The report further set out a comprehensive Transition Plan and Transition Board model to oversee the process of evolution and a critical path for achieving key milestone dates.

6. The report described a number of live risks and issues, relating to a series of unresolved matters concerning the implications of CJsCs' financial status for tax purposes and borrowing and their impacts. It was stated that work would continue to be undertaken with CCR's advisory team and WG to resolve the issues sufficiently in allowing for Lift and Shift model to be implemented from 28 February 2022 – the date on which the functions exercised by the CJC (Regional Transport Plan, Strategic Development Plan and economic wellbeing power) commence. A letter was also provided from the WG Minister for Finance and Local Government to reiterate this intent and the report sought to commit to a 'no worse off' principle, on this basis as at the point of transition.
7. In the intervening period, it is clear that the risks and issues highlighted at this time, cannot be resolved to comply with the timescales set out and allow for Lift and Shift. This is mainly because the issues that require resolution, need the approval of bodies such as HMRC and HM Treasury (HMT) and these clearly sit outside the sphere of direct influence and control of WG. In addition, further issues have arisen in respect of Corporation Tax. This is a complex matter not addressed so far in the Regulations; and could have significant implications to the CCR operating model unless similarly addressed through an application to HMT for relevant dispensations. Work is underway on addressing this, with CCR supporting WG's business case application to HMRC for the relevant dispensations.
8. In other words, there remain a number of substantially unresolved matters, that unless addressed and resolved prior to full 'lift and shift' implementation and are understood and mitigated against ahead of 'bare minimum' implementation – could have a significant impact. On the latter point, even basic activities under a 'bare minimum' CJC may still incur a level of irrecoverable VAT and as such an initial scaled back approach which reduces such a potential risk is proposed.
9. The impacts of all these issues are not standalone and consideration will need to be given to the matter of seeking UKG support to transfer the existing CCRCD Funding Agreement to the CJC. In addition, it must be understood that these are complex and inter-connected issues and there are no 100% guarantees of success. Wider financial status issues are bound up within making the case for s33 status and in essence, the need to demonstrate the intent and effect of the CJC legislation, which is for them to be 'creatures of LAs' and 'part of the LG family'.
10. CCR has made representations to WG on these issues, including seeking a re-setting of the statutory budget timeframe. WG has advised that this is not possible due to timescales and the need to carry out statutory consultation on any proposed changes. However, the issues raised are recognised and understood and implementation on the basis of a pragmatic and proportionate provisional approach is supported. Additionally, legal advice has been taken on the risks and challenges posed to CCR of 'doing nothing'. This report is thus, framed in this context and of being minimally compliant.
11. The 'bare bones' implementation of the CJC legislation will therefore need to be 'twin-tracked' with continuation of the current Joint Committee/Accountable Body-

led model for delivering the CCR City Deal for the time being. This dual approach is unavoidable and will provide business continuity for City Deal delivery.

12. WG has also set out that the date of commencement of immediate duties around preparation of the Regional Transport Plan, Strategic Development Plan and economic wellbeing powers, can be changed from the original date set for SE Wales of 28 February 2022 to 30 June 2022 – thus, falling in line with other CJC regions. This report recommends that this later date is accepted in order to better align with the proposed bare minimum approach.

### **Making Progress**

13. Whilst the above issues are complex and require the re-doubling of efforts across WG with support from CCR and its technical and legal advisory team, it is recognised that where progress can be made, then it should be made.
14. The minimalist model proposed in this report, thus offers a pragmatic way of enabling CCR to begin implementing the CJC requirements and adopting statutory duties – whilst at the same time – supporting WG to progress the resolution of issues, which are preventing a transition to Lift and Shift at this time.
15. This means putting in place a series of steps that will redefine the critical path between now and 31 January 2022 (the date by which the CJC must approve its budget), in order to ensure compliance with the legislation, but in ways which protects CCR's short and long-term position and wherever possible, safeguards against any detriment.
16. On the basis of external advice and technical support, the proposed 'bare minimum' model will enable CCR to demonstrate it has commenced transition, ensuring compliance with the legislation and regulations. It is essentially creating the outline of the CJC as an absolute statutory minimum and as an interim holding position only. It will include:
  - setting minimal nominal budgets for the operation of the CJC no later than 31 January 2022;
  - agreeing with the Auditor General for Wales the CJC audit scope and fee, which is proportionate and reflects the CJC's bare minimum operations;
  - adopting model Standing Orders and any basic supplements – i.e. scheme of delegations (draft attached at Appendix 1);
  - arrangements to place any staff at disposal of CJC – again this will be on the basis of proportionality;
  - establish statutory sub-committees e.g. Audit and Governance Committee etc.;
  - appoint Chair/ Vice Chair/s – which can mirror existing CCR arrangements; and,
  - establish practical arrangements in respect of the CJC's basic infrastructure as a separate legal entity – accounting & reporting requirements, bank account, VAT registration, minimum insurances, proportionate records scheme etc.

17. The minimalist model will operate on the expectation that the absolute minimal operational activity required will be undertaken. Therefore, any extraneous activity such as production of a business plan; meetings of the CJC beyond initial budget setting/ 'establishment'; meetings of the Audit and Governance Committee; and staffing arrangements beyond those linked to the above – is unlikely to take place.
18. In order to provide a level of certainty to all CJC stakeholders and constituent councils, the bare minimum model, will be predicated on being in place until the 31 March 2023. However, should the issues be resolved sooner, there is provision for the budget requirement to be re-visited in-year and as 'lift and shift' becomes do-able and is supported through the relevant financial status issues being resolved. This means that for the initial operating period - a nominal budget is set – with the clear expectation of minimal expenditure against it. This is an important principle. If even low-level expenditure can be justified, the advice is there is a strong case to avoid incurring such expenditure if it can be demonstrated that it would "prejudice the CJC's position or suffer any detriment".
19. Therefore, whilst a provisional budget can be set, and actions taken to set-up and 'ready' the CJC – it does not follow that enactment beyond this is necessary – at least until such time the CJC is ready to be operable and lift and shift can occur. The timeframe outlined above will be kept under constant review throughout the year as the outstanding matters are progressed. An update report will be brought back Regional Cabinet for further consideration, as soon as sufficient information is available to do so.
20. The CJC will be required to comply with all necessary regulations and legal requirements. The principle of 'proportionality' will be adopted in assessing bare minimum compliance, along with the requirement to minimise any adverse budgetary impacts. It should be noted that the two duties to begin preparation of both a Regional Transport Plan and Strategic Development Plan will commence in 2022/23. As per paragraph 12 above, it is now proposed this date is re-set as 30 June 2022 and this has been communicated with Welsh Government. Whilst there are no immediate actions required in relation to the commencement duties, some progress will need to be demonstrated from July 2022 and plans for such will be presented to the CJC during the year.
21. This pragmatic, proportionate and reasonable approach will require key stakeholders to adopt a shared endeavour approach. As a result, this report has been shared with Audit Wales and Welsh Government, both of which have been consultees to this report and understand the scope and provisions of the 'bare minimum' model.
22. Given the process to put this new set of actions and revised critical path in train, will be fairly clear, time-limited (until the end of January 2022) and require no reference to the Transition Plan for lift and shift – it is proposed that the Transition Board is stood down. The Transition Board and Plan for lift and shift can be resurrected at such time as clarity on timeframes for resolving the issues around VAT, means that this substantive work can be re-started.
23. It should also be noted that in setting this process in plan, the clear milestone to work towards is budget setting for the CJC on or before 31 January 2022. Approval of the budget requires unanimous support of CJC constituent councils. Brecon Beacons National Park Authority will feature as part of this in relation to



the estimated budget for preparing an SDP and as such, ongoing communication and engagement is taking place.

### **Update on Work to Resolve Issues**

24. Work led by WG on behalf of all regions/ constituent CJs in Wales, is underway with HMRC and HM Treasury on the outstanding issues named in this report. An update has been provided to clarify that CCR CJC is not a 'levying body' with workarounds being put in place with respect to access to LGPS as a 'connected body' instead. In relation to access to PWLB at the relevant future point, WG has had initial positive discussions with HMT that suggest borrowing capability through this medium, can be considered and potentially, developed.
25. On the s.33/ VAT front, WG has developed and submitted a business case application to HMRC to enable CJs to be able to re-claim non-business VAT in the same way that local authorities do. CCR has contributed to this process with input from technical financial and legal advisors. As yet, there is no emergent timeframe for full resolution of the issues, though the indicative timeline provided by HMRC for considering applications is 6 months (which would be May 2022) – further confirmation is awaited on timescale matters
26. Work continues to be put in place regarding arrangements for interim accounting systems, processes and relevant systems infrastructure for the CJC. This is being carried out in partnership with RCT Council, which will be providing basic 'transactional services' for the initial period of 'bare minimum' CJC operation. CCR City Deal will continue to be supported by the 'Lead Council/ Accountable Body' mechanism. This reflects the arrangements underpinning the twin-tracking approach which will be needed, at least initially and until the remaining issues are resolved.

### **Risks and Issues**

27. There are several risks related to the proposed approach. However, if the bare minimum model principles set out above are adopted and risks continually mitigated against by the detailed technical work that is ongoing and continued liaison WG and Audit Wales, it is suggested that these can be kept in check, monitored and managed. This means that Value for Money issues can be responded to in as much, that the CJC keeps expenditure to the bare minimum during this interim period and on the basis of no significant detriment to its short or long-term operating model.
28. Other risks concern the resources now needed to implement 'bare minimum' which will be met from existing budgets, albeit there will be some effect given efforts that will need to now be fully channelled to getting work done in an ever-decreasing timeframe. Timeframes present a further risk in that at this time, there is no clear point at which lift and shift occurring can be estimated – however, this could be clarified via WG shortly. Arguably, the bigger issue is guaranteeing successful outcomes – although it is anticipated a strong case will be made to both HMRC and HMT and it remains the strong intent, and wider effect, of the WG legislation for CJs to be part of the LG landscape and treated as if a Local Authority.

29. It should also be noted that the identification of risks to date, has arisen through work 'on the job'. Further risks that only become apparent through the process of application and implementation cannot be ruled out.
30. Potential risks around potential for double taxation at the point of lift and shift are unpreventable, with work needed ongoing to develop the conversations, flexibilities where they exist and pragmatism to deal with such eventualities. The possibility of fragmented legacy accounts also requires analysis and conclusions to be presented at the relevant time.
31. It is also noted that Councils upon whom the duty to implement CJC legislation falls, also need to report progress, current status and next steps on this matter into their individual decision-making processes. This report and the approach suggested, now provides the means for constituent CCR Councils to do this.

### **Financial Implications**

32. The report considers the approach to the transition of the Current Joint Committee to a new Corporate Joint Committee entity for the South East Wales Region. Enabling legislation is in place which has created the new Corporate Joint Committee with its associated powers and functions continuing to be the subject of detailed regulations determined by Welsh Government to support the operationalising of the entity.
33. The report recommends the implementation of a 'bare minimum' interim solution, until a lift and shift of existing CCR activities can take place and following resolution of issues identified in this report. Movement to a bare minimum will require the establishment of practical arrangements in respect of the CJC's basic infrastructure as a separate legal entity – accounting & reporting requirements, bank account, VAT registration, minimum insurances, etc. It will also include appointment of key officers such as Responsible Finance Officer with the approach to remuneration etc. being the subject of a future report. Corporate Joint Committees have the same financial reporting and disclosure requirements as existing local authorities, including compliance with relevant codes of practice where deemed to be relevant. A bare minimum approach to the CJC will need to consider and work with partners such as Welsh Government and Audit Wales at an early stage to determine approach to compliance in a proportionate way.
34. It should be noted that regulations require the CJC to determine a capital and revenue budget by 31 January 2022. This is for the 2021/22 and 2022/23 financial year. It is proposed that any budget set will be on a bare minimum basis and will be a minimal nominal budget.
35. This is to be the subject of a future report to CCRC Regional Cabinet and similar approval by the CJC in accordance with the deadlines.
36. Where activities are undertaken within the scope of the Corporate Joint Committee, the expenditure and income of these activities will need to be costed and identified as part of CJC budget proposals by 31 January 2022 and annually thereafter. This is to include:

- where there are increases or reductions in budgetary requirements from local authorities;
  - whether additional activities are to be paid for as part of grant support from Welsh Government and or other grant funding providers;
  - where additional costs are to be met from within existing budgets
  - where there are commitments to support credit arrangements or similar liabilities arising as part of approved investment plans
37. This should be considered for revenue costs as well as the approach in respect to the servicing costs of any liabilities undertaken for capital expenditure and the operating costs of any financial or physical assets. This will need to be considered as part of the annual budget setting process for the Corporate Joint Committee for inclusion in respective Local Authority budgets.
38. This report will also need to include the basis on which any budget requirement, not funded by external grant or similar, is to be met by CJC Constituent Councils and the Brecon Beacons National Park Authority where relevant.
39. It should be noted that in accordance with the regulations establishing CJCs, the budget must be agreed on a unanimous basis by constituent Councils of the CJC, with Welsh Government determining contributions in any scenario where a budget cannot be agreed. Any assets or liabilities entered into by the CJC are the liabilities of the constituent Councils and will need to be included as part of the budget setting processes of respective local authorities.
40. The current Joint Working Arrangement and the principles of the financial model in respect to delivery of City Deal activities set out Local Authority Contributions towards the Wider Investment Fund. The establishment of the bare minimum Corporate Joint Committee does not change the quantum of the already agreed financial obligations of each authority in respect to the Wider Investment Fund.

### **Legal Implications**

41. The constituent local authorities are obliged to comply with the Regulations surrounding CJC's. Enacting the 'bare minimum' model which comprises the actions listed in paragraph 15 of this report is sufficient to ensure that members and their authorities comply with their statutory duty and are not acting unlawfully.

### **Well-being of Future Generations (Wales) Act 2015**

42. In developing the Plan and in considering its endorsement regard should be had, amongst other matters, to:
- (a) the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards;
  - (b) Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or

national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief – including lack of belief, and.

(c) the Well Being of Future Generations (Wales) Act 2015. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CCRCD) must set and published wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, the Regional Cabinet should consider how the proposed decision will contribute towards meeting the wellbeing objectives set by each Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Regional Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, Regional Cabinet must:

- look to the long term.
- focus on prevention by understanding the root causes of problems.
- deliver an integrated approach to achieving the 7 national well-being goals.
- work in collaboration with others to find shared sustainable solutions.
- involve people from all sections of the community in the decisions which affect them.

43. Regional Cabinet must be satisfied that the proposed decision accords with the principles above. To assist Regional Cabinet to consider the duties under the Act in respect of the decision sought, an assessment has been undertaken, which is attached at Appendix 2.

### **Equality Act 2010**

44. In considering this matter, regard should be had, amongst other matters, to the Councils' duties under the Equality Act 2010. Pursuant to these legal duties the Regional Cabinet must in making decisions have due regard to the need to (1) eliminate unlawful discrimination (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are:

- age;
- gender reassignment;
- sex;
- race – including ethnic or national origin, colour or nationality;

- disability;
- pregnancy and maternity;
- marriage and civil partnership;
- sexual orientation;
- religion or belief – including lack of belief.

## RECOMMENDATIONS

45. It is recommended that the Cardiff Capital Region Joint Cabinet:

- (1) notes the contents of this report and the realisation of risks and issues that now prevent full implementation of the chosen Governance and Delivery option to 'Lift and Shift' on the previously proposed timescale; and the revised arrangements to be reported through CCR's ten constituent local authorities, along with draft CJC Standing Orders;
- (2) approves the re-direction and re-purposing of the principles contained in the report of 20 September 2022 and agrees the implementation of the 'bare minimum' interim solution set out in the report, allowing CCR to be compliant with the CJC legislation, until such time transition via 'lift and shift' can be resurrected and in tandem with outstanding issues being resolved.
- (3) approves re-setting of the critical path in relation the tasks and activities which will need to be undertaken in the run-up to budget setting before 31 January 2022 and resolves to stand down the Transition Board in this period;
- (4) agrees to ask the Welsh Government to amend the regulations to change the date on which immediate duties commence under the Regulations from 28 February 2022 to 30 June 2022; and,
- (5) notes the work ongoing to resolve the remaining issues and the position of WG and Audit Wales in supporting this approach, as well as being mindful of the risks and issues, which require constant attention and mitigation wherever possible.

**Kellie Beirne**  
**Director, Cardiff Capital Region**  
**13 December 2021**

*Appendix 1 to this report is exempt from publication because it contains information of the kind described in paragraph 16 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of part 4 of Schedule 12A to the Local Government Act 1972*

### Appendices

**EXEMPT** Appendix 1    Draft CJC Standing Orders  
Appendix 2            Well-being of Future Generations Assessment

Gadewir y dudalen hon yn wag yn fwriadol



## COUNCIL – 26<sup>TH</sup> JANUARY 2022

**SUBJECT: COUNCIL TAX REDUCION SCHEME 2022/23**

**REPORT BY: CORPORATE DIRECTOR FOR EDUCATION AND CORPORATE SERVICES**

### 1. PURPOSE OF REPORT

1.1 To seek Council approval of the Council Tax Reduction Scheme for the 2022/23 financial year.

### 2. SUMMARY

2.1 The report recommends continuing to operate a Council Tax Reduction Scheme for the 2022/23 financial year on the same basis as the scheme used in 2021/22.

### 3. RECOMMENDATION

3.1 It is recommended that the current Council Tax Reduction Scheme should continue for the 2022/23 financial year along with the previously agreed local discretions.

### 4. REASONS FOR THE RECOMMENDATION

4.1 Council is required annually to adopt a Council Tax Reduction Scheme and local discretions.

### 5. THE REPORT

5.1 Members will recall that Council Tax Benefit was abolished in April 2013 and replaced by the Council Tax Reduction Scheme.

5.2 On the 29<sup>th</sup> January 2013, Council adopted the Council Tax Reduction Scheme for 2013/14 in accordance with the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012. The Welsh Government put a sunset clause in those regulations which meant that they became invalid after the 31<sup>st</sup> March 2014.

5.3 On the 28<sup>th</sup> January 2014, Council adopted a Council Tax Reduction Scheme for 2014/15 (its local scheme) in accordance with the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2014. These regulations prescribe the main features of the scheme to be adopted by all Councils in Wales and allow for some limited local discretions. The scheme provides for claimants to receive a reduction of up to 100% of their Council Tax bill in certain circumstances. The same arrangements have since been adopted by the Council on an annual basis.

- 5.4 The Council is required to formally approve a Council Tax Reduction Scheme on an annual basis. The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2022 have now been agreed and these apply in relation to a Council Tax Reduction Scheme made for a financial year beginning on or after the 1<sup>st</sup> April 2022. The regulations update certain figures used to calculate an applicant's entitlement to a reduction under a Council Tax Reduction Scheme, and the subsequent level of reduction. It also makes consequential amendments as a result of changes to the wider welfare system.
- 5.5 As the 2022 regulations do not contain any significant changes for claimants, it is proposed that the Council continues its local scheme in line with the regulations as recently amended for the financial year 2022/23, effective from the 1<sup>st</sup> April 2022, and continues to exercise the previously approved local discretions as provided for within Part 5 of the Prescribed Requirements Regulations: -

<b>Discretion</b>	<b>Discretion to be adopted by CCBC</b>
The ability to increase the standard extended reduction period of 4 weeks given to persons who have ceased to receive qualifying benefits after they return to work, where they have previously been receiving a Council Tax reduction that is to end as a result of their return to work.	<p><u>Pensioners</u> The standard period of 4 weeks specified in paragraph (33) Schedule 1 will apply, and</p> <p><u>Non-Pensioners</u> The standard period of 4 weeks specified in paragraphs (35) and (40) Schedule 6 will apply.</p>
The ability to backdate the application of Council Tax reduction for periods longer than the new standard period of 3 months before the claim is made.	<p><u>Pensioners</u> The standard period of 3 months specified in paragraph (3) Schedule 13 will apply, and</p> <p><u>Non-Pensioners</u> The standard period of 3 months specified in paragraph (4) Schedule 13 will apply.</p>
Discretion to disregard more than the statutory weekly amount of £10 of income received in respect of War Disablement Pensions and War Widow's Pensions (disregarded when calculating the income of the applicant).	<p><u>Pensioners</u> The total value of any pension specified in paragraphs 1(a) and 1(b) Schedule 4 will be disregarded, and</p> <p><u>Non-Pensioners</u> The total value of any pension specified in paragraphs 20(a) and 20(b) Schedule 9 will be disregarded.</p>
Discretion to provide more than the minimum information prescribed in the Prescribed Requirements Regulations when issuing notification of decisions of an award of Council Tax Reduction.	To supplement the minimum requirements specified in the Prescribed Requirements Regulations, where appropriate.

- 5.6 The provisional 2022/23 budget for the Council Tax Reduction Scheme totals £16.042m.

## 6. ASSUMPTIONS

- 6.1 There are no assumptions within the report.



## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 The payment of Council Tax Reduction is a key element of the Council's anti-poverty strategy and a significant source of funding.
- 7.2 The revenue raised through Council Tax supports effective financial planning which is a key element in ensuring that the Well-being Goals within the Well-being of Future Generations Act (Wales) 2015 are met.
- 7.3 An Equalities Impact Assessment has previously been carried out for the Council Tax Reduction Scheme. As the proposed Scheme for 2022/23 has no material changes from previous years, an Integrated Impact Assessment will not be required at this time.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 Funding for the Council Tax Reduction Scheme was transferred into the Revenue Support Grant (RSG) in the 2013/14 financial year.
- 8.2 The Welsh Government has confirmed its commitment to a fully funded Council Tax Reduction Scheme to the 31<sup>st</sup> March 2023.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 There are no direct personnel implications arising from this report.

## **10. CONSULTATIONS**

- 10.1 There are no consultation responses that have not been reflected in this report.

## **11. STATUTORY POWER**

- 11.1 Local Government Finance Act 1992 and regulations made under the Act.
- 11.2 Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012 and the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) Regulations 2014 (as amended).

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Consultees: Amanda Main, Housing & Council Tax Benefits Manager  
Rob Tranter, Head of Legal Services and Monitoring Officer  
Richard (Ed) Edmunds, Corporate Director for Education & Corporate Services

Background Papers: -

- Council Report 29<sup>th</sup> January 2013 – Adoption of a Council Tax Reduction Scheme.
- Council Report 28<sup>th</sup> January 2014 – Council Tax Reduction Scheme 2014/15.
- Special Council Report 25<sup>th</sup> February 2015 – Council Tax Resolution 2015/16 and Council Tax Reduction Scheme.
- Special Council Report 24<sup>th</sup> February 2016 – Council Tax Resolution 2016/17 and Council Tax Reduction Scheme.

- Council Report 24<sup>th</sup> January 2017 – Council Tax Reduction Scheme 2017/18.
- Council Report 23<sup>rd</sup> January 2018 – Council Tax Reduction Scheme 2018/19.
- Council Report 22<sup>nd</sup> January 2019 – Council Tax Reduction Scheme 2019/20.
- Council Report 21<sup>st</sup> January 2020 - Council Tax Reduction Scheme 2020/21.
- Council Report 19<sup>th</sup> January 2021 - Council Tax Reduction Scheme 2021/22.



## COUNCIL – 26<sup>TH</sup> JANUARY 2022

**SUBJECT: GAMBLING ACT 2005 – REVIEW OF STATEMENT OF LICENSING POLICY**

**REPORT BY: CORPORATE DIRECTOR, ECONOMY AND ENVIRONMENT**

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### 1. PURPOSE OF REPORT

- 1.1 To inform Members of the result of consultation carried out to review the Statement of Gambling Licensing Policy. The report seeks the approval of Council following its presentation to the Members of the Licensing and Gambling Committee on the 14<sup>th</sup> December 2021.

### 2. SUMMARY

- 2.1 In accordance with the Gambling Act 2005, the Licensing Authority must prepare, consult upon and approve a Gambling Statement of Licensing Policy that must be reviewed every three years. The current Policy was approved by Council and published in January 2019. The policy must contain objectives regarding the following:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 3. RECOMMENDATIONS

- 3.1 That Council consider and approve the revised Statement of Gambling Licensing Policy as detailed at **Appendix 1**.

### 4. REASONS FOR THE RECOMMENDATIONS

- 4.1 In order to give effect to the statutory obligations imposed by the Gambling Act 2005 and any Regulations made under the Act.

## 5. THE REPORT

- 5.1 In accordance with the above Act, the Licensing Authority has a duty to publish a Policy which sets out the principles that it will apply when dealing with gambling premises, gaming permits, lottery registrations, and other gambling notices associated with gaming.
- 5.2 The UK Government is currently undertaking a review of the Gambling Act 2005 with a view to ensuring that the regulatory framework is fit for purpose within the digital age and can continue to meet its aims of protecting children and vulnerable people, prevent gambling related crime, and keep gambling fair and open. A White Paper is expected later this year which may result in legislative changes that will require a comprehensive review of the statement of principles in the near future. However, this will not avoid the statutory requirement to now review and publish a statement of principles for the next three-year period.
- 5.3 The Policy has been reviewed and a consultation exercise undertaken with relevant bodies, individuals, residents and businesses throughout the Borough who have been invited to comment. The consultation period commenced on 8<sup>th</sup> October 2021 and ran until the 8<sup>th</sup> November 2021.
- 5.4 When preparing the revised Statement, the Authority must have regard to legislative changes and the Guidance issued by the Gambling Commission. In addition, the policy has been developed following collaboration with neighbouring authorities comprising the Gwent Licensing Forum, i.e. Torfaen, Monmouthshire, Blaenau Gwent and Newport. The collaboration addressed common themes affecting all authorities but did not address local issues or considerations particular to each authority.
- 5.5 2 responses have been received during the consultation period. A response was received from Gamble Aware, a charitable organisation specialising in prevention and treatment services from gambling harms who acknowledged receipt of consultation and the ability to comment on the council's policy. Whilst they did not provide specific feedback on the council's policy, they highlighted areas in the UK which showed a prevalence of problem gambling, recommended Local Government Association (LGA) publications in the public domain which offer guidance in relation to gambling related harms. The Charity was supportive of local authorities which undertake analysis for areas with increased level of risk and encouraged local authorities to signpost people to the National Gambling helpline and its website in relation to offering of support as part of the National Gambling Service. The contact telephone number and website for Gamble Aware will be added to the information section within the council's policy.

One resident response was received anonymously which stated that *"Too many licenses granted for too many events with insufficient staff to check and monitor"* However, no other information was provided in order to clarify the context of the comments.

- 5.6 The revised Statement of Gambling Licensing Policy is attached as **Appendix 1** with amendments shown as track changes. The main body of the policy remains generally unchanged apart from updated contact details for responsible authorities and revised dates for consultation, publication etc. The main change relates to annex 7 Mandatory, Default and Caerphilly County Borough Council's Pool of Model Conditions for Gambling Premises Licences. Previous versions of the policy included the mandatory and default conditions but not the Caerphilly CBC Pool of Model

conditions.

The existing statement has been effective and continues to achieve its aims, Officers are aware that UK Government are undertaking a review of the effectiveness of the Gambling Act 2005 and a White Paper is expected before the end of the year which may lead to legislative changes. This may require a more comprehensive review of the statement of Licensing Policy in the near future.

- 5.7 Mandatory conditions are specified by regulations and are applied to the relevant category of premises licence and cannot be removed or varied in anyway. Default conditions will be applied to the relevant category of premises licence unless the applicant or licensee specifies that the default conditions are to be removed within their new or variation application.
- 5.8 Model conditions can be used by the applicant of a new premises licence, provisional statement or licensees varying their licence. The applicant or licensee can select the conditions that they feel will enable them to demonstrate how they will ensure that the premises will operate so as not to impact upon the licensing objectives. Gambling operators are recommended during their local risk assessment process to identify control measures, such as conditions to mitigate the impact on the licensing objectives by that premises. These model conditions can be selected to address the risk of impacts identified in these assessments.
- 5.9 These conditions can also be used by responsible authorities or interested parties when making representations on applications submitted to the Licensing Authority. Members of a Licensing Sub-Committee will have regard to these conditions when determining applications and may choose to add one or more conditions or variations of them depending on the concerns raised during the determination process.
- 5.10 Model conditions are not intended to be used as blanket conditions applied to each premises licence. It may appear from the list that the conditions are repetitive, however there are subtle differences so gambling operators, responsible authorities and interested parties are advised to find the most appropriate condition to mitigate the identified risk. The model conditions are not an exhaustive list and new or amended versions of model conditions can be produced to meet the specific requirements of that application.
- 5.11 The model conditions have been put under general topic headings to assist in identifying particular conditions that may address specific issues raised. By the side of each condition a reference to the relevant licensing objective that they relate is indicated. The codes used for the licensing objectives are:
- CD** - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.  
**FO** - ensuring that gambling is conducted in a fair and open way.  
**CV** - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.12 The proposed revised policy was considered by Members of the Licensing and Gambling Committee following its presentation on the 14<sup>th</sup> December 2021. Members were advised that Consultation was conducted between 8<sup>th</sup> October 2021 and until the 8<sup>th</sup> November 2021 where existing licence holders under the Gambling Act 2005 and Licence Holders under the Licensing Act 2003 were directly contacted to seek their views, in addition the consultation was also open to residents and businesses via the council's corporate website.

### 5.13 Conclusion

The main alterations to the policy relate to Annex 7 and the listing of all Mandatory, Default and optional Model conditions in one place for ease of use. The pool of model conditions will assist gambling operators, responsible authorities and interested parties when considering conditions to deal with specific issues and concerns. These conditions will also encourage a consistent approach to the drafting and imposition of conditions on premises licences. Officers will continue to monitor the UK Government review of the Gambling Act 2005 and if required address any legislative changes brought about from any review.

## 6. ASSUMPTIONS

6.1 No assumptions have been made or were thought necessary.

## 7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

7.1 The changes to the policy as a result of this review are minor and merely provide information on licensing conditions in one part of the policy with additional information in order to increase understanding and assist relevant parties. The model pool of conditions can be selected as required and appropriate and standardised wording aids consistency in the sector. The UK Government is currently undertaking a review of the Gambling Act 2005 with a view to ensuring that the regulatory framework is fit for purpose within the digital age and can continue to meet its aims of protecting children and vulnerable people, prevent gambling related crime, and keep gambling fair and open. A White Paper is expected later this year which may result in legislative changes that will require a comprehensive review of the statement of principles in the near future. However, this will not avoid the statutory requirement to now review and publish a statement of principles for the next three-year period.

An Integrated Impact Assessment has been completed and is attached at **Appendix 2**.

## 8. FINANCIAL IMPLICATIONS

8.1 There are no financial implications associated with this report.

## 9. PERSONNEL IMPLICATIONS

9.1 There are no personnel implications associated with this report.

## 10. CONSULTATIONS

10.1 This report has been sent to the Consultees listed below including the Council's Licensing and Gambling committee and all comments received are reflected in this report. As detailed in 5.3 above, the revised policy has also been circulated for consultation to relevant stakeholders and all responses considered before finalising the policy.

At the meeting of the Licensing and Gambling Committee on the 14<sup>th</sup> December 2021, following the Licensing Manager's report, a Member sought clarification on the anonymous consultation response received and asked if Licensing had enough staff to be able to deal with the number of one-off licences issued. The Licensing Manager explained that he believed the consultation response to be commenting on licences for alcohol and entertainment rather than gambling and gave assurances that the Licensing department has sufficient capacity to investigate complaints received in relation to licensed gambling premises. The Member also referred to monitoring around Temporary Event Notice applications and the Licensing Manager provided a brief overview of how Licensing examine the suitability of each application on a case by case basis.

A Member referred to page 66 of the revised Statement in relation to CCTV and asked whether the recordings are required to be of a certain quality and if Licensing undertake inspections to ensure gambling premises are complying with this requirement. The Licensing Manager confirmed that if there were cause to inspect the premises and the quality of CCTV is found to be poor, this would be brought to the attention of the licence holder for improvements to be made. However, Licensing are confident that the quality of recordings are generally improving across licensed premises, as it is in the best interests of businesses to have clear CCTV images in order to identify any perpetrators.

A Member asked if the low response rate was normal and how the consultation had been advertised. It was confirmed that Licensing had written to all existing gambling and alcohol licence holders, together with Responsible Authorities and various bodies such as the Gambling Commission. Wider consultation had been carried out with the public through the Council's website which was advertised by the Communications Team. It was noted that all Councillors had also been consulted on the proposed changes through email.

One Member also asked if gambling premises are displaying signage in relation to agencies offering support with gambling addiction (such as Gamble Aware). The Licensing Manager confirmed that he believed this to be common practice across premises but confirmed that Licensing would look into surveying a random sample of premises to check whether they are advertising these types of support networks.

Following questions, Members unanimously recommended to Council that the revised Statement of Licensing Policy as detailed at Appendix 1 be approved.

## **11. STATUTORY POWER**

11.1 Gambling Act 2005. The decision is the responsibility of the full Council.

Author: Lee Morgan, Licensing Manager, morgal16@caerphilly.gov.uk

Consultees: Cllr Julian Simmonds, Chair, Licensing & Gambling Committee  
Cllr, Walter Williams, Vice Chair, Licensing & Gambling Committee  
Cllr Nigel George, Cabinet Member for Waste, Public Protection & Street Scene  
Mark S. Williams, Corporate Director Economy and Environment  
Robert Hartshorn, Head of Public Protection, Community and Leisure Services

Robert Tranter, Head of Legal Services and Monitoring Officer  
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Steve Harris, Head of Corporate Finance, S.151 Officer  
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)  
Shaun Watkins, HR Manager  
Licensing & Gambling Committee

Background Papers:

The current Statement of Gambling Licensing Policy can be found at  
[Link to Statement of Gambling Licensing Policy](#)

Appendices

Appendix 1 Revised Statement of Gambling Licensing Policy  
Appendix 2 Integrated Impact Assessment





APPENDIX 1

## CAERPHILLY COUNTY BOROUGH COUNCIL

### GAMBLING ACT 2005

### STATEMENT OF LICENSING POLICY

Approved: ~~13<sup>th</sup> December 2018~~

Commencement: ~~31<sup>st</sup> January 2019~~

Licensing Section  
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the above address or from the website:

<http://www.caerphilly.gov.uk>

This publication is available in Welsh. It is available in other languages  
and formats on request.

Mae'r cyhoeddiad hwn ar gael yn Gymraeg ac mewn ieithoedd neu  
fformatau eraill ar gais.

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## **1. STATEMENT OF LICENSING POLICY**

### **1.1 Introduction**

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the principles the Council proposes to apply in exercising its licensing functions when dealing with applications for Premises Licences, as required by the Act. Definitions of the terms used in this policy are attached as Annex 6.

This Policy Statement takes effect on ~~31<sup>st</sup> January 2019~~. This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within 3 years of the date of this Policy (or such period as may be determined by legislation), and will fully consult with partners, trade associations and residents groups as appropriate, any representations received will be considered at that time.

The Council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects changes to national legislation or statutory guidance.

In producing the final Policy Statement the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, any codes of practice and any responses from those consulted on the Policy Statement.

The council acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, and where the case merits such a decision in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded.

### **1.2 Equalities and Human Rights**

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The characteristics that are protected by the Equality Act 2010 are age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The applicant shall have regard to this legislation. However, the Licensing Authority will not use licensing to pursue such issues, other than where supported by legislation and accepted good practice.

The Welsh Language (Wales) Measure 2011 makes both Welsh and English the official languages of Wales, and the Licensing Authority will ensure that it provides its services in accordance with the Council’s current policies on Welsh language service provision and production of bilingual material.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with such a right. The Licensing Authority will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out.

The Council expects that in granting an authorisation the holder of that authorisation will take all reasonable and practical steps to prevent and eliminate unlawful discrimination and to promote equality of opportunity and good relations within and between staff, customers and visitors. This is irrespective of a person's ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non beliefs, use of Welsh language, British Sign Language and other languages, nationality, responsibility for any dependants or any other reason which cannot be shown to be justified.

The Council ensures that it treats all individuals and organisations who are renewing or making new applications for licenses, with equal respect both when corresponding with those individuals and organisations, and during the licensing approval process and will do so in the language or format of their choice, in line with the Council's Strategic Equality Objectives.

The Council is satisfied that this policy satisfies the statutory requirements and where there are restrictions, they satisfy the provisions on proportionality and balance of competing rights.

### 1.3 Profile of Caerphilly County Borough

The County Borough of Caerphilly stretches from Cardiff and the M4 in the South to the Heads of the Valleys and the Brecon Beacons in the North, a distance of some 40 kilometres and covering a total area of 69,160 acres. It has a population in excess of ~~181731~~**180,453** and is semi-rural in character. There are seven main town centres servicing the area, (Caerphilly, Blackwood, Bargoed, Ystrad Mynach, Newbridge, Risca and Rhymney) along with numerous villages, each with their own individual character. The authority is comprised of 33 wards.

Gambling premises are predominantly sited within the seven main towns, with a greyhound race track based in Ystrad Mynach.

### 1.4 Purpose

In exercising most of its functions under the Gambling Act 2005 the Council, as the Licensing Authority, must have regard to the following licensing objectives:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- **Ensuring that gambling is conducted in a fair and open way;**

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

Section 153 of the Act requires that the Council when making decisions about premises licences and temporary use notices should aim to permit the use of premises for gambling insofar as it is:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives;
- In accordance with the Council’s Statement of Licensing Policy.

## 1.5 The Licensing Authority Functions

The Council is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members’ clubs and miners’ welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- Receive notification from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed monetary thresholds;
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see section below on information exchange);
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities are not involved in licensing remote gambling, which is regulated by the Gambling Commission via Operator Licences.

The Council recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving any or all problems associated with gambling within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Heddlu Gwent Police, Public Health, the Safer Caerphilly County Borough Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

## 1.6 Consultation

The Council has consulted widely upon this Statement before finalising and publishing. Consultation on this policy has been conducted in line with the Act and the Gambling Commission's Guidance (hereafter referred to Guidance). A list of those persons consulted is attached as Annex 1, further details, together with a list of comments made and the consideration by the Council of those comments is available on request. Consultation took place between ~~25<sup>th</sup> July 2018~~ and ~~31st August 2018~~.

This policy was approved at a meeting of the Full Council on ~~13<sup>th</sup> December 2018~~ and was published on the ~~1<sup>st</sup> January 2019~~, as well as being available at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)

## 1.7 Responsible Authorities

In exercising the Council's powers under Section 157(h) of the Act, to designate, in writing, a body that is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- The need for the body to be responsible for an area covering the whole of the Council's area;
- The need for the body to include senior and responsible representatives of appropriate public bodies in the county borough area, who have as a principal duty, responsibility for the protection of children from harm

In accordance with the Guidance this Council designates the Child Protection Co-ordinator (On behalf of the Local Safeguarding Children Board) for this purpose. Details of the bodies and contact details identified under the Act that are to be treated as Responsible Authorities are listed in annex 2. of this policy.

## 1.8 Interested Parties

Interested Parties can make representations about licence applications, or apply for a review of an existing licence based on the three licensing objectives as detailed in paragraph 1.3 of this Policy Statement.

An Interested Party is someone who:-

- (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) Has business interests that might be affected by the authorised activities; or

Represents persons in either of the two groups above.

The principles the Council will apply to determine whether a person is an Interested Party are:

A) This Council will not apply rigid rules to its determination and will consider the examples of considerations provided in the Guidance. It will also consider the Guidance that “business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups, medical practices and Local Health Board.

B) Interested Parties can be persons who are democratically elected, such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP is sufficiently close to, lives or represents those likely to be affected. Likewise, Community Councils likely to be affected will be considered as interested parties. Other than these, however, this Council will generally require written evidence that a person, body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. Correspondence from one of these persons, requesting the representation is sufficient.

In the event that a Councillor is requested to represent the views of an individual, the Councillor would not be permitted to take part in the determination of that application by the Licensing and Gambling Sub-Committee, or in any other way have a personal interest that would preclude them from participating in a hearing. If there is any doubt the Councillor will be recommended to contact the Council’s Monitoring Officer.

## **1.9 Exchange of Information**

The principle that the Council will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 2018 will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **1.10 Enforcement**



The Council will be guided by the Gambling Commission's Guidance to local authorities, the Regulators Code and the council's enforcement policy and will endeavour to be:

- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed,
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must not be contradictory and implemented fairly;
- Transparent: regulators should be open, ensure that regulations can be easily understood and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

In accordance with the Guidance the Council will endeavour to avoid duplication with other regulatory regimes as far as is possible.

The Council adopt a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission;
- The principles set out in this Statement of Licensing Policy.
- The council's enforcement policy.

The main enforcement and compliance role for this Council in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions, which it authorises. The Gambling Commission is the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines are dealt with by the Council but should be notified to the Gambling Commission.

The council will take account of the Guidance document 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The council will also follow its own policies and procedures regarding the use of underage test purchasers and the Better Regulation Delivery Office's (BRDO) Code of Practice on Age Restricted Products.

### 1.11 Fundamental Rights

Under the terms of the Act any individual/company may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any Interested Party or Responsible Authority has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

Applicants and those making relevant representations in respect of applications to the Council have a right of appeal to the Magistrates Court against the decisions of the Council.

## 1.12 Integrating Strategies and Avoiding Duplication

By consulting widely prior to this Policy Statement being published, the Council will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Council, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.

When considering any application, the Council will avoid duplication with other regulatory regimes so far as possible. Therefore, the Council will not attach conditions to a licence unless they are considered necessary, reasonable and proportionate to the use of premises for gambling, and are consistent with the licensing objectives.

## 1.13 Sustainable Development Community Strategy

The Local Government Act 2000 requires all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy – “A better Quality of Life” and relevant regional strategies. The Wellbeing and Future Generations (Wales) Act 2015 requires all Welsh local authorities to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.

Community strategies provide a focal point for the identification of local issues and aspirations on social inclusion, environmental protection, employment and economic development.

Local strategic partnerships, typically involving the police, local authorities, local health boards, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives. These are set out in the Caerphilly We Want Well-Being Plan and can be accessed via [Home - Caerphilly Public Services Board Caerphilly Public Services Board \(caerphillypsb.co.uk\)](https://your.caerphilly.gov.uk/publicservicesboard/content/well-being-plan)  
<https://your.caerphilly.gov.uk/publicservicesboard/content/well-being-plan>

Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in the area. The Council will have particular regard to the likely impact of licensing on related crime and disorder in the County Borough, particularly when considering the location, impact, operation and management of all proposed licence/permit applications, renewals and variations of conditions.

## 2. PREMISES LICENCES

### 2.1 General Principles

Premises Licences authorise the provision of gambling facilities on the following:-

- Casino Premises;
- Bingo Premises;
- Betting Premises (including race tracks used by betting intermediaries);
- Adult Gaming Centres (AGCs);
- Family Entertainment Centres (FECs).

Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be granted to those issued with an Operating Licence by the Gambling Commission.

Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions, which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions where they are considered to be appropriate.

The Council is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling insofar as it thinks it:-

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Policy Statement.

This Council may also consider measures to meet the licensing objectives when making such decisions, for example:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Measures/training for staff on how to deal with children on the premises, for example, suspected truancy from school.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

It is appreciated that in accordance with the Guidance for local authorities “moral objections to gambling are not a valid reason to reject applications for Premises Licences” and also that unmet demand is not a criterion for consideration by the licensing authority.

The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places focus on licence holders to complete a risk assessment. The Council will have regard to this code when considering applications.

## 2.2 Definition of “Premises”:

Premises are defined in the Act as “any place”. Section 152 of the Act gives that a premises licence may not authorise the use of a premises for more than one kind of activity except for tracks. Tracks may be subject to main and subsidiary licences.

A single building could be subject to more than one premises licence, provided that they relate to different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Guidance states that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But, that does not mean that a single building plot cannot be the subject of separate premises licence, e.g. the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer.

However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example, by ropes or moveable partitions, can properly be regarded as different premises.”

The Council takes particular note of the Guidance which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following –

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the

separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensing premises or premises with a permit;

- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors, which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the Premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

### **2.3 Appropriate Licence Environment**

The Guidance and the Licence Conditions and Codes of Practice (LCCP) sets out matters that the council should take into account when considering licence applications for premises licences.

The Guidance, prescribes restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

The Council will consider these and any other relevant factors in making its decision, depending on all the circumstances of the case.

A summary of the Guidance for relevant access provisions for each premises type is attached as Annex 3:

### **2.4 Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling, in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at a premises, the Council will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling;
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

## **2.5 Location:**

The Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In accordance with the Guidance the Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

## **2.6 Planning/ Duplication with other Regulatory Regimes:**

The Council seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning.

The Gambling Commission Guidance to Licensing Authorities states:

- In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

The Council will not take into account irrelevant matters, in addition, the Council notes the following excerpt from the Guidance:

- When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

## 2.7 Licensing Objectives:

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Guidance and comments as follows:

### 2.7.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime:

The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. However, it is envisaged that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, the Council will consider carefully whether the location is suitable for gambling premises and whether conditions such as the provision of door supervisors may be appropriate.

### 2.7.2 Ensure that gambling is conducted in a fair and open way:

Ensuring gambling is conducted in a fair and open way, will be addressed via operating and personal licences administered by the Gambling Commission. There is a role for this Council with regard to tracks, which is explained in more detail at point 2.16 at page 21 in this policy statement.

### 2.7.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling:

The Guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will, therefore, consider, as suggested in this Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, etc.

The Council is also aware of the Gambling commission Codes of Practice, as regards this licensing objective, in relation to specific premises.

The term “vulnerable persons” is not defined by the Gambling Commission but states that “it will for regulatory purposes assume that this group includes people

- who gamble more than they want to;
- people who gamble beyond their means;
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”.

The Council will consider this licensing objective on an application by application basis.

The Guidance sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- there are procedures for identifying customers who are at risk of gambling related harm and also where to signpost people for support (training is available from a number of sources including Newport Citizens Advice Bureau (CAB) and Gambleaware)

The council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

See section 6 of this policy statement for further details and on the council’s requirements in relation to the LCCP.

The Council will have regard to the Chief Medical Officer for Wales Annual report to support the licensing objective in order to protect children and other vulnerable persons from being harmed or exploited by gambling.

The Council would expect applicants and licence holders to carry out the necessary checks on all relevant members of staff to ensure their suitability for employment, particularly in respect of premises where children and vulnerable people have access.



## 2.8 Localised Information Sharing e.g. Bet-Watch:

The Council encourages and will support local operators to create and maintain an information sharing network to discuss issues of problem gamblers that are identified. This would provide an opportunity for operators to discuss issues with the licensing officers

## 2.9 Conditions:

Any conditions attached to licences will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. Specific regard will be given to the local risk assessment for each premises when making such decisions There are specific comments made in this regard under some of the licence types below. The Council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively. In conjunction with Mandatory conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 (the regulations).

Conditions the Council may impose on a licence could include:-

### Security conditions

- A minimum of two members of staff after 10pm;
- The premises will have an intruder alarm and panic button;
- A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.

### Anti-social behaviour conditions

- The licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises;
- The licensee shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises';
- The licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.

### Underage controls

- Customers under 21 will have to provide ID;

- No machines in the Unlicensed Family Entertainment Centre to be sited within one metre of the Adult Gaming Centre entrance;
- Staff training records or certified copies should be available at the premises for inspection.

#### Player protection controls

- There shall be no cash point or ATM facilities on the premises;
- The licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request;
- Prominent GamCare documentation will be displayed at the premises.

This list is not exhaustive and merely gives an example of the type of conditions which may be imposed depending on the circumstances at each premises.

The Council will also consider specific measures, which may be required for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Guidance and Code of Practice(s).

The Council will also ensure that where category C or above machines (Please see Annex 4 for machine categorisation information) are available in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised;
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises, including buildings where multiple premises licences are applicable.

This Council will consider, in accordance with the Guidance, the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that the Council cannot attach conditions to premises licences, which are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- Conditions in relation to stakes, fees, winning or prizes.

Relevant mandatory and default conditions are attached at [Annex 7](#) for information, [as are Caerphilly CBC's pool of Model conditions for gambling premises licences.](#)

## 2.10 Door Supervisors:

The guidance to licensing authorities advises that if it is concerned that a premises may attract disorder, or be subject to attempts at unauthorised access (e.g. by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on premises licence to this effect.

Where it has been determined that supervision of entrances/machines is appropriate for particular cases, a consideration of whether such door stewards should be SIA licensed or not, will be necessary. It will not be automatically assumed that they need to be SIA licensed as the statutory requirements for different types of premises vary.

## 2.11 Adult Gaming Centres

The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Council that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls. The council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

## 2.12 (Licensed) Family Entertainment Centres

The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Council, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult

only gaming machine areas. The applicant for a Family Entertainment Centre provide evidence that a suitable criminal record check with the Disclosure and Barring Service (DBS) has been conducted on all staff in his/her employment.

Children and young persons are permitted entry to licensed FECs but are not permitted to play Category C machines. The Council expects the applicant to ensure that there will be sufficient measures in place to prevent under 18 year olds having access to the adult only gaming machine areas. The Council will expect applicants to meet the licensing objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission.

There is a requirement that there must be clear segregation between the types of machine in order that children do not have access to Category C machines. All Category C machines must be located in an area of the premises which is separate from the remainder of the premises by a physical barrier, which will prevent access other than through a designated entrance. The Council will seek to ensure that:

- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

## 2.13 Casinos

The Council has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution. Any such decision will be made by the full Council.

### **Licence Considerations/Conditions:**

If necessary the Council would attach conditions to casino premises licences according to the principles set out in the Guidance, bearing in mind the mandatory conditions and the Gambling Commission LCCP.

### **Betting Machines:**

The Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wants to offer

## 2.14 Bingo Premises

Licensing Authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for excluded areas.

The holder of bingo premises licences may make available a number of category B gaming machines, not exceeding 20% of the total number of gaming machines, which are available for use on the premises

Operators may allow children and young people onto bingo premises; however, they are not permitted to participate in the bingo and if category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.

Where Category C or above machines are available in the bingo premises to which children are admitted, the Council will seek to ensure that:-

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff or the licence holder; and
- at the entrance to, and inside any such area, notices are prominently displayed indicating that access to the area is prohibited to persons under 18.

Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence.

## 2.15 Betting Premises

### **Betting machines:**

#### ***Self Service Betting Terminals (SSBTs):***

The Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Betting premises may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet over the counter. These Self Service Betting Terminals “betting machines” are not gaming machines: they merely automate the process, which can be conducted in person and, therefore, do not require regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

The Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact who should be a senior individual and to whom the Authority will contact first should any compliance queries or issues arise.

## **2.16 Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Act allows for a main licence, and subsequent application to vary that licence allows for the issue of subsidiary licences provided that each licence relates to a specified area of the track, and that not more than one premises licence has effect in relation to any area of the track. The Council will especially consider the impact upon the third licensing objective (i.e. protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The Council therefore expects premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are prevented from entering areas where gaming machines (other than category D machines) are provided.

## **2.17 Gaming Machines:**

There are a number of categories of gaming machine permitted at licensed and other premises and the number of such machines that may be permitted in each type of gambling premises are set out in the Act. The Council does not have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by licensing authorities.

A table setting out gaming machine entitlement at each type of premises is attached at Annex 4.

There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence must comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, those machines (other than Category D machines) should be located in areas from which children are excluded.

### **Betting Machines:**

The Council will, take into account the size of the premises and the ability of staff to monitor the use of machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

### **Applications and plans:**

The Gambling Act and Regulations requires applicants to submit plans of the premises with their application, in order to ensure that the Council has the necessary information to make an informed judgement about whether the premises are fit for gambling and will be used in planning future premises inspection activity.

Plans for tracks should be drawn to scale sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises are not required to be defined.

The Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information in order that the Council

can satisfy itself that the plan indicates the main areas where betting may take place. For racecourses in particular, any betting area subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

## **2.18 Travelling Fairs**

This Council is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Council will also consider whether the applicant falls within the statutory definition of a travelling fair contained in the Gambling Act.

The 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land, which crosses boundaries, is monitored so that the statutory limits are not exceeded.

## **2.19 Provisional Statements**

Developers may wish to apply to this Council for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Gambling Act provides for a person(s) to make an application to the Council for a provisional statement in respect of premises that they:

- expect to be constructed;
- expect to be altered; or
- expect to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further



representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage; or
- they reflect a change in the applicant's circumstances.

In addition, the Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the Council's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Council notes that it can discuss any concerns it has with the applicant before making a decision.

### **3. PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES**

These forms of authorisations are as follows:-

- Unlicensed Family Entertainment Centres (uFEC) Permits
- Prize Gaming Permits
- Licensed Premises Gaming Machine Permits
- Club Gaming Permits
- Club Gaming Machine Permits
- Temporary Use Notices (TUNs)
- Occasional Use Notices (OUNs)

A table setting out gaming machine entitlement is attached at Annex 4.

#### **3.1 Unlicensed family entertainment centre Gaming Machine Permits**

Only premises that are wholly or mainly used for making gaming machines available may hold an Unlicensed Family Entertainment Centre. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines will be in a designated enclosed area and clearly defined when making an application to the Council.

Where premises licence is not in place, but an operator wishes to provide category D gaming machines, application may be made to the Council for this type of permit.

It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use and would, therefore, exclude any premises primarily used for any other purposes, e.g.

canteens, fast food takeaways, leisure centres, garages and petrol filling stations, taxi offices.

An application for a permit may be granted only if the Council is satisfied that the premises will be used as an unlicensed Family Entertainment Centre and the Chief Officer of Police has been consulted on the application.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

This Council will also expect, as per Gambling Commission Guidance, that applicants demonstrate:-

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- That staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that the Council cannot attach conditions to this type of permit.

### **3.2 (Alcohol) Licensed Premises Gaming Machine Permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The Council can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches the condition in the Gambling Act regarding automatic entitlement to gaming machines (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

If more than 2 machines are required, then an application must be made for a permit and the Council will consider that application based upon the licensing objectives, any guidance and codes of practice issued by the Gambling Commission, and “*such matters as the Council think relevant.*” The Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Council that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those persons under 18. Notices and signage may also be required. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

The Council can determine whether to grant an application for a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of such machines.

### **3.3 Prize Gaming Permits**

The Council has the right to prepare a ‘Statement of Principles’ that it proposes to apply in exercising its functions in respect of these permits which may, in particular, specify matters that this authority propose to consider in determining the suitability of the applicant for a permit.

The Council has prepared the following ‘Statement of Principles’, which gives that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant can demonstrate:-

- That they understand the limits to stakes and prizes that are set out in Regulations;
- And that the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

In making its determination for prize gaming permits the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach. The conditions in the Act are:-

- The limits on participation fees, as set out in regulations, must be complied with;
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- Participation in the gaming must not entitle the player to take part in any other gambling.

### 3.4 Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance. Members Clubs and Miners' Institutes and also Commercial Clubs may apply for a Club Machine Permit. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The Council has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take into account a number of matters as outlined in the Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

The Council may only refuse an application on the grounds that:

- (a) The applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) The applicant's premises are used wholly or mainly by children and/or young persons;
- (c) An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) A permit held by the applicant has been cancelled in the previous ten years; or
- (e) An objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Commercial

clubs do not qualify for Club Premises Certificates under the Licensing Act 2003 and as such cannot avail themselves of the fast track procedure. Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **3.5 Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, would include such venues as hotels, conference centres and sporting venues.

The Council may only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement, the relevant regulations state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices which requires the Council to carefully consider the meaning of 'premises' or 'a set of premises' and will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the Council will look at, amongst other things, the ownership/occupation and control of the premises.

This Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises; as recommended by the Gambling Commission's Guidance to licensing authorities.

### 3.6 Occasional Use Notices

Where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN) without the need for a full premises licence. The intention behind OUNs is to permit licensed betting operators with appropriate permission from the Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature (the OUN dispenses with the need for a betting premises licence for the track in these circumstances).

Non-commercial, fundraising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

The Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will though consider the definition of a 'track' and whether the applicant is permitted to avail themselves of an occasional use notice.

## 4. SMALL SOCIETY LOTTERIES

The Gambling Act 2005 sets out a definition of a lottery, detailed below, and provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences;
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, in accordance with section 14 of the Act.

A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and has been established as a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in section 2 of the Charities Act 2006;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity;
- for any other non-commercial purpose other than that of private gain.

The society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Local authorities are entitled to operate their own lotteries, but may only do so if licensed by the Gambling Commission. Local authorities must commit a minimum of 20% of the proceeds from such lotteries for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wish to sell lottery tickets via electronic or other remote technological methods such as over the telephone, email or via the internet.

Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and must be accompanied by a registration fee and a copy of the terms and conditions and the constitution to prove that they are a non-commercial society. Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for licensing authorities to refuse a small society lottery registration application.

The Council has adopted a risk based approach towards its enforcement responsibilities for small society lotteries. The Council considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact the Council on 01443 866750 or via [licensing@caerphilly.gov.uk](mailto:licensing@caerphilly.gov.uk) to seek further advice to register the lottery and to provide proof the collection is for charitable purposes, to support sporting, athletic or cultural activities.

## **5. DECISION MAKING**

### **5.1 Administration, Exercise and Delegation of Function**

The powers and duties of the Council under the Act may be carried out by the Licensing and Gambling Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers. The schedule setting out this Council's delegation of functions and decisions is attached as Annex 6. The Council may, nevertheless, refer any matter to the Licensing and Gambling Committee or Sub-Committee.

## **5.2 Appeals Procedure**

Entitlements to appeal for parties aggrieved by decisions of the Council are set out in the Act. Appeals must be made to the Magistrates Court for the area in which the licensing authority, which has considered the application, is situated.

An appeal has to be commenced by giving notice of the appeal by the appellant to the local Magistrates Court, within a period of 21 days, beginning with the day on which the appellant was notified by the Council of the decision to be appealed against.

On determining an appeal, the Court may:

- Dismiss the appeal;
- Substitute the decision appealed against with any other decision that could have been made by the licensing authority;
- Remit the case to the licensing authority to dispose of the appeal in accordance with the direction of the Court.
- Make an order about costs.

## **5.3 Giving Reasons For Decisions**

The Council will give comprehensive reasons for its decisions and will address the extent to which decisions have been made with regard to any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

## **5.4 Implementing the Determination of The Magistrates' Court**

As soon as the decision of the Magistrates' Court has been notified to all parties, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an ongoing judicial review). The Act provides for no other appeal against the determination of the Magistrates' Court.



## 5.5 Complaints Against Licensed Premises

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing and Gambling Sub-Committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they do not comply with the requirements as set out below.

## 5.6 Reviews

Requests for a review can be made by Interested Parties or Responsible Authorities. However, it is for the Council to decide whether the review is to be carried out based upon any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

The request for the review will also be subject to the consideration by the Council as to whether it is frivolous, vexatious, or whether it is substantially the same as previous representations or requests for review.

The Council can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason, which it thinks is appropriate.

Once a valid application for a review has been received by the Council, representations can be made by responsible authorities and interested parties. Timescales are prescribed for the submission of representations, notification of application and a hearing before the relevant committee.

The purpose of the review will be to determine whether the Council should take any action in relation to the licence. If action is justified, the options open to the Council are:-

- add, remove or amend a licence condition imposed by the Council;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months; and
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the Council must have regard to the principles set out in the Act, as well as any relevant representations.

In particular, the Council may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the Council must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

## **6. LICENSING CONDITIONS AND CODES OF PRACTICE (LCCP)**

The Gambling Act 2005 requires the Gambling Commission to issue one or more codes of practice about the manner in which facilities for gambling are provided. The codes may be directed at the holders of operating or personal licences, or any other person involved in providing facilities for gambling.

The Act also requires licensing authorities to take into account when exercising their functions, any relevant code of practice issued by the Commission under section 24, in this case:-

- The Commission's *Licence conditions and codes of practice* (LCCP), which apply to holders of Gambling Commission operating or personal licences;
- Other codes - these are the Commission's code of practice for equal chance gaming and its code of practice for gaming machines in clubs and premises with an alcohol licence

The LCCP contains two types of code provision:

### **Social responsibility code provisions**

These are provisions describing arrangements which should be made by persons providing facilities for gambling for the purpose of:-

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling; and
- (c) making assistance available to persons who are or may be affected by problems related to gambling.

Compliance with these is a condition of operator licences; therefore any breach of them by a licensed operator may lead the Commission to review the operator's licence with a view to suspension, revocation or the imposition of a financial penalty and would also expose the operator to the risk of prosecution; these provisions are in shaded boxes in the remainder of this document.

### **Ordinary code provisions**

These do not have the status of licence conditions in the case of licensed operators, but set out good practice.

Codes of practice are admissible in evidence in criminal or civil proceedings and must be taken into account in any case in which the court or tribunal think them relevant, and by the Commission in the exercise of its functions; any departure from code provisions by an operator may be taken into account by the Commission, for example on a licence review (but could not lead to imposition of a financial penalty).

However, the Commission has made it clear that licensed operators may adopt alternative approaches to those set out if they have actively taken account of the provision and can demonstrate that an alternative approach is reasonable in the particular circumstances; or that to take an alternative approach would be acting in a similarly effective manner.

### **Risk Assessments - Premises**

The LCCP requires all existing licensees that provide gambling at their premises to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

A local risk assessment should also be undertaken or updated by a licensee, when applying for:-

- A new premises licence;
- When applying for a variation of an existing premises licence;
- To take into account any local significant changes in the local area;
- When there are significant changes within their premises that may affect the existing local risk assessment.

Operators are required to make the risk assessment available to licensing authorities when an application is submitted and a copy should be kept at the premises or otherwise on request, and this will form part of the Council's inspection regime or investigating complaints.

The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council

expects the following matters to be considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

**Betting Track Premises** – The Gambling Commission states within its LCCP code that Operators are required to make a risk assessment. However, Betting Track Premises are not required to seek an Operator's Licence with the Gambling Commission and as such are not required to conduct a risk assessment. However, in the interest of the objectives of the Gambling Act 2003, namely i) preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ii) ensuring that gambling is conducted in a fair and open way; iii) protecting children and other vulnerable persons from being harmed or exploited by gambling, this Council would expect a Betting Track Premises to conduct a risk assessment for their premises.

The council expects the following matters to be considered by operators when making their risk assessment.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.;
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted;
- Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.;
- Recorded incidents of attempted underage gambling.

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling;

- Gaming trends that may mirror days for financial payments such as pay days or benefit payments;
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends;
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc. The consideration of the location of alcohol licensed premises will also be a key consideration for gambling licence applications.

Other issues that may be considered could include;

- Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.
- the economic make-up of an area;
- the surrounding night-time economy;
- children's homes and care facilities;
- the area footfall eg. residential or commercial areas;
- banks and ATM nearby;
- known anti-social behaviour issues;
- housing facilities;
- job centres;
- hostel and support services for the homeless;
- alcohol and drug support facilities;
- pawn brokers and payday loan businesses;
- other gambling premises;
- If there is an existing cluster of gambling premises;
- mental health facilities;
- community buildings;
- residential care establishments;
- transport and parking facilities eg. bus stops, taxi ranks, train stations;
- presences of rough sleepers;
- unemployment rates for area;
- types and rates of crime in the area that could impact on the premises
- areas with significant areas of children, eg parks and playgrounds.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

### **Significant changes to the premises**

From time to time operators will undertake a refresh of the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk

assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes do require a review of the risk assessments for that premises gambling operators should ensure that they have a system in place to record and action any measures identified in that review.

The gambling operator will be responsible for identifying when a significant change to the premises has occurred. In order to assist gambling operators the Council has provided the following list of examples of what could be classified as a significant change to the premises (some of which may also require a variation to the existing premises licence).

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol.

As with the examples of significant changes in local circumstances, the list above is not an exhaustive list of significant changes to premises.

The Council will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

### **Variation of the premises licence**

Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.

The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment

and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Council may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the Council requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.

If an operator wishes to vary a converted casino premises licence from one premises to another then the gambling operator should consider producing a new risk assessment for that premises. It is advisable that a copy of that assessment is submitted to the Council with the application form.

### **Regular review of risk assessment**

As a matter of best practice the Council recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.

It will be up to the gambling operator as to the frequency of these reviews but it is recommended that no more than three years should pass before these assessments are reviewed. Operators may wish to synchronise their reviews of the local risk assessments with the publication of the Council's Statement of Licensing Principles for Gambling. This would enable gambling operators to consider the Local Area Profile, which has been published in the Council's Statement of Licensing Principles for Gambling.

### **Local risks and control measures**

There are two specific parts to the risk assessment process:

- the assessment of the local risks
- the determination of appropriate mitigation to reduce those risks

The risks that operators must identify relate to the potential impact a gambling premises and its operation may have on the licensing objectives. Gambling operator should identify and list all of the local risks within the assessment that they have identified. The level of such risks can range from being low to very high depending on the potential impact that the gambling operator has assessed it to have on the licensing objectives. The level of any given risk will have a direct impact on the type and extent of the control measures that the gambling operators deems as being necessary to mitigate such risk.

Operators will already be assessing locations when looking for new sites or when reviewing the performance of their premises. The design of premises is also assessed to ensure that they will meet the needs of the gambling operation, will provide protection for staff and customers; and will have facilities

for recording crime. Operators will also have implemented policies and procedures for the operation of premises in line with statutory and other regulatory requirements placed upon them by the Commission and other agencies.

Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.

This local risk assessment process, although similar requires a much broader range of considerations when identifying local risk. The requirement of the Commissions LCCP social responsibility code provision 10.1.1 is that gambling operators consider the local area in which the premises are situated and the impact that the premises operation may have on the licensing objectives.

### **Local area risks**

There are a number of factors relating to the local area that operators may consider which is independent of who the operator believes is their target market. It will be for the gambling operator to identify these risks. However, there may be occasions that the Commission or the Council will provide information on what they perceive as being a local risk. This may be specified in the Statement of Licensing Policy or in a separate guidance document, both of which will be found on the Council's website.

The local area will be different depending on the premises and the size of its operation. For example a large Bingo hall may have a wider catchment area than a neighbourhood betting shop as the Bingo hall attracts customers from further afield.

### **Risk Assessment**

Although gambling is a legal entertainment activity it can, in some locations, have a negative impact on individuals and the wider community. The consideration of the proximity of gambling premises to locations where groups vulnerable to problematic gambling may congregate, e.g schools, alcohol services, supported housing, will be a priority for the applicant and licensing authority .Caerphilly Public Services Board has produced a Wellbeing Assessment as part of the Wellbeing of Future Generations Act. The Assessment considers Economic, Social, Environmental and Cultural Wellbeing in the county in determining the 'Caerphilly we want'.

Full details can be found on -[Well-being assessment - Caerphilly Public Services Board Caerphilly Public Services Board \(caerphillypsb.co.uk\)](#)

<https://your.caerphilly.gov.uk/publicservicesboard/content/well-being-assessment>

Crime data for local area can be obtained from [www.gwent.police.uk](http://www.gwent.police.uk)



## **Gambling operational risks**

The gambling operation relates to how the premises will be or is run. This will include the operator's policies and procedures which have been put in place to meet the requirements of the business, the Act and/or specific code provisions within the LCCP.

Gambling operators should identify operational risks in the local area to the licensing objectives and then consider whether there are control measures in excess of those already in place that would mitigate the risk. For example if there is a known illegal drug use in the local area the gambling operator may consider using control measures such as maglocks on the toilet doors or change the design to the toilet to deter people from using it for illegal drug use.

It is likely that the identification of risks associated with this element of the assessment will be very similar for all premises with slight variations depending on any specific factors that relate to the premises or the local area.

The control measures that operators will put in place to mitigate any risk associated with the gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

## **Premises design risks**

The design of the premises is an extremely important factor when considering local risks. For example, an Adult Gaming Centre which is located within an area which has a high number of children and young people present throughout the day may identify that the doors on either side of the premises are being used by local children as a short cut to access the adjacent street. The appropriate mitigation in this case may be that the gambling operator closes off one of the doors to prevent it being used as a short cut.

As part of the design process, the layout of the premises is a major consideration as poorly conceived design may create significant risks to one or more of the licensing objectives. Gambling operators are experienced in premises design and often these considerations are made during the planning phase. It is advisable that gambling operators ensure that there is a process in place to record these key decisions at an early stage of the planning process for the premises design so that this can be included in their risk assessment.

## **Interior design risks**

The internal design and layout will reflect the premises operation and the type of gambling facilities that it offers. For some premises the design will be subject to certain limitations due to mandatory conditions on the gambling premises licence, such as the distance between gaming tables and other gambling facilities in casinos, and restrictions on the location of ATMs.

Operators should assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

### **Exterior design risks**

The exterior of premises will be a major advertisement for the gambling operator. However, the design should be assessed based on the associated risk. Operators may identify a risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

### **Control measures**

Depending on the nature of the risk factors, the control measures identified to mitigate the perceived risk may be a combination of systems, design and physical measure. Control measures that relate to systems may be measures that have been put in place through policies and procedures. These can either be systems that apply to all of the operator's premises or systems that have been developed specifically for particular premises to deal with a specific local risk factor. System control measures may include staff training, security policies and procedures. They may also relate to having security personnel on entrances, implementing membership criteria and/or providing support to local vulnerable groups through financial or other means.

Design control measures are measures that are built into the design of the premises. These can include the location of gambling facilities and the design and location of cashier counters within the premises, and the exterior design of premises. For example, a control measure for the interior of the premises could involve moving a cashier counter from the rear of the premises to the front of the shop next to the main entrance. An external design control measure may involve the exterior design being tailored to address local risks, for example, more open window displays to enable staff can see out of the premises or a design to avoid attracting children to the premises.

The final control measures relate to specific physical measure that will address an identified risk factor. These physical control measures may, for example, include alarms, CCTV cameras, doors, magnetic locks, time locks on safes, spit kits, window shutters, fogging systems, UV lights in toilets.

The control measures identified to mitigate a perceived risk may involve a combination of systems, design and physical measures. For example to address the risk factors relating to children gaining access to an over 18 restricted gambling premises, the operator may identify the following control measures:

**Systems:** PASS card or age verification policies, challenge 21 scheme, staff training and door staff.

**Design:** Exterior design which will not attract children into the premises, the entrance layout will enable staff and security to watch those entering the premises and challenge them on the grounds of age.

**Physical:** Magnetic door locks and ID scans.

### **Step 1: Undertaking a local risk assessment**

The risk assessment should be carried out through a step-by-step approach. Gambling operators may first assess the local area and identify the relevant risk factors, then assess the gambling operation, and finally assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented.

- Assessors should start by identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important. Use Community wellbeing profile and local knowledge will assist.

### **Step 2: Gambling operation and physical design**

In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk.

The physical design of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted.

### **Step 3: Control measures**

Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

## **Step 4: Action Plan**

Once the assessment has been carried out an action plan should be completed so that any identified actions are documented and a deadline for completing the required piece of work is set and agreed.

### **Completed assessment**

The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime.

## **7. FURTHER INFORMATION**

Further information this Statement of Licensing Policy or the application process can be obtained from:

**Licensing Section  
Caerphilly County Borough Council  
Penallta House  
Tredomen Park  
Ystrad Mynach  
CF82 7PG**

**Telephone: 01443 866750**

**Email: [licensing@caerphilly.gov.uk](mailto:licensing@caerphilly.gov.uk)**

**Information is also available from:  
The Gambling Commission  
Victoria Square House  
Birmingham  
B2 4BP**

**Telephone: 0121 230 6666**

**Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

**~~The Department for Culture, Media and Sport  
2–4 Cockspur Street~~**

**~~London  
SW1Y 5DH~~**

**~~The Department Digital, Culture, Media and Sport  
100 Parliament Street,  
London,  
SW1A 2BQ~~**

**Telephone: 020 7211 6200**

**Website:** [www.culture.gov.uk](http://www.culture.gov.uk) Department for Digital, Culture, Media & Sport -  
[GOV.UK](http://GOV.UK) ([www.gov.uk](http://www.gov.uk))

**National Gambling Helpline: 0808 8020 133**

**[www.begambleaware.org](http://www.begambleaware.org)**



## Annex 1

### POLICY CONSULTEES

CCBC - Elected Members
CCBC – Appropriate Directors and Heads of Service
Her Majesty’s Revenues and Customs (HMRC)
Gambling Commission
Heddlu Gwent Police
Fire Service
Health and Safety Executive
Health Board
Community and Town Councils
All Licensed Gambling Premises
All Licensed Premises and Club Premises Certificate Holders
General Public - via web site and press release
CCBC – Community Safety
CCBC – Corporate Policy Unit
CCBC – Legal Services
CCBC – Highways
CCBC - Environmental Health - Pollution Control
CCBC - Environmental Health - Food and Health and Safety
CCBC - Licensing Authority Responsible Authority
CCBC – Trading Standards
CCBC – Planning
CCBC- Child Protection Co-ordinator
Newport CAB
Gwent Licensing Forum (GLF)

## Annex 2

### RESPONSIBLE AUTHORITIES

#### RESPONSIBLE AUTHORITY CONTACT DETAILS

Responsible Authority	Contact Details
Gambling Commission	Victoria Square House Victoria Square Birmingham B2 4BP <b>Telephone: 0121 230 6666</b> <b>Website: <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a></b>
HMRC	Excise Processing Teams, (Betting and Gaming) BX9 1GL  Tel: 0300 322 7072 e-mail <a href="mailto:nrubetting&amp;gaming@hmrc.gsi.gov.uk">nrubetting&amp;gaming@hmrc.gsi.gov.uk</a>
Police (Chief Officer of Police for area in which premises are situated)	The Chief Officer of Police FAO The Licensing Officer Heddlu Gwent Police 'C' Divisional Headquarters Blackwood Road Pontllanfraith Blackwood NP12 2XA Tel: 01495 232253/232267 E-mail: <a href="mailto:LicensingCDIV@gwent.pnn.police.uk">LicensingCDIV@gwent.pnn.police.uk</a>
Fire And Rescue Authority (For area in which premises are situated)	Chief Fire Officer South Wales Fire and Rescue Service Headquarters Forest View Business Park Llantrisant CF72 8LX Tel: 01443 232713 E-mail: <a href="mailto:safety-east@SouthWales-fire.gov.uk">safety-east@SouthWales-fire.gov.uk</a>
Planning (Local Planning Authority for area in which premises are situated)	Head of Planning and Regeneration Planning Division Caerphilly County Borough Council Tredomen House, Tredomen Park, Ystrad Mynach, Hengoed. CF82 7WF E-mail: <a href="mailto:planning@caerphilly.gov.uk">planning@caerphilly.gov.uk</a>



<b>Responsible Authority</b>	<b>Contact Details</b>
<p>Environmental Health (Statutory function for minimising or preventing the risk of pollution of the environment or of harm to human health.)</p>	<p>Team Leader Pollution Control Caerphilly County Borough Council Penallta House Tredomen Park Ystrad Mynach Hengoed CF82 7PG</p> <p>E-mail: <a href="mailto:enviroservices@caerphilly.gov.uk">enviroservices@caerphilly.gov.uk</a></p>
<p>Child Protection (Body which represents those who are responsible for or interested in matters relating to the protection of children from harm and is competent to advise on such matters.)</p>	<p>Child Protection Co-ordinator (On behalf of the Local Safeguarding Children Board) Caerphilly County Borough Council Penallta House Tredomen Park Ystrad Mynach CF82 7PG Tel: 01443 864744 E-mail: <a href="mailto:srt@caerphilly.gov.uk">srt@caerphilly.gov.uk</a></p>

## Annex 3

### ACCESS RESTRICTIONS TO GAMBLING PREMISES

#### Casinos

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises, which holds a gambling premises licence.

#### Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

#### Betting Shops

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### Tracks

- **No customer should be able to access the premises directly from:**
  - a casino;
  - an adult gaming centre.

#### Bingo Premises

- **No customer must be able to access the premises directly from:**
  - a casino;
  - an adult gaming centre;
  - a betting premises, other than a track.

#### Family Entertainment Centre

- **No customer must be able to access the premises directly from:**
  - a casino;
  - an adult gaming centre;
  - a betting premises, other than a track.

Guidance contains further information on this issue, which this authority will also take into account in its decision-making.

## Annex 4

### Summary of Machine Provisions by Premises

Machine category							
Premises type	A	B1	B2	B3	B4	C	D
<b>Large casino</b> (machine/table ratio of 5-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
<b>Small casino</b> (machine/table ratio of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
<b>Pre-2005 Act casino</b> (no machine/table ratio)	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead						
<b>Betting premises and tracks occupied by pool betting</b>	Maximum of 4 machines categories B2 to D (except B3A machines)						
<b>Bingo premises<sup>1</sup></b>	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4					No limit on category C or D machines	
<b>Adult gaming centre<sup>2</sup></b>	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4					No limit on category C or D machines	
<b>Licensed family entertainment centre<sup>3</sup></b>	No limit on category C or D machines						
<b>Family entertainment centre (with permit)<sup>3</sup></b>	No limit on category D machines						
<b>Clubs or miners' welfare institute (with permits)<sup>4</sup></b>	Maximum of 3 machines in categories B3A or B4 to D						
<b>Qualifying alcohol-licensed premises</b>	1 or 2 machines of category C or D automatic upon notification						
<b>Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)</b>	Number of category C-D machines as specified on permit						

<b>Travelling fair</b>	No limit on category D machines
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<sup>1</sup> Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight (The Gambling Act 2005 (Gaming Machines in Bingo Premises) Order 2009) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>2</sup> Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>3</sup> Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

<sup>4</sup> Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

<sup>5</sup> Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

## SCHEDULE OF DELEGATION OF LICENSING FUNCTIONS AND DECISIONS

<b>Matters to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee</b>	<b>Officers</b>
<b>Three year Gambling Policy</b>	<b>X</b>		
<b>Policy not to permit casinos</b>	<b>X</b>		
<b>Fee Setting – when appropriate</b>		<b>X</b>	
<b>Application for Premises Licence</b>		<b>Where representations have been received and not withdrawn</b>	<b>Where no representations received/representations have been withdrawn</b>
<b>Application for a variation to a licence</b>		<b>Where representations have been received and not withdrawn</b>	<b>Where no representations received/representations have been withdrawn</b>
<b>Application for a transfer of a licence</b>		<b>Where representations have been received from the Commission</b>	<b>Where no representation has been received from the Commission</b>
<b>Application for a provisional statement</b>		<b>Where representations have been received and not withdrawn</b>	<b>Where no representations received/representations have been withdrawn</b>
<b>Review of a Premises Licence</b>		<b>x</b>	
<b>Revocation of a premises licence for failure to pay annual licence fee</b>			<b>x</b>
<b>Application for club gaming/club machine permits</b>		<b>Where objections have been made (and not withdrawn)</b>	<b>Where no objections made/objections have been withdrawn</b>
<b>Cancellation of club gaming/club machine permits</b>		<b>x</b>	

<b>Applications for other permits</b>		<b>Where objections have been made and not withdrawn</b>	<b>Where no objections made/objections have been withdrawn</b>
<b>Cancellation of licensed premises gaming machine permits</b>			<b>x</b>
<b>Consideration of temporary use notice</b>			<b>x</b>
<b>Decision to give a counter notice to a temporary use notice</b>		<b>x</b>	

NOTE: In this Policy, the following definitions are included to provide an explanation to certain terms included in the Act and, therefore, in the Statement of Licensing Policy. In some cases they are an abbreviation of what is stated in the Gambling Act 2005 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Gambling Act 2005.

‘The Council’ means Caerphilly County Borough Council, acting as the Licensing Authority as defined by the Gambling Act 2005.

‘The Act’ means the Gambling Act 2005.

‘The County Borough’ means the county borough of Caerphilly.

‘The Licensing Authority’ the authority in whose area the premises is wholly/partly situated. The Licensing Authority (as in the issuing authority) is also a responsible authority.

‘The Gambling Commission’ a body set up by the Government as the unified regulator for gambling, replacing the Gaming Board.

‘Guidance’ means Guidance issued by the Gambling Commission

‘LCCP’ means Licensing Conditions Code of Practice issued by the Gambling Commission.

‘Responsible Authority’ means a public body that must be notified of certain applications for premises licences and permits, and are entitled to make representations on any of the licensing objectives.

‘Children’ means individuals who are less than 16 years old.

‘Young person’ means individuals who are aged less than 18 years old and are 16 years and over.

‘Mandatory Conditions’ means a specified condition provided by regulations to be attached to premises licences.

‘Default Conditions’ means a specified condition provided for by regulations to be attached to a licence unless excluded by the Council.

‘Premises’ means any place, including a vessel or moveable structure.



# Mandatory, Default and Caerphilly County Borough Council's Pool of Model Conditions for Gambling Premises Licences

## 1. Introduction

Caerphilly County Borough Council is the Licensing Authority under the Gambling Act 2005 (the Act). The Licensing Authority is responsible for considering and determining applications for premises licences which offer gambling facilities within Caerphilly CBC. The Licensing Authority also has the role of ensuring compliance with the terms and conditions of the licences.

The Act contains three licensing objectives which guide the way that the Licensing Authority performs its functions and the way that gambling operators carry on their activities. They are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way;
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Act places a legal duty on the Licensing Authority to aim to permit gambling in so far as it thinks it reasonably consistent with the licensing objectives. The effect of this duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers, for example to attach conditions on licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.

The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 impose conditions on each category of gambling premises licence under the Act. For ease of reference and to provide a concise document which contains all of the relevant conditions, the Licensing Authority has included both mandatory and default conditions.

The Licensing Authority has also developed a pool of model conditions to assist gambling operators, responsible authorities and interested parties when considering conditions to deal with specific issues and concerns. These conditions will also encourage a consistent approach to the drafting and imposition of conditions on premises licences.

Gambling operators will identify measures that mitigate the risk to harming the licensing objectives in their local risk assessment for each specific premises. The model conditions will assist prospective and existing licence holders to identify and select specific conditions that would cement these proposed measures within the regulatory framework.

Once an application has been made, responsible authorities and interested parties are encouraged to engage with the applicant if they are considering making a representation to their application. This will enable discussions about their concerns and the ability to agree specific conditions to address them.

The model conditions within this document are not an exclusive or exhaustive list of conditions which may be included on a premises licence. It does not restrict any applicant, responsible authority, or other interested parties from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on the grant of a licence it considers appropriate so as to aim to permit gambling under section 153 of The Act.

This is the first edition of the Mandatory, Default and Caerphilly Model Conditions for Gambling Premises Licences that we have produced. This document will be updated and published on the Council's website at [Caerphilly.gov.uk](http://Caerphilly.gov.uk).

### **Mandatory Conditions**

Mandatory conditions are conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (2007 Regs). The mandatory conditions for each category of premises licences are listed below as conditions with Caerphilly County Borough Council's own condition reference. The specific regulation, schedule, part and paragraph where those conditions are located within the 2007 Regs, is available to the right of each of the mandatory conditions.

These mandatory conditions are applied to the relevant category of premises licence and cannot be removed or varied in anyway.

Where a mandatory condition, as specified within the 2007 Regs refers to a paragraph that is a separate condition within that part of the schedule we have replaced that paragraph number with the relevant Caerphilly County Borough Council's condition reference so it is clear which condition is being referred to.

### **Converted Casinos**

<u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u>	<u>Reg 3(2)</u>
<u>The layout of the premises shall be maintained in accordance with the plan.</u>	<u>Reg 3(3)</u>
<u>The premises shall not be used for – a) the sale of tickets in a private lottery or customer lottery, or b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u>	<u>Reg 3(4)</u>
<u>The principal entrance to the premises shall be from a street.</u>	<u><a href="#">Reg 4, Sch 1, Part 1, Para 1(1)</a></u>

<u>No entrance to the premises shall be from premises that are used wholly or mainly by children, by young persons, or by both.</u>	<u>Reg 4, Sch 1, Part 1, Para 1(2)</u>
<u>No customer shall be able to enter the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect</u>	<u>Reg 4, Sch 1, Part 1, Para 1(3)</u>
<u>A gap of at least 2 metres shall be maintained between any ordinary gaming table and any other equipment, apparatus or structure used by a person to gamble on the premises.</u>	<u>Reg 4, Sch 1, Part 1, Para 2</u>
<u>No more than 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.</u>	<u>Reg 4, Sch 1, Part 1, Para 3</u>
<u>1. The rules of each type of casino game that is available to be played on the premises shall be displayed in a prominent place within both the table gaming area and other gambling area of the premises to which customers wishing to use facilities for gambling have unrestricted access.</u>	<u>Reg 4, Sch 1, Part 1, Para 4</u>
<u>2. The condition in sub-paragraph (1) may be satisfied by -</u>  <u>a) displaying a clear and legible sign setting out the rules; or</u> <u>b) making available to customers leaflets or other written material containing the rules.</u>	
<u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming table, gaming machine or betting machine in order to do so.</u>	<u>Reg 4, Sch 1, Part 1, Para 5</u>
<u>A notice shall be displayed in a prominent place at every entrance to the premises stating that no person under the age of 18 years is permitted to enter the premises.</u>	<u>Reg 8, Sch1, Part 5, Para 1</u>
<u>This paragraph shall apply to premises which have a gambling area the floor area of which is no less than 200 m<sup>2</sup>.</u>	<u>Reg 8, Sch1, Part 5, Para 2</u>
<u>In determining the floor area of the gambling area, all areas in which facilities for gambling are provided on the premises shall be taken into account.</u>	
<u>The premises shall contain a non-gambling area, the floor area of which is no less than 10% of the floor area of the gambling area.</u>	
<u>The non-gambling area may consist of one or more areas within the premises.</u>	
<u>Lobby areas and toilet facilities may be taken into account in calculating the non-gambling area; but the non-gambling area shall not consist exclusively of lobby areas and toilet facilities.</u>	
<u>Facilities for gambling shall not be provided in the non-gambling area.</u>	
<u>At any time during which facilities for gambling are being provided on the premises, each separate area comprising the non-gambling area, other than the lobby areas and toilet facilities referred to in sub-paragraph (5), shall contain recreational facilities that are available for use by customers on the premises</u>	

## Bingo

<p><u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u></p>	<p><u>Reg 3(2)</u></p>
<p><u>The layout of the premises shall be maintained in accordance with the plan.</u></p>	<p><u>Reg 3(3)</u></p>
<p><u>The premises shall not be used for -</u></p> <p><u>a) the sale of tickets in a private lottery or customer lottery, or</u>  <u>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u></p>	<p><u>Reg 3(4)</u></p>
<p><u>A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.</u></p>	<p><u>Reg 10, Sch2, Part 1, Para 1</u></p>
<p><u>No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect –</u></p> <p><u>a) a casino premises licence;</u>  <u>b) an adult gaming centre premises licence;</u>  <u>c) a betting premises licence other than a track premises licence;</u>  <u>and</u></p>	<p><u>Reg 10, Sch2, Part 1, Para 2</u></p>
<p><u>This paragraph shall apply where children or young persons or both are permitted by the licence holder to enter the premises, and Category B or C gaming machines are made available for use on the premises.</u></p> <p><u>Any area of the premises to which category B and C gaming machines are located -</u></p> <p><u>a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;</u>  <u>b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and</u>  <u>c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph (3).</u></p> <p><u>The reference to supervision in this paragraph means supervision by -</u></p> <p><u>a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or</u>  <u>b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.</u></p> <p><u>A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.</u></p>	<p><u>Reg 10, Sch2, Part 1, Para 3</u></p>

<p><u>In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.</u></p> <p><u>In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.</u></p> <p><u>The notice in sub-paragraph (2) shall include the following information -</u></p> <p><u>a) the cost (in money) of each game card (or set of game cards) payable by an individual in respect of a game of bingo;</u>  <u>b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a participation fee for entitlement to participate in that game; and</u>  <u>c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.</u></p> <p><u>The notice may be displayed in electronic form.</u></p> <p><u>A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning of “prize gaming”) applies.</u></p>	
<p><u>The rules of each type of game that is available to be played the premises other than games played on gaming machines shall be made available to customers within the premises.</u></p> <p><u>The condition in sub-paragraph (1) may be satisfied by –</u></p> <p><u>a) displaying a sign setting out the rules,</u>  <u>b) making available leaflets or other written material containing the rules, or</u>  <u>c) running an audio-visual guide to the rules prior to any bingo game being commenced.</u></p>	<p><u>Reg 10, Sch2, Part 1, Para 5</u></p>
<p><u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.</u></p>	<p><u>Reg 10, Sch2, Part 1, Para 6</u></p>

### **Betting Tracks**

<p><u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u></p>	<p><u>Reg 3(2)</u></p>
<p><u>The layout of the premises shall be maintained in accordance with the plan.</u></p>	<p><u>Reg 3(3)</u></p>
<p><u>The premises shall not be used for –</u></p> <p><u>a) the sale of tickets in a private lottery or customer lottery, or</u>  <u>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u></p>	<p><u>Reg 3(4)</u></p>

<p><u>No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect</u></p> <p>=</p> <p><u>a) a casino premises licence;</u>  <u>b) an adult gaming centre premises licence.</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 1</u></p>
<p><u>A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises.</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 2</u></p>
<p><u>The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 3</u></p>
<p><u>The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets</u></p> <p>=</p> <p><u>a) will be operating under a valid operating licence; and</u>  <u>b) are enabled to accept such bets in accordance with -</u></p> <p><u>(i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or</u>  <u>(ii) an authorisation under section 94</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 4</u></p>
<p><u>The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 5</u></p>
<p><u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.</u></p>	<p><u>Reg 16, Sch 6, Part 1, Para 6</u></p>
<p><u>Mandatory conditions attached to track premises licences in respect of premises that are dog racing tracks</u></p> <p><u>A totalisator on the premises shall only be operated –</u></p> <p><u>a) while the public are admitted to the premises for the purpose of attending dog races and no other sporting events are taking place on the premises; and</u>  <u>b) for effecting with persons on the premises betting transactions on dog races taking place on the premises.</u></p>	<p><u>Reg 16, Sch 6, Part 3, Para 1</u></p>
<p><u>At any time during which the totalisator is being lawfully used on the premises -</u></p> <p><u>a) no betting operator or betting operator’s assistant shall be excluded from the premises by reason only of the fact that he proposes to accept or negotiate bets on the premises; and</u>  <u>b) there shall be made available on the premises space for betting operators and betting operators’ assistants where they can conveniently accept and negotiate bets in connection with dog races run on the premises on that day.</u></p> <p><u>This paragraph is without prejudice to section 180 (pool betting on dog races) of the 2005 Act.</u></p>	<p><u>Reg 16, Sch 6, Part 3, Para 2</u></p>
<p><u>For the purposes of this Part, “totalisator” means the apparatus for betting known as the totalisator or pari mutuel, or any other machine or instrument of betting of a like nature, whether mechanically operated or not.</u></p>	<p><u>Reg 16, Sch 6, Part 3, Para 3</u></p>



## **Betting (Other)**

<u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u>	<u>Reg 3(2)</u>
<u>The layout of the premises shall be maintained in accordance with the plan.</u>	<u>Reg 3(3)</u>
<u>The premises shall not be used for –</u>  <u>a) the sale of tickets in a private lottery or customer lottery, or</u> <u>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u>	<u>Reg 3(4)</u>
<u>A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.</u>	<u>Reg 14, Sch 5, Part 1, Para 1</u>
<u>1. Access to the premises shall be from a street or from other premises with a betting premises licence.</u>  <u>2. Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services</u>	<u>Reg 14, Sch 5, Part 1, Para 2</u>
<u>Subject to anything permitted by virtue of the 2005 Act, or done in accordance with 4 conditions below, the premises shall not be used for any purpose other than for providing facilities for betting</u>	<u>Reg 14, Sch 5, Part 1, Para 3</u>
<u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.</u>	<u>Reg 14, Sch 5, Part 1, Para 4</u>
<u>No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes -</u> <u>a) communicating information about, or coverage of, sporting events, including -</u>  <u>(i) information relating to betting on such an event; and</u> <u>(ii) any other matter or information, including an advertisement, which is incidental to such an event;</u> <u>b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.</u>	<u>Reg 14, Sch 5, Part 1, Para 5</u>
<u>No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.</u>	<u>Reg 14, Sch 5, Part 1, Para 6</u>
<u>No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with Reg 14, Sch 5, Part 1, Para 5</u>	<u>Reg 14, Sch 5, Part 1, Para 7</u>
<u>No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.</u>	<u>Reg 14, Sch 5, Part 1, Para 8</u>
<u>A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.</u>	
<u>A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.</u>	<u>Reg 14, Sch 5, Part 1, Para 9</u>

## **Adult Gaming Centres**

<u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u>	<u>Reg 3(2)</u>
<u>The layout of the premises shall be maintained in accordance with the plan.</u>	<u>Reg 3(3)</u>
<u>The premises shall not be used for –</u>  <u>a) the sale of tickets in a private lottery or customer lottery, or</u> <u>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u>	<u>Reg 3(4)</u>
<u>A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.</u>	<u>Reg 12, Sch 3, Para 1</u>
<u>No customer shall be able to access the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect</u>	<u>Reg 12, Sch 3, Para 2</u>
<u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.</u>	<u>Reg 12, Sch 3, Para 3</u>
<u>1. No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.</u>  <u>2. A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.</u>	<u>Reg 12, Sch 3, Para 4</u>

## **Family Entertainment Centres**

<u>The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.</u>	<u>Reg 3(2)</u>
<u>The layout of the premises shall be maintained in accordance with the plan.</u>	<u>Reg 3(3)</u>
<u>The premises shall not be used for –</u>  <u>a) the sale of tickets in a private lottery or customer lottery, or</u> <u>b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.</u>	<u>Reg 3(4)</u>
<u>No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect –</u>  <u>a) a casino premises licence;</u> <u>b) an adult gaming centre premises licence;</u> <u>c) a betting premises licence other than a track premises licence.</u>	<u>Reg 13, Sch 4, Para 1</u>
<u>Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.</u>	<u>Reg 13, Sch 4, Para 2</u>



<p><u>Where Category C gaming machines are made available for use on the premises, any area of the premises in which those machines are located –</u></p> <p><u>a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;</u></p> <p><u>b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and</u></p> <p><u>c) shall be arranged in such a way so as to permit all parts of the area to be observed by the persons mentioned in sub-paragraph 2.</u></p> <p><u>The reference to supervision in this paragraph means supervision by –</u></p> <p><u>a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or</u></p> <p><u>b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.</u></p> <p><u>A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category C gaming machines are made available for use.</u></p>	<p><u>Reg 13, Sch 4, Para 3</u></p>
<p><u>1. No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.</u></p> <p><u>2. A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.</u></p>	<p><u>Reg 13, Sch 4, Para 4</u></p>

### **Default Conditions**

Default conditions are conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (the regulations). The default conditions for each category of premises licences are listed below as conditions with Caerphilly CBC's own condition reference and the specific regulation, schedule, part and paragraph where those conditions are located within the regulations.

These default conditions will be applied to the relevant category of premises licence unless the applicant or licensee specifies that the default conditions are to be removed within their new or variation application.

Where a default condition, as specified within the regulation refers to a paragraph that is a separate condition within that part of the schedule we have replaced that paragraph number with the relevant Caerphilly condition reference.

## **Converted Casinos**

<u>No facilities for gambling shall be provided on the premises between the hours of 6am and noon on any day.</u>	<u>Reg 9, Sch 1, Part 6</u>
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## **Bingo**

<u>Subject to Below condition, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am.</u>	<u>Reg 11, Sch 2, Part 2, Para 1</u>
<u>The condition above shall not apply to making gaming machines available for use.</u>	<u>Reg 11, Sch 2, Part 2, Para 2</u>

## **Betting Tracks**

<u>Subject to condition Reg 11, Sch 2, Part 2, Para 1, no facilities for gambling shall be provided on the premises between the hours of 10pm on one day, and 7am on the next day.</u>	<u>Reg 17, Sch 6, Part 4, Para 1</u>
<u>The prohibition in condition Reg 11, Sch 2, Part 2, Para 1 does not apply on days when a sporting event is taking place on the premises, in which case gambling transactions may take place at any time during that day.</u>	<u>Reg 17, Sch 6, Part 4, Para 2</u>

## **Betting (Other)**

<u>No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.</u>	<u>Reg 15, Sch 5, Part 2</u>
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## **Model Conditions**

The following model conditions can be used by the applicant of a new premises licence, provisional statement or licensees varying their licence. The applicant or licensee can select the conditions that they feel will enable them to demonstrate how they will ensure that the premises will operate so as not to impact the licensing objectives.

Gambling operators are recommended during their local risk assessment process to identify control measures, such as conditions to mitigate the impact on the licensing objectives by that premises. These models conditions can be selected to address the risk of impacts identified in these assessments.

These conditions can also be used by responsible authorities or interested parties when making representations on applications submitted to the Licensing Authority. The Licensing Sub-Committee when determining applications will have regard to these conditions and may choose to add one or more conditions or variations of them depending on the concerns raised during the determination process.

Model conditions are not intended to be used as blanket conditions applied to each premises licence. It may appear from the list that the conditions are

repetitive, however there are subtle differences so gambling operators, responsible authorities and interested parties are advised to find the most appropriate condition to mitigate the identified risk.

The model conditions set out in this section are not an exhaustive list and new or amended versions of model conditions can be produced to meet the specific requirements of that application.

The model conditions have been put under general topic headings to assist in identifying particular conditions that may address specific issues raised. By the side of each condition a reference to the relevant licensing objective that they relate is indicated. The codes used for the licensing objectives are:

**CD** - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.

**FO** - ensuring that gambling is conducted in a fair and open way.

**CV** - protecting children and other vulnerable persons from being harmed or exploited by gambling.

### Hours

- No facilities for gambling shall be provided on the premises between the hours of [insert time] on one day and [insert time] on the next day. **CD, FO & CV**
- No facilities for gambling shall be provided on the premises between the hours of [insert time] and [insert time] on any day. **CD, FO & CV**
- The premises shall not provide gambling facilities between the hours of [insert time] and [insert time]. **CD, FO & CV**
- There shall be no admittance or re-admittance to the premises after [enter time]. **CD & CV**

### CCTV

The venue shall install and maintain a comprehensive CCTV system at the premises which should cover, as a minimum:

- all entry and exit points to and from the premises enabling frontal identification of every person entering under any light conditions
- the areas of the premises to which the public have access (excluding toilets)
- gaming machines and the counter area.
- The CCTV system shall continually record whilst the venue is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of thirty one days with date and time visible. Recordings shall be immediately arranged by a member of staff for handover to the Police or an authorised officer following their request. **CD**
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to arrange for Police

to view recent data or footage with the absolute minimum of delay when requested. **CD**

- There shall be [insert number] external cameras which will provide live images to staff in the service counter area. **CD**
- Notices indicating that CCTV is in use at the premises shall be placed at or near the entrance to the premises and within the premises. **CD**
- The licensee shall:

a) provide training on the CCTV system and how to access the footage if requested to do so by the police or authorised officer as part of the staff induction training programme or when the system is changed, and

b) periodically provide refresher training to all of its staff working at these premises on the CCTV viewing process. Participation in this training shall be formally recorded on each member of staffs training records which, if requested will be presented to the Police or Licensing Authority as soon as practicable. **CD**

### **Door Supervision**

- At least [enter number] SIA licensed door supervisors shall be on duty at every entrance and exit to the premises at all times whilst it is operating under this licence. **CD & CV**
- A minimum of [insert number] SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business. **CD & CV**
- At least [insert number] SIA licensed door supervisors shall be on duty at every entrance and exit of the premises at all times whilst it is open for business. **CD & CV**
- [insert number] of SIA Licensed Door Supervisors are to be on duty at the premises during the whole of permitted hours **CD & CV**
- No patrons shall be admitted or re-admitted to the premises after [enter time] unless they have passed through a metal detecting search arch and, if the search arch is activated or at the discretion of staff, then physically searched, which will include a 'pat down search' and a full bag search. **CD & CV**
- All persons entering or re-entering the premises shall be searched by an SIA trained member of staff and monitored by the premises CCTV system. **CD & CV**
- All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility yellow jackets or vests. **CD & CV**
- The licence holder shall ensure that the outside areas of the premises are monitored so as to ensure there is no public nuisance or obstruction of the highway. **CD**

### **Children and Young People**

- The Licensee shall maintain a bound and paginated 'Challenge 21 or Challenge 25 Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request. **CV**

- Prominent signage and notices advertising the Challenge 21 or Challenge 25 Policy will be displayed showing the operation of such policy. **CV**
- Third party testing on age restricted sales systems shall be carried out on the premises a minimum of [insert frequency] a year. **CV**
- Third party testing on age restricted sales systems purchasing shall take at least [insert frequency] a year and the results shall be provided to the Licensing Authority upon request. **CV**
- The licensee shall not allow their logos or other promotional material to appear on any commercial merchandising which is designed for use by children. **CV**
- All tills shall automatically prompt staff to ask for age verification identification when placing a bet. **CV**
- A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram. **CV**
- The licensee will ensure, through regular checks and intervention, that customer's children are not left unsupervised outside the premises. **CV**
- The licensee will ensure, through regular checks and intervention, that children will not congregate outside the shop. **CV**
- The licence holder shall ensure that the outside areas of the premises are monitored so as to ensure there is no public nuisance or obstruction of the highway. **CD**

### Entrances and Doors

- A magnetic locking device, commonly referred to as a Maglock will be installed and maintained on the main entrance/exit to the premises which will be operable from the ground floor cashier counter by staff. **CD & CV**
- An Infra-Red Beam connected to a sounder will be installed and maintained at the entrance of the premises so as to notify staff when a customer enters or exits the premises. **CD&CV**

### Staffing Levels

- There shall be no pre-planned single staffing at any time. **CD & CV**
- There shall be no pre-planned single staffing after 20:00. Should the premises be single staffed after this time the magnetic door locking system must be in constant use. **CD & CV**
- There will be a minimum of two members of staff after 10pm. **CD & CV**
- There will be a minimum of two members of staff on duty for the duration of the period in which licensable activities are taking place on the premises. **CD & CV**
- There will be a minimum of [enter number] staff be present at all times when the premises is open. **CD & CV**

### Cashier Counters and Safe Havens

- The licensee shall maintain a full height polycarbonate or 11.5mm minimum thickness laminated glass security screen counter on the ground floor of the premises. **CD**
- A full-height security screen shall be installed at the cashiers counter. **CD**
- Full height security bars which are spaced at adequate intervals to prevent a person from reaching through will be installed at the cashiers counter **CD**
- licensee shall install a Safe Haven [add location of safe haven] which includes a secure door with peephole, CCTV Monitor, Telephone, Safe Guard system, maglock control button and any other systems deemed appropriate by the licensee. **CD**

### **Identification of Offenders or Problem Persons**

- The licensee shall provide Spit Kits within the premises and provide staff training on the use of these kits. **CD**
- If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of individuals which it wishes to be banned from the premises, the licensee shall use all reasonable endeavours to implement the ban through staff training. **CD**
- The Licensee shall implement a policy of banning any customers who engage in crime, disorder or anti-social behaviour within or outside the premises. **CD**
- The licensee will refuse entry to customers who appear to be under the influence of alcohol or drugs. **CD, CV**

### **Seating**

- The licensee shall ensure that all seating within the premises are either secured to the floor or are weighted to prevent lifting **CD**
- The licensee shall ensure that all gaming machine seating within the premises are weighted to prevent lifting **CD**

### **Alarms (Premises and Personal)**

- Each member of staff will be provided and required to carry on their person a personal fob alarm which will activate the alarm if pressed by the member of staff or that staff member is lying horizontal for a pre-determined period of time. **CD**
- The licensee shall install and maintain an intruder alarm on the premises. **CD**
- The premises shall install and maintain a panic button behind the cashier counter. **CD**
- The premises shall install and maintain a panic button behind the cashier counter that will alert the premises security once pressed. **CD**
- An attack alarm shall be installed and maintained behind the cashier counter which would alert [operator name] Security and the police. **CD**
- An attack alarm shall be installed and maintained behind the cashier counter which would alert the police. **CD**

## Toilets

- Maglock device will be installed and maintained on the customer toilet door which will be operated by a member of staff from the cashiers counter. **CD & CV**
- The Licensee shall install and maintain an ultraviolet lighting system in the customer toilet. **CD & CV**
- The licensee will ensure that customer toilets are checked hourly/ (insert other period) for cleanliness and evidence of drug taking. **CD & CV**

## Restrictions on Food and Beverages

- Only refreshments purchased or supplied on the premises may be consumed on the premises. **CV**
- hot refreshment vending machine and refreshment facilities shall be provided for customers and staff use only. **CV**

## Signage, Promotional Material and Notices

- The licensee shall place and maintain a sign at the entrance of the premises stating that access to the premises will be excluded to the following people:
  - a) Anyone who is under the age of 18,
  - b) Anyone who appears to be under the age of 21/25 and is unable to provide proof of age that they are over the age of 18,
  - c) Only refreshments purchased or supplied on the premises may be consumed on the premises,\*
  - d) Anyone who is barred from the premises, and
  - e) Anyone who has alcohol on their person or appears to be under the influence of alcohol or substances (may be better wording?) \* Only to be added if above condition is proposed. **CD & CV**
- The licensee will place and maintain a sign at the entrance which states that 'only refreshments purchased on the premises may be consumed on the premises'.
- All public signage/documentation relating to age restrictions, gambling advice and gambling support information (e.g. GamCare or similar support service) is displayed or provided on the premises in written English and any other language appropriate to the area and customer base. **FO & CV**
- Prominent GamCare documentation will be displayed at the premises. **FO & CV**
- The licensee shall ensure that no ethnicity specific gambling promotion is provided or advertised on the premises which is designed and/or intended to entice participation in gambling by the local community. **CV**
- Prominent signage indicating the permitted hours for the licensable activity shall be displayed so as to be visible before entering the premises. **FO**

## Enticement Promotions



- The licensee shall not offer any enticement promotions, such as happy hours during which gaming machines stakes are reduced. **FO & CV**

### **Staff Training**

- The licensee shall:
  - a) provide training on the specific local risks to the licensing objectives that have been identified for these premises as part of the staff induction training programme.
  - b) periodically provide refresher training to all of its staff working at these premises on the specific local risks to the licensing objectives.
- Participation in this training shall be formally recorded on each member of staffs training records which, if requested will be presented to the Licensing Authority as soon as practicable. **CD, FO & CV**
- The Licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request. **CD, FO & CV**
- New and seasonal staff must attend induction training. All existing staff must attend refresher training every six months. **CD, FO & CV**

### **Recording of Incidents and Visits**

- An incident log shall be kept for the premises and made available on request to an authorised officer of the council or the Police which will record the following:
  - a) All crimes reported to the venue;
  - b) Any complaints received regarding crime and disorder;
  - c) Any incidents of disorder or antisocial behaviour;
  - d) Any faults in the CCTV system; and
  - e) Any visit by a relevant authority or emergency service.

### **Customer Bags and Belongings**

- Customer shall not be permitted to leave bags or other belongings at the premises. **CV**

### **Homelessness and Street Drinking**

- The licensee will contact the local homeless hostels/shelters and offer to provide information on problem gambling support services and how their residents can self-exclude from [operator name] premises. **CV**
- The licensee shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so. **CD & CV**
- The licensee shall place a notice visible from the exterior of the premises stating that customers drinking alcohol outside the premises is not permitted and those who do so will be banned from the premises. **CD & CV**



## Police Reporting Protocols and Crime Prevention

- The licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises. **CD**
- Prior to opening the licensee shall meet with the Crime Prevention Officer in order to discuss any additional measures to reduce crime and disorder. **CD**

## ATMs

- There shall be no cash point or ATM facilities on the premises. **CD & CV**
- The ATM shall be located so that the staff behind the cashiers desk has direct line of sight to the machine and customers using it. **CD & CV**
- Signage shall be placed on or immediately next to the ATM to warn customers to cover the keypad when entering their PIN. **CD**

## Gaming Machines and SSBTs

- Gaming machines shall be sited in the locations specified on the premises plans. **CD & CV**
- Gaming machines shall be sighted so that the cashiers from all counter positions have direct line of sight of the machines and the customers using them. **CD & CV**
- Gaming machines shall not be emptied whilst customers are present on the premises and the doors are unlocked. **CD**
- Self-service betting terminals shall not be emptied whilst customers are present on the premises and the doors are unlocked. **CD**
- Gaming machines and self-service betting terminals shall not be emptied whilst customers are present on the premises and the doors are unlocked. **CD**
- Gaming machines shall not be emptied when there is only one member of staff on the premises. **CD**
- Self-service betting terminals shall not be emptied when there is only one member of staff on the premises. **CD**
- Gaming machines and self-service betting terminals shall not be emptied when there is only one member of staff on the premises. **CD**
- The number of self-service betting terminals permitted on the premises is [insert number]. **CV**
- The over 18 area containing the category C gaming machines will be enclosed with a floor to ceiling partition wall with one point for egress and ingress. **CV**
- Privacy screening, known as a 'gaming machine pod' shall not enclose the customer to such a degree that would restrict the customer's peripheral vision of the premises when playing the machine in either a standing or sitting position and prevent a member of staff from observing that person. **CD & CV**

- No other gambling facilities shall be provided in a gaming machine enclosure so as to allow a customer the ability to play the machine and participate in other forms of gambling. **CV**

### **Multiple Storey Venues**

- Access to the [floor number] floor of the premises will be controlled by members of staff and a door which can only be operated by members of staff will be positioned at the bottom of the stairs thereby restricting access to only those with staff approval. **CD**
- A minimum of one member of staff shall be present at all times when the [floor number] floor is being used by customers. **CD & CV**
- The licensee shall install and maintain an internal intercom/phone system to enable staff to communicate with one another on all floors of the premises. **CD & CV**
- The licensee shall install monitors within the staff cashier counter areas on all floors that will display live CCTV footage from inside and outside the premises. **CD & CV**
- attack alarm shall be installed and maintained behind the ground and first floor cashier counters which would alert [operator name] Security and the police. **CD**
- magnetic lock (Maglock) device will be installed and maintained on the customer toilet door on the [floor number] floor which will be operated by a member of staff from the cashiers counter on the [floor number] floor. **CD & CV**

### **Betwatch Scheme**

- As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the Betwatch scheme. **CD & CV**

### **Documents Provided to the Licensing Authority**

- The licensee shall provide the Licensing Authority with their compliance/operating manual which sets out all of the premises policies to meet the regulatory requirements under the Gambling Act 2005 and shall provide a copy of any update or revision as soon as practicable following the implementation of that change. **CD, FO & CV**

**Caerphilly County Borough Council - Integrated Impact Assessment**

This integrated impact assessment (IIA) has been designed to help support the Council in making informed and effective decisions whilst ensuring compliance with a range of relevant legislation, including:

- Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
- Socio-economic Duty – Sections 1 to 3 of the Equality Act 2010
- Statutory Consultation v Doctrine of Legitimate Expectation and Gunning Principles
- Welsh Language (Wales) Measure 2011
- Well-being of Future Generations (Wales) Act 2015

**PLEASE NOTE:** Section 3 *Socio-economic Duty* only needs to be completed if proposals are of a strategic nature or when reviewing previous strategic decisions. See page 6 of the Preparing for the Commencement of the Socio-economic Duty Welsh Government Guidance.

1. Proposal Details			
Lead Officer	Head of Service	Service Area & Department	Date
Jacqui Morgan	Robert Hartshorn	Public Protection / Licensing	10.11.21

Is this proposal a... (please tick relevant box)											
Policy *	<input type="checkbox"/>	Strategy / Plan	<input type="checkbox"/>	Practice	<input type="checkbox"/>	Procedure	<input type="checkbox"/>	Restructure	<input type="checkbox"/>	Project	<input type="checkbox"/>

What is the proposal to be assessed? <i>Provide brief details of the proposal and provide a link to any relevant report or documents.</i>
<p>In accordance with the Gambling Act 2005, the Licensing Authority must prepare, consult upon and approve a Statement of Licensing Policy that must be reviewed every three years. The current Policy was approved by Council and published in January 2019. The policy must contain objectives regarding the following:-</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,</li> <li>• Ensuring that gambling is conducted in a fair and open way, and</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>

The Policy has been reviewed and a consultation exercise undertaken with relevant bodies, individuals, residents and businesses throughout the Borough who have been invited to comment. The revised policy will be considered by Members of the Licensing & Gambling Committee for comment prior to submission to Full Council on the 26<sup>th</sup> January 2022.

The existing policy can be found on the CCBC website at [Statement-of-Licensing-Policy-Gambling-Act.aspx](http://Statement-of-Licensing-Policy-Gambling-Act.aspx) ([caerphilly.gov.uk](http://caerphilly.gov.uk))

## 2. Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

*(The Public Sector Equality Duty requires the Council to have “due regard” to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between different groups; and foster good relations between different groups). Please note that an individual may have more than one protected characteristic.*

<u>Protected Characteristics</u>	Does the proposal have any positive, negative or neutral impacts on the protected characteristics and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
Age (people of all ages)	<p>The policy and statutory objectives specifically aim to protect under 18's from negative impacts of gambling with the following objective -:</p> <ul style="list-style-type: none"> <li>Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>	n/a	The policy specifically aims to protect young and vulnerable people from gambling harms or exploitation and includes a number of protections to achieve this.
Disability (people with disabilities/ long term conditions)	A/A		A/A
Gender Reassignment (anybody who's gender identity or gender expression is different to the sex they were assigned at birth)	n/a		

<b>Marriage or Civil Partnership</b> ( <i>people who are married or in a civil partnership</i> )	n/a		
<b>Pregnancy and Maternity</b> ( <i>women who are pregnant and/or on maternity leave</i> )	n/a		
<b>Race</b> ( <i>people from black, Asian and minority ethnic communities and different racial backgrounds</i> )	n/a		
<b><u>Protected Characteristics</u></b>	<b>Does the proposal have any positive, negative or neutral impacts on the protected characteristics and how?</b>	<b>If there are negative impacts how will these be mitigated?</b>	<b>What evidence has been used to support this view?</b>
<b>Religion or Belief</b> ( <i>people with different religions and beliefs including people with no beliefs</i> )	n/a		
<b>Sex</b> ( <i>women and men, girls and boys and those who self-identify their gender</i> )	n/a		
<b>Sexual Orientation</b> ( <i>lesbian, gay, bisexual, heterosexual</i> )	n/a		

### 3. Socio-economic Duty (Strategic Decisions Only)

*(The Socio-economic Duty gives us an opportunity to do things differently and put tackling inequality genuinely at the heart of key decision making. Socio-economic disadvantage means living on a low income compared to others in Wales, with little or no accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services)*

**Please consider these additional vulnerable groups and the impact your proposal may or may not have on them:**

- Single parents and vulnerable families
- People with low literacy/numeracy
- Pensioners
- Looked after children
- Homeless people
- Carers
- Armed Forces Community
- Students
- Single adult households
- People misusing substances
- People who have experienced the asylum system
- People of all ages leaving a care setting
- People living in the most deprived areas in Wales (WIMD)
- People involved in the criminal justice system

<u>Socio-economic Disadvantage</u>	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
<b>Low Income / Income Poverty</b> <i>(cannot afford to maintain regular payments such as bills, food, clothing, transport etc.)</i>			
<u>Socio-economic Disadvantage</u>	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
<b>Low and/or No Wealth</b> <i>(enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provisions for the future)</i>			
<b>Material Deprivation</b> <i>(unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, hobbies etc.)</i>			
<b>Area Deprivation</b> <i>(where you live (rural areas), where you work (accessibility of public transport)</i>			

<b>Socio-economic Background</b> <i>(social class i.e. parents education, employment and income)</i>			
<b>Socio-economic Disadvantage</b> <i>(What cumulative impact will the proposal have on people or groups because of their protected characteristic(s) or vulnerability or because they are already disadvantaged)</i>			

#### 4. Corporate Plan – Council’s Well-being Objectives

*(How does your proposal deliver against any/all of the Council’s Well-being Objectives? Which in turn support the national well-being goals for Wales as outlined in the Well-being of Future Generations (Wales) Act 2015. Are there any impacts (positive, negative or neutral? If there are negative impacts how have these been mitigated?) [Well-being Objectives](#)*

<b>Objective 1</b> - Improve education opportunities for all	n/a
<b>Objective 2</b> - Enabling employment	Gambling establishments provide employment opportunities within the county borough.
<b>Objective 3</b> - Address the availability, condition and sustainability of homes throughout the county borough and provide advice, assistance or support to help improve people’s well-being	n/a
<b>Objective 4</b> - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impact on the environment	n/a
<b>Objective 5</b> - Creating a county borough that supports healthy lifestyle in accordance with the Sustainable Development principle with in the Well-being of Future Generations (Wales) Act 2015	<p>The licensing objectives are key pillars to protection from the harms associated with gambling.</p> <p>The Council recognises that the licensing function is only one means of promoting delivery of the three licensing objectives and should not therefore be seen as a means for solving any or all problems associated with gambling within the community. The Council continues to work in partnership with neighbouring authorities, Heddlu Gwent Police, Public Health, the Safer Caerphilly County Borough Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined above.</p>
<b>Objective 6</b> - Support citizens to remain independent and improve their well-being	n/a

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#### **4a. Links to any other relevant Council Policy**

*(How does your proposal deliver against any other relevant Council Policy?)*

The Council expects that in granting an authorisation the holder of that authorisation will take all reasonable and practical steps to prevent and eliminate unlawful discrimination and to promote equality of opportunity and good relations within and between staff, customers and visitors.

## 5. Well-being of Future Generations (Wales) Act 2015 – The Five Ways of Working (ICLIP)

*(Also known as the sustainable development principles. The Act requires the Council to consider how any proposal improves the economic, social, environmental and cultural well-being of Wales using the five ways of working as a baseline)*

<u>Ways of Working</u>	How have you used the Sustainable Development Principles in forming the proposal?
<p><b>Long Term</b></p> 	<p>The policy is required to be reviewed and consulted upon every three years to ensure it is relevant and keeps up to date with societal behaviours and legislator changes.</p>
<p><b>Prevention</b></p> 	<p>There is an emphasis on prevention as the policy and the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. There is also involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision making process.</p>
<p><b>Integration</b></p> 	<p>Under the Act and the policy interested Parties can make representations about licence applications, or apply for a review of an existing licence based on the three licensing objectives as detailed above.            An Interested Party is someone who:-            (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;            (b) Has business interests that might be affected by the authorised activities; or            Represents persons in either of the two groups above.</p> <p>By consulting widely prior to this Policy Statement being published, the Council will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Council, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.</p>
<p><b>Collaboration</b></p> 	<p>When preparing the revised Statement, the Authority must have regard to legislative changes and the Guidance issued by the Gambling Commission. In addition the revised policy has been developed following collaboration with neighbouring authorities comprising the Gwent Licensing Forum, i.e. Torfaen, Monmouthshire, Blaenau Gwent and Newport. The collaboration addressed common themes affecting all authorities but did not address local issues or considerations particular to each authority.</p>

## Involvement



The Council recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving any or all problems associated with gambling within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Heddlu Gwent Police, Public Health, the Safer Caerphilly County Borough Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

The Council has consulted widely upon the Statement of licensing policy prior to finalising it for consideration by Members. Consultation has been conducted in line with the Act and the Gambling Commission's Guidance. A list of those persons consulted is attached as Annex 1 of the policy document.

## 6. Well-being of Future Generations (Wales) Act 2015

<u>Well-being Goals</u>	Does the proposal maximise our contribution to the Well-being Goal and how?
<p><b>A Prosperous Wales</b>  <i>An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work</i></p>	<p>Gambling establishments provide employment opportunities within the county borough.</p> <p>Section 153 of the Gambling Act 2005 requires that the Council when making decisions about premises licences and temporary use notices should aim to permit the use of premises for gambling insofar as it is:</p> <ul style="list-style-type: none"> <li>• In accordance with any relevant code of practice issued by the Gambling Commission;</li> <li>• In accordance with any relevant guidance issued by the Gambling Commission;</li> <li>• Reasonably consistent with the licensing objectives;</li> <li>• In accordance with the Council's Statement of Licensing Policy.</li> </ul>
<p><b>A Resilient Wales</b>  <i>A nation which maintains and enhances a biodiverse natural environment healthy functioning ecosystems that support social, economic and ecological</i></p>	<p><b>N/A</b></p>

<p><i>resilience and the capacity to adapt to change (for climate change)</i></p>	
<p><b>A Healthier Wales</b>  <i>A society in which people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood</i></p>	<p>The licensing objectives are key pillars to protection from the harms associated with gambling.</p> <p>The Council recognises that the licensing function is only one means of promoting delivery of the three licensing objectives and should not therefore be seen as a means for solving any or all problems associated with gambling within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Heddlu Gwent Police, Public Health, the Safer Caerphilly County Borough Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.</p>
<p><b>A More Equal Wales</b>  <i>A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances)</i></p>	<p>The Council ensures that it treats all individuals who are renewing or making new applications for licenses, with equal respect in line with the Council’s Strategic Equality Plan</p>

<u>Well-being Goals</u>	Does the proposal maximise our contribution to the Well-being Goal and how?
<b>A Wales of Cohesive Communities</b> <i>Attractive, viable, safe and well-connected communities</i>	N/A
<b>A Wales of Vibrant Culture and Thriving Welsh Language</b> <i>A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation</i>	<p>Gambling can be a form of recreation and there are safeguards within the legislation and the policy to ensure it is operated in line with the three licensing objectives.</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,</li> <li>• Ensuring that gambling is conducted in a fair and open way, and</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>
<b>A Globally Responsible Wales</b> <i>A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being</i>	N/A

## 7. Welsh Language (Wales) Measure 2011 and Welsh Language Standards

*(The Welsh Language Measure 2011 and the Welsh Language Standards require the Council to have 'due regard' for the positive or negative impact a proposal may have on opportunities to use the Welsh language and ensuring the Welsh language is treated no less favourably than the English language) [insert link to WL Commissioners Policy Making Standards Guidance](#)*



Requirement	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view? <i>e.g the WESP, TAN20, LDP, Pupil Level Annual School Census</i>
Links with Welsh Government's <a href="#">Cymraeg 2050 Strategy</a> and CCBC's <a href="#">Five Year Welsh Language Strategy 2017-2022 and the Language Profile</a>	Positive Policy is bilingual		
Compliance with the <a href="#">Welsh Language Standards</a> . <i>Specifically Standards 88 - 93</i>	Positive Policy is bilingual		
Opportunities to promote the Welsh language <i>e.g. status, use of Welsh language services, use of Welsh in everyday life in work / community</i>	Positive Policy is bilingual		
Opportunities for persons to use the Welsh language <i>e.g. staff, residents and visitors</i>	Neutral impact.		
Treating the Welsh language no less favourably than the English language	Positive Policy is bilingual		

**7a. Having considered the impacts above, how has the proposal been developed so that there are positive effects, or increased positive effects on (a) opportunities for persons to use the Welsh language, and b) treating the Welsh language no less favourably than the English language.**

The policy is completely bilingual and so the Welsh language has been treated no less favourably than the English language.

## 8. Data and Information

*(What data or other evidence has been used to inform the development of the proposal? Evidence may include the outcome of previous consultations, existing databases, pilot projects, review of customer complaints and compliments and or other service user feedback, national and regional data, academic publications and consultants' reports etc.)*

Data/evidence <i>(Please provide link to report if appropriate)</i>	Key relevant findings	How has the data/evidence informed this proposal?
<p>The policy has been in existence since 2007 when the Gambling Act 2005 was implemented. The policy has been reviewed every three years since then with consultation with relevant stakeholders, responsible authorities (RA's) and licensees each time.</p> <p>The draft policy for 2022 is generally unchanged from the previous version other than revised dates and contact details for RA's. The main change is an addition of annex 7 to the policy which gives details of all licensing conditions.</p> <p>There are three types of conditions. Mandatory conditions that legislation dictates must be applied, default conditions which are applied unless an applicant asks for them to be removed and a pool of model conditions that may be utilised by the applicant to demonstrate compliance with the licensing objectives or an RA in order to ensure compliance etc.</p>		<p>The changes as a result of this review merely provide information on licensing conditions in one part of the policy with additional information in order to increase understanding and assist relevant parties.</p> <p>The model pool of conditions can be selected as required and appropriate and standardised wording aids consistency in the sector.</p>

**Were there any gaps identified in the evidence and data used to develop this proposal and how will these gaps be filled?**

*Details of further consultation can be included in Section 9.*

**9. Consultation**

*(In some instances, there is a legal requirement to consult. In others, even where there is no legal obligation, there may be a legitimate expectation from people that a consultation will take place. Where it has been determined that consultation is required, [The Gunning Principles](#) must be adhered to. Consider the [Consultation and Engagement Framework](#). Please note that this may need to be updated as the proposal develops and to strengthen the assessment.*

**Briefly describe any recent or planned consultations paying particular attention to evidencing the Gunning Principles.**

As required by statute relevant stakeholders have been consulted on the revised policy. Consultation took place between 8<sup>th</sup> October 2021 and 8<sup>th</sup> November 2021 via Microsoft forms and links to the revised policy on the CCBC website. Required consultees were emailed or written to by post to make them aware of the revisions and the link to the consultation itself.

The consultation questions were as follows

1. Do you feel that the proposed Statement of Licensing Policy is effective or ineffective in the way it deals with applications for premises licences for betting offices, adult gaming and family entertainment centres and when granting permits for gaming and gaming machines in clubs and pubs and small society lotteries?

2. Please give reasons for your answer and outline any changes to the policy that you feel would make it more effective.

At the end of the consultation period the authority received 2 responses.

As a result of the responses it is proposed information in relation to the National Gambling helpline number and website for Gamble Aware will be added to the information section within the council's policy.

The policy will also be considered by the Licensing & Gambling Committee on the 14<sup>th</sup> of December for comment prior to submission to Full Council on 26<sup>th</sup> January 2022.



## 10. Monitoring and Review

How will the implementation and the impact of the proposal be monitored, including implementation of any amendments?	Any complaints, comments about the policy received will be considered and fed into the process at the next review. Any issues of a serious matter can be dealt with via a revision before the next review date if required .
What are the practical arrangements for monitoring?	All complaints about licensing matters are recorded and monitored.
How will the results of the monitoring be used to develop future proposals?	As above.
When is the proposal due to be reviewed?	<b>Reviewed in winter 2024 ready for publication in January 2025</b>
Who is responsible for ensuring this happens?	Licensing Manager

## 11. Recommendation and Reasoning

<input checked="" type="checkbox"/> <b>X</b>	Implement proposal with no amendments
<input type="checkbox"/>	Implement proposal taking account of the mitigating actions outlined
<input type="checkbox"/>	Reject the proposal due to disproportionate impact on equality, poverty and socio-economic disadvantage

Have you contacted relevant officers for advice and guidance?

Yes **X**

No

## 12. Reason(s) for Recommendation

*(Provide below a summary of the Integrated Impact Assessment. This summary should be included in the "Summary of Integrated Impact Assessment" section of the Corporate Report Template. The Integrated Impact Assessment should be published alongside the Report proposal).*

The changes to the policy as a result of this review are minor and merely provide information on licensing conditions in one part of the policy with additional information in order to increase understanding and assist relevant parties. The model pool of conditions can be selected as required and appropriate and standardised wording aids consistency in the sector. The UK Government is currently undertaking a review of the Gambling Act 2005 with a view to ensuring that the regulatory framework is fit for purpose within the digital age and can continue to meet its aims of protecting children and vulnerable people, prevent gambling related crime, and keep gambling fair and open. A White Paper is expected later this year which may result in legislative changes that will require a comprehensive review of the statement of principles in the near future. However, this will not avoid the statutory requirement to now review and publish a statement of principles for the next three-year period.

## 13. Version Control

*(The IIA should be used in the early stages of the proposal development process. The IIA can be strengthened as time progresses to help shape the proposal. The Version Control section will act as an audit trail to evidence how the IIA has been developed over time)*


Version No.	Author	Brief description of the amendments/update	Revision Date

## Integrated Impact Assessment Author

<b>Name:</b>	Jacqui Morgan
<b>Job Title:</b>	Trading Standards, Licensing & Registrars Manager
<b>Date:</b>	10.11.21

## Head of Service Approval

<b>Name:</b>	Robert Hartshorn
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<b>Job Title:</b>	<b>Head of Public Protection, Community &amp; leisure.</b>		
<b>Signature:</b>		<b>Date:</b>	<b>11.11.21</b>

Gadewir y dudalen hon yn wag yn fwiadol



## COUNCIL – 26<sup>TH</sup> JANUARY 2022

**SUBJECT:           ADVANCED VOTING CENTRE PILOT – LOCAL  
GOVERNMENT ELECTION MAY 2022**

**REPORT BY:       RETURNING OFFICER**

**1.       PURPOSE OF REPORT**

- 1.1     To seek approval to participate in the advanced electoral pilots driven by Welsh Government in the forthcoming Local Government and Community Council elections. Advance voting to be held on Saturday 30 April 2022 and Sunday 1 May 2022. This is in addition to the election taking place on Thursday 5<sup>th</sup> May 20122

**2.       SUMMARY**

- 2.1     The Counsel General and Minister for the Constitution published a statement in July 2021 setting out an agenda for electoral change. This included lowering the voting age to 16 for local government elections, extending the franchise to all foreign citizens and the opportunity to develop advance voting pilots.
- 2.2     Welsh Government wrote to all authorities in Wales asking for expressions of interest from any authority wishing to participate in an electoral pilot. Following consultation with group leaders the Returning Officer informed Welsh Government of Caerphilly's interest in establishing an advance voting centre at Ty Penallta on the weekend before the ordinary day of poll.
- 2.3     Regular meetings have been held between the Electoral Services Manager, Welsh Government and software providers to ensure the pilots are both lawful and viable. The level of confidence that everything necessary will be in place to allow the pilot to take place is high although there are still some changes outstanding from our software suppliers. A decision is now required on whether we as an authority will now proceed (subject to the final software changes being completed in a timely manner).

**3.       RECOMMENDATIONS**

- 3.1     That the advance voting pilot take place at Penallta House on Saturday 30<sup>th</sup> April and Sunday 1<sup>st</sup> May subject to the necessary IT systems being in place.

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 Providing an advanced voting centre will make both the county borough and community council elections in May 2022 as accessible as possible. It will ensure that everyone who wants to vote, can vote, and offers a wider choice to residents and may be particularly welcomed by anyone not registered for an absent vote who may otherwise struggle to visit their polling station on Election Day.

#### **5. THE REPORT**

- 5.1 Welsh Government set out plans in advance of the May 2022 elections to increase the number of people registered to vote and to introduce new flexible voting schemes to enable advanced voting and encourage voter participation.
- 5.2 Caerphilly is one of four authorities chosen to run a pilot in Wales having submitted expressions of interest. The others are Blaenau Gwent, Bridgend and Torfaen.
- 5.3 It is intended that Ty Penallta be used as an advance voting centre on Saturday the 30th April and Sunday 1st May prior to Election Day on Thursday 5th May 2022. It is intended that the opening hours for the advance voting centre will be 10am to 4pm.
- 5.4 Ty Penallta is central to the County Borough and offers opportunity for all residents to vote in advance of the main election on 5<sup>th</sup> May 2022. It is recognised that electors may not wish or be able to travel to Ty Penallta but it was considered the most suitable venue for a pilot. All electors can still apply for a postal or proxy vote or attend their local polling station on Thursday 5<sup>th</sup> May.
- 5.5 Should any eligible residents in the county wish to cast their vote in advance, they will be able to do so from this central location, in both the local and community council elections.
- 5.6 The administration of the Advanced Voting Centre will be undertaken in the same stringent manner that all elections in the county borough are undertaken and the integrity of the process maintained to ensure all stakeholders can have confidence in the process. A robust planning process will ensure the pilot will be open to scrutiny in the normal manner and delivered lawfully.
- 5.7 **Conclusion**

Approval of this report will allow the Returning Officer to implement advance voting for residents at the election in May, 2022.

#### **6. ASSUMPTIONS**

- 6.1 There are no assumptions in this report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 An assessment has not been completed for this report as the statutory responsibility for running elections sits as a personal responsibility of the Returning Officer.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 All costs associated with participating in the pilot will be met by Welsh Government.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 None

## **10. CONSULTATIONS**

- 10.1 All responses have been incorporated into the report.

## **11. STATUTORY POWER**

- 11.1 The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 ([legislation.gov.uk](http://legislation.gov.uk)) determines that decision to undertake an electoral pilot cannot be made by the executive and needs to be a decision of the full council.

Author: Dave Beecham, Electoral Services Manager [beeched@caerphilly.gov.uk](mailto:beeched@caerphilly.gov.uk)

Consultees: Cllr Philippa Marsden Leader of Council [Marsdp@caerphilly.gov.uk](mailto:Marsdp@caerphilly.gov.uk)  
Cllr Colin Gordon Cabinet Member for Corporate Services  
[gordocj@caerhilly.gov.uk](mailto:gordocj@caerhilly.gov.uk)  
Christina Harrhy, Returning Officer [harrhc@caerphilly.gov.uk](mailto:harrhc@caerphilly.gov.uk)  
Robert Tranter, Head of Governance and Legal Services  
[trantr@caerphilly.gov.uk](mailto:trantr@caerphilly.gov.uk)

Background Papers:

The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007

Gadewir y dudalen hon yn wag yn fwriadol





## COUNCIL – 26<sup>TH</sup> JANUARY 2022

**SUBJECT: THE LAWNS, RHYMNEY – CULVERT ISSUES AND SUBSEQUENT COST OVER RUN**

**REPORT BY: CORPORATE DIRECTOR FOR ECONOMY AND ENVIRONMENT**

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- 1.1 The attached report was considered as an urgent and exempt item by Cabinet on 24<sup>TH</sup> November 2021.
- 1.2 The Constitution requires that any decision taken as a matter of urgency must be reported to the next available meeting of Council, giving the reasons for its urgency. Therefore, the report is presented to Council for Members' information.
- 1.3 The urgency of the item was required in order to prevent delays in remediation culvert works.
- 1.4 The recommendations of the report were considered and approved by Cabinet.
- 1.5 Members are asked to note the recommendations of the report and Cabinet decision.

Author: E. Sullivan (Senior Committee Services Offices)

Appendices:

Appendix 1 Public Interest Test

Appendix 2 Report to Cabinet on 24<sup>th</sup> November 2021 – Exempt Item.

Gadewir y dudalen hon yn wag yn fwriadol



COUNCIL – 26<sup>TH</sup> JANUARY 2022

**PUBLIC INTEREST TEST – EXEMPTION FROM DISCLOSURE OF DOCUMENTS  
PARAGRAPHS 14 AND 16 OF SCHEDULE 12A LOCAL GOVERNMENT ACT 1972**

**SUBJECT: THE LAWNS, RHYMNEY – CULVERT ISSUES AND SUBSEQUENT COST  
OVERUN**

**REPORT BY: MONITORING OFFICER**

I have considered grounds for exemption of information contained in the report referred to above and make the following recommendations to the Proper Officer:-

**EXEMPTIONS APPLYING TO THE REPORT:**

Information relating to the financial or business affairs of any particular person (including the Authority holding that information) (Paragraph 14).

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Paragraph 16).

**FACTORS IN FAVOUR OF DISCLOSURE:**

There is a public interest in the way in which the Council manages its contracts.

**PREJUDICE WHICH WOULD RESULT IF THE INFORMATION WERE DISCLOSED:**

The Report includes legal advice in relation to a number of contractual scenarios. The report also contains detailed financial information about the contractual arrangements.

**MY VIEW ON THE PUBLIC INTEREST TEST IS AS FOLLOWS:**

That paragraphs 14 and 16 should apply.

In relation to paragraph 16, the exemption is absolute, and the public interest test does not need to be considered. In relation to paragraph 14, I am mindful of the need to ensure the transparency and accountability in the way the council manages its contracts. However, disclosure of the information contained in the report would result in financial information of the company being in the public domain which the company would expect to be confidential at this stage.

On that basis I feel that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider these factors when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.

**RECOMMENDED DECISION ON EXEMPTION FROM DISCLOSURE:**

On the basis set out above I feel that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, and that the report should be exempt.

Signed:

Date: 18<sup>th</sup> January 2022

Post: Head of Legal Services and Monitoring Officer

I accept the recommendation made above.

Signed:

Date: 18<sup>th</sup> January 2022

Proper Officer

Gadewir y dudalen hon yn wag yn fwriadol

By virtue of paragraph(s) 14, 16 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

Gadewir y dudalen hon yn wag yn fwriadol