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For all enquiries relating to this agenda please contact Helen Morgan
(Tel: 01443 864267 Email: morgah@caerphilly.gov.uk)

Date: 15th April 2015

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Dear Sir/Madam,

A meeting of **Council** will be held in the **Council Chamber, Penallta House, Tredomen, Ystrad Mynach** on **Tuesday, 21st April, 2015** at **5.00 pm** to consider the matters contained in the following agenda.

Yours faithfully,

A handwritten signature in blue ink that reads 'Chris Burns'.

Chris Burns
INTERIM CHIEF EXECUTIVE

A G E N D A

Pages

- 1 To receive apologies for absence.
- 2 Mayor's Announcements.
- 3 Presentation of Awards.
- 4 To receive a Deputation from Argoed Residents for a Safer Community.

A greener place Man gwyrddach



5 Declarations of interest.

Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

To approve and sign the following minutes: -

6 Council held on 10th March 2015 (minute nos. 1-15).

1 - 10

To receive and consider the following report from Cabinet.

7 Amendments to Standing Orders for Contracts and Implementation Into UK Law of the new European Union Public Contracts Directive 2014.

11 - 42

To receive and consider the following reports: -

8 Independent Remuneration Panel for Wales Annual Report 2015/16.

43 - 120

9 Welsh Government White Paper, Reforming Local Government: Power to Local People.

121 - 176

To receive and answer questions received under Rule of Procedure 10(2) which may have been submitted after the preparation of the agenda.

Circulation:

All Members And Appropriate Officers



COUNCIL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON TUESDAY 10TH MARCH 2015 AT 5.00PM

PRESENT:

Councillor D.G. Carter - Mayor
Councillor L. Gardiner - Deputy Mayor

Councillors:

Miss L. Ackerman, Mrs E.M. Aldworth, H.A. Andrews, A.P. Angel, Mrs K.R. Baker, J. Bevan, P.J. Bevan, Mrs A. Blackman, D. Bolter, Mrs P. Cook, C.J. Cuss, H.W. David, W. David, H.R. Davies, D.T. Davies, R.T. Davies, C. Durham, C. Elsbury, Mrs C. Forehead, Miss E. E. Forehead, J.E. Fussell, Mrs J. Gale, N. George, C.J. Gordon, R.W. Gough, Mrs P. Griffiths, D.T. Hardacre, D. Havard, C. Hawker, A.G. Higgs, G.J. Hughes, K. James, M.P. James, G. Johnston, Mrs B.A. Jones, G. Jones, Ms J.G. Jones, S. Kent, G. Kirby, Ms P. Leonard, A. Lewis, K. Lloyd, C.P. Mann, S. Morgan, Mrs G. Oliver, Mrs R. Passmore, D.V. Poole, D.W.R. Preece, M.J. Prew, Mrs D. Price, J.A. Pritchard, A. Rees, D. Rees, K.V. Reynolds, J.E. Roberts, Mrs M.E. Sargent, S. Skivens, Mrs E. Stenner, Mrs J. Summers, J. Taylor, T.J. Williams

Together with:-

C. Burns (Interim Chief Executive), S. Aspinall (Acting Deputy Chief Executive), DN. Scammell (Acting Director of Corporate Services), A. Price (Deputy Monitoring Officer), G. Hardacre (Head of Human Resources and Organisational Development), G. Jenkins (Assistant Director - Children's Services), R. Hartshorn (Head of Public Protection), D. Regan (Lead Officer - Benefits and Finance), L. Lane (Corporate Solicitor), H. Morgan (Senior Committee Services Officer)

Also present - David Waite from the School of Planning and Geography, Cardiff University and Anna Freeman, Director of Employment, WLGA.

1. **WEB-CASTING FILMING AND ELECTRONIC VOTING ARRANGEMENTS**

The Mayor reminded those present that the meeting was being filmed and would be made publically available in live and archive form via the Council's website. He advised that decisions would be made by show of hands.

2. **SANDRA ASPINALL - DEPUTY CHIEF EXECUTIVE**

The Mayor advised that this was the last meeting of Council that Sandra Aspinall would be attending. Members paid tribute to the manner in which she has undertaken her duties during the last six years and referred to the high esteem in which she was held by Members and

Officers alike. They referred to the valued advice and guidance she had given to them over the years and for always dealing with matters in a professional and helpful manner. She was wished every success and happiness for the future.

In response, Sandra referred to her varied portfolio and thanked the Members for their kind words and the number of individual messages that she had been sent. She referred to the support she had received from Members and Officers and advised that she would leave with cherished memories.

3. WELCOME

The Mayor welcomed both David Waite from the School of Planning and Geography, Cardiff University, and Anna Freeman, Director of Employment, WLGA to the meeting.

4. APOLOGIES

Apologies for absence were received from Councillors M. Adams, Mrs G. Bevan, L. Binding, K. Dawson, N. Dix, D.M. Gray, J. Pritchard, R. Saralis, L.G. Whittle and R. Woodyatt and D. Street (Director of Social Services).

5. PETITIONS

The Mayor received the following petitions presented by Members on behalf of local residents and indicated they would be referred to the appropriate directorate for attention.

- (i) Regeneration of derelict former community centre in Graham Court, Lansbury Park, Caerphilly - Councillor Ms E. Forehead;
- (ii) Planning application 15/0038/OUT - land north of Pandy Road Bedwas Caerphilly - Councillors R.T. Davies and D. Havard (two petitions).

6. MAYOR'S ANNOUNCEMENTS

The Mayor referred to the many events and visits that he and the Deputy Mayor have undertaken since the last meeting and made specific reference to the Young Musician of the Year Competition and to the high standard of the performances. In referring to the Gala Concert held at Newbridge Memo, he paid tribute to the Organising Committee and the local ward members.

7. PRESENTATION OF AWARDS - C2:0 DIGITAL INCLUSION – GET CAERPHILLY ONLINE

Members were informed that 'Get Caerphilly Online' recently won the Communities 2.0 Digital Leadership Award for its innovative and sustainable approach to delivering digital inclusion work through a partnership approach. The award was presented by Lesley Griffiths, Minister for Communities and Tackling Poverty who praised the initiative's unique innovative and sustainable model. A new initiative, Cloud9, which aims to improve pupil attainment and family digital and financial inclusion by ensuring that every child has access to a laptop or tablet (which can be purchased through the local Credit Union) has recently been launched at Rhymney Comprehensive School.

Tina McMahon, Matthew Bevan, Craig Clarke and Cerian Thomas received the award on behalf of the service and in recognition of the achievement. Members wished to place on record their appreciation to all those involved in achieving the award.

8. DECLARATIONS OF INTEREST

Councillor D.T. Hardacre declared an interest in agenda item 10 - Publication of Pay Policy Statement - Localism Act 2015. Mr Burns, Interim Chief Executive, advised that with regards to this report, those Senior Officers who have an interest would also be required to leave the meeting when this item is considered. Details are minuted with the respective item.

9. PRESENTATION - CARDIFF CAPITAL REGION

David Waite, from the School of Planning and Geography, Cardiff University, attended the meeting to give an overview on the progress towards the delivery of regeneration, transport and planning at City Region level as reflected in the document "Delivering a Future with Prosperity".

In opening his presentation, Mr Waite advised that the Cardiff Region Board, along with other Regional Boards, has an advisory capacity, is independent of Welsh Government and has a cross sectional constitution to enable private, public, academic and third sector involvement. Given its advisory role it has been tasked with setting a vision and strategy for the economy of South East Wales, albeit that in order to achieve regional co-ordination and impact, a number of investments are required to take the initiatives forward. A range of different policies, programmes and projects are seeking a more regional focus, and there is a need to ensure these are brought together and do not duplicate effort and activity.

Mr Waite referred to the development of the city regionalism agenda, and advised that city regions are considered as functional geographies rather than political administrative areas, with their functionality being defined by community patterns. He advised that the agenda reflects city and regional hinterlands as a system, rather than as independent or self contained places. In that city regions are seen to offer an economic opportunity in the sense that certain benefits for employment and productivity emerge through size and scale, it is essential to consider these areas as a system, how the system can be better invested in and how it can better operate. Such coordination will allow producers to develop better links with suppliers and enable them to undertake production more efficiently, with an effective workforce.

It was noted that the Advisory Board for the Cardiff Capital Region recently released their report. It is a vision document with strategic priorities and Mr Waite detailed its rationale – connectivity, innovation and skills. With regards to connectivity he referred to the case to develop a metro or an integrated transport system for South East Wales, whereby buses are waiting for trains (frequencies improved) and a single ticket can be used across the network. Business cases are being developed accordingly. Consideration has also been given to the development of Cardiff airport and, in considering the importance of London connections, improvements on the Great Western main line.

With regards to innovation and skills, the report makes reference to exploiting the research capacity in the city region, working with the university and colleges and improving digital connectivity. In that there are approximately 80,000 full time students in the city region at any one point there are significant opportunities in terms of economic development, including the establishment of businesses within the city region. The report also puts emphasis on quality of lifestyle, the environment and amenities and accepts the challenges for those trying to access and integrate into the labour market. These are significant path dependencies that need to be developed.

In closing Mr Waite advised that a key question is the management and delivery of services and advised that governance arrangements are under discussion. Whatever model emerges the status quo probably is not an option if the ambitious agendas for connectivity and skills are to be developed. The progress on governance is caught up with local government reform and the outcome of the Williams report. He accepted that in times of austerity and with demands for services increasing, it will need to be determined what investments can be made with the finance that may be available. He advised that in order to progress the city region, there has to be a common vision, with a common agenda, which cannot be led by one authority at the expense of all others and has to bind across the ten authorities.

Members accepted that there needs to be an overarching common vision to bring the region together but wished it noted that the valleys are unique geographical areas and each community has their own individual identity and as such, will not conform to a common format. It was accepted that there is a need to ensure the infrastructure will support any proposals. Mr Waite advised that implementation is key for strategic development, as is the investment to take it forward, and it would not be possible to use an existing model and impose it on this local context. There is a need to understand how systems work and to develop business cases that prioritise investments, that are responsive to the local context, and be developed using the knowledge and experience within the region.

Members noted proposals to escalate transport and economic development functions to a wider regional level and expressed concerns at the current transport infrastructure and the need to increase the frequency of trains (particularly on the Ebbw Vale line), to increase the number of carriages for commuters and to ensure that bus timetables complement train arrival times as part of the integrated transport hub. Mr Waite referred to ongoing debate in relation to the metro or integrated transport system and advised that these views will be taken into consideration as part of ongoing discussions going forward. In that Cardiff and the surrounding area is growing both in terms of population and labour force, there is an opportunity to capture this and allow people across South East Wales to access those opportunities.

Concerns were also expressed at proposals to consider quicker rail connections to London, and as to whether this will revive the local economy or drive resources elsewhere. Mr Waite advised that plans to improve the Great Western main line has come from the idea that the Cardiff Capital Region will be put at a disadvantage to Birmingham and Manchester who will have their train times to London significantly reduced and the idea is that Cardiff need to be well connected to UK capital. All of the views expressed will be taken into consideration when business cases are developed. Reference was also made to the development of Cardiff airport and it was noted that consideration would be given to the types of market that can be developed from that location (e.g. long haul flights).

With regards to governance arrangements, clarification was sought as to the interface between the Board, Welsh Government and Welsh Local Government. Mr Waite advised that that this is currently being debated as part of the ongoing process.

Reference was also made to the potential for migration intercity rather than immigration from the city up to the valleys and the need to ensure buy in from residents. In that the report puts emphasis on quality of lifestyle, the environment and amenities and accepts the challenges for those trying to access and integrate into the labour market there are a number of steps that need to be out in place. Mr Waite advised that this is a long term strategy and as such, things will not change quickly and there may be no tangible evidence in the short term as the plan develops. He confirmed that any infrastructure and investment should be made taking into account existing community strengths and developed using local knowledge.

In noting the presentation and the response given by Mr Waite, it was accepted that all authorities need to have a common vision and confirmed that Caerphilly would seek full equal partnership in any city regional development that is proposed

Mr Waite was thanked for his informative presentation and for his responses to the questions and issues raised by members, which would be taken into account as the project moves forward.

10. COUNCIL - 27TH JANUARY AND 25TH FEBRUARY 2015

RESOLVED that subject to it being noted that minute no 7, dated 25th February 2015 (Replacement of a Member of Corporate Management Team) should also reflect that there was one Member against the Motion, the following minutes be approved as correct records and signed by the Mayor.

Council held on 27th January 2015 (minute nos. 1 - 20) and Special Council held on 25th February 2015 (minute nos. 1 - 7).

REPORT REFERRED FROM CABINET

11. ADOPTION OF POLICIES IN RELATION TO THE MOBILE HOMES (WALES) ACT 2013

Cabinet considered this report on 4th March 2015 and, in endorsing its content, recommended its acceptance by Council.

The report outlined changes to the legislation applicable to mobile homes and sought to amend the Council's Constitution to include The Mobile Homes (Wales) Act 2013. Officers within the Public Protection Division require additional authorisation under the Act in order to enforce the legislation and carry out their duties.

The report also sought approval for the adoption of the Fees and Fines Policy (Appendix 1), including minimum charges for the taking of enforcement action, and the Fit and Proper Persons Policy (Appendix 2). Clarification was sought as to which sites within the county borough this will apply and it confirmed that the legislation refers only to those sites used for permanent residential purposes, and not to those where residents are required to vacate the site for a period during the year, albeit that there is a separate licensing regime for such sites.

Following consideration and discussion, it was moved and seconded that the recommendations in the report be approved. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons contained in the Officer's report:-

- (i) the implementation of the legislation be noted and the proposed changes to the constitution be agreed. The Monitoring Officer make the necessary amendments to the Council's Constitution;
- (ii) the Council's Constitution and Terms of Reference be amended by adding the following:
 - The Mobile Homes (Wales) Act 2013.

- (iii) Officers within the Public Protection Division be authorised under The Mobile Homes (Wales) Act 2013 in order to enforce the legislation and carry out their duties;
- (iv) the Fees and Fines Policy (as detailed in appendix 1 of the report), including the minimum charges for the taking of enforcement action, be approved;
- (v) the Fit and Proper Persons Policy (as detailed in appendix 2 of the report) be approved.

REPORTS OF OFFICERS

Consideration was given to the following reports.

12. LICENSING/REGISTRATION/PERMIT FEES - 2015/16

The report, which proposed the Licensing/Registration/Permit Fees for the next financial year, was considered by the Licensing Committee on 16th February 2015. Following discussion on its content, the Licensing Committee noted the level of fees charged in connection with the Licensing Act 2003 and unanimously endorsed the recommendations contained in the report and recommended their acceptance by Council.

The report detailed fees in a number of areas, which are reviewed annually to recover reasonable costs of providing the service. It recommended fees, which were detailed in Appendix 1 and 3 of the report, and Members were asked to note that the proposed fees for hackney carriage/private hire vehicles and operators would be advertised in the local press for 28 days to allow for any trade objections. Historically the Licensing Committee, have been given delegated authority to consider any objections received, determine the fees and the date they come into force. If objections were received a further report would be submitted to the Licensing Committee regarding this matter. If there are no objections the fees automatically come into force at the end of the statutory 28-day consultation.

It was noted that the Government currently sets any fees charged in connection with the Licensing Act 2003. In the future, the Police Reform and Social Responsibility Act 2011 will enable Local Authorities, to move to locally set fees, however the date for this change has not yet been confirmed.

It was moved and seconded that the recommendations in the report be approved. By show of hands this was unanimously agreed.

RESOLVED that for the reasons contained in the report:-

- (i) where appropriate, the fees proposed for 2015/16, as outlined in appendices 1 and 3 of the report, be implemented with effect from 1st April 2015;
- (ii) the proposed fees for hackney carriage/private hire vehicles and private hire vehicle operator licences be advertised and the Licensing Committee be given delegated powers to consider any objections received and to determine the fees to be charged and the date on which any variations should come into force.

13. PUBLICATION OF PAY POLICY STATEMENT - LOCALISM ACT 2011

Councillor D.T. Hardacre declared an interest (as having a family member that could be affected by the proposal) and left the meeting during consideration of this item. Sandra

Aspinall, Nicole Scammell, Gareth Hardacre, Angharad Price, Gareth Jenkins and Rob Hartshorn also declared an interest (as being affected by the proposal) and left the meeting for this item.

Anna Freeman, Director of Employment, WLGA, came to the podium to assist with the presentation of the report.

Consideration was given to the report which sought approval for the publication of the Authority's Pay Policy. Members were advised that the Localism Act 2011 requires local authorities to develop and make public their Pay Policy. This includes all aspects of Chief Officer Remuneration (including on ceasing to hold office), and also in relation to the "lowest paid" in the Council, explaining their Policy on the relationship between remuneration for Chief Officers and other groups. The Pay Policy Statement appended to the report contains the full details of the remuneration position for the Council that it is required to publish under the legislation.

The Interim Chief Executive explained that with regards to the recommendations within the report, in that the Pay Policy is required to be published on an annual basis, the first is a restatement of the existing Pay Policy Statement, and the second is seeking approval to include a paragraph within the Pay Policy Statement as it relates to the Chief Officer National Pay Award. For clarification, it was noted that those employees covered by this award includes all Directors, Heads of Service and Service Managers.

Anna Freeman, Director of Employment, WLGA, advised that with regards to the Chief Officer National Pay Award, recent Welsh Government amendments to the Local Authorities (Standing Orders) (Wales) Regulations 2006 introduced a new requirement that '*The relevant authority must determine the level, and any change in the level, of the remuneration to be paid to a chief officer*'. As such, all changes to Chief Officer pay must be voted on by full Council, not just those that are determined locally. This includes any pay rises which have been nationally negotiated by the JNC for Chief Officers and these now cannot be paid, unless and until, they have been agreed by full Council.

By way of explanation to a number of queries raised, she advised that having to seek Council's determination to pay JNC nationally agreed pay rises at the time they are agreed is likely to cause delay in their payment. The Welsh Local Government Association has therefore pursued this matter with Welsh Government on behalf of all Councils in order to seek a pragmatic solution. As a result it has been agreed that full Council must determine nationally agreed contractually entitled pay rises for Chief Officers which can be met by Council voting on an appropriate resolution to insert a suitable clause in their Pay Policy Statements to cover this issue.

During the course of the debate, reference was made to the decision taken at Council on 17th January 2013 in relation to Chief Officer pay. It was confirmed that the minute reflects that it had been agreed at that time that the issue of Chief Officer pay will not be revisited in the lifetime of the current administration unless required by law or Local Government regulations and that any future proposal at any time would require a final decision by Full Council. This report was brought forward as a result of such changes.

It was moved and seconded that the recommendations in the report be approved. By show of hands this was agreed by the majority present.

RESOLVED that for the reasons contained in the Officers report:-

- (i) the Pay Policy Statement (Version 4) as appended to the report be approved and published on the Council's website;
- (ii) in light of the issues outlined in paragraphs 4.7 - 4.12 of the report, it be agreed

that the Council's Pay Policy Statement be amended to include the following paragraph:-

'The Council employs Chief Officers under JNC terms and conditions which are incorporated in their contracts. The JNC for Chief Officers negotiates on national (UK) annual cost of living pay increases for this group, and any award of same is determined on this basis. Chief Officers employed under JNC terms and conditions are contractually entitled to any national JNC determined pay rises and this Council will therefore pay these as and when determined in accordance with current contractual requirements.'

- (iii) in view of the foregoing, the Pay Policy Statement be duly amended to reflect this amendment prior to publication on the Council's website as part of its annual arrangements.

The Mayor thanked Anna Freeman for her contribution and for responding to the queries raised by Members during the course of the debate.

14. NOTICE OF MOTION - WORKFARE

Consideration was given to the report which detailed the following Notice of Motion submitted by Councillors K.V. Reynolds, G. Jones, Mrs B. Jones and D.V. Poole in relation to Workfare. 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.

'This Council pledges not to use the UK Government's WORKFARE placements and will encourage partners not to do so either, so far as it is legally permitted to do so'.

The following information was provided by the Members in support of their notice of motion.

Reasons for the Motion - Caerphilly County Borough Council is concerned about the lack of evidence that the UK Government WORKFARE scheme assists job seekers in finding work. We believe that a 30 hour a week placement makes it more difficult for people to find work and that WORKFARE stigmatises people and locks them further into poverty.

During the course of the debate, it was requested that any future procurement should include this caveat, specify that the living wage must be implemented (and also be applied to Agency staff) and that social clauses should be revisited. In view of the potential legal implications and as the costs would be reflected in future tender prices and as such would affect the medium term financial plan, the Interim Chief Executive advised that he would bring forward a report in due course.

It was moved and seconded that the Notice of Motion be supported. By show of hands this was unanimously agreed.

RESOLVED that the Notice of Motion be supported, and as such, this Council pledges not to use the UK Government's WORKFARE placements and will encourage partners not to do so either, so far as it is legally permitted to do so.

15. QUESTIONS UNDER RULE OF PROCEDURE 10(2)

There were no questions submitted under Rule of Procedure 10(2).

The meeting closed at 6.45pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 21st April 2015 they were signed by the Mayor.

MAYOR

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COUNCIL – 21ST APRIL 2015

SUBJECT: AMENDMENTS TO STANDING ORDERS FOR CONTRACTS AND IMPLEMENTATION INTO UK LAW OF THE NEW EUROPEAN UNION PUBLIC CONTRACTS DIRECTIVES 2014

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1.1 The attached report was presented to the Cabinet on 15th April 2015.

1.2 The recommendations of Cabinet will be reported at the meeting.

Author: H. Morgan, Senior Committee Services Officer

Appendix 1 Report to Cabinet dated 15th April 2015.

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CABINET – 15TH APRIL 2015

SUBJECT: AMENDMENTS TO STANDING ORDERS FOR CONTRACTS & IMPLEMENTATION INTO UK LAW OF THE NEW EUROPEAN UNION PUBLIC CONTRACTS DIRECTIVES 2014

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND S.151 OFFICER

1. PURPOSE OF REPORT

- 1.1 To advise Members and seek Cabinet approval of the proposed amendments to the Council's Standing Orders for Contracts following the implementation into UK Law of the New European Union ('EU') Public Contracts Directives 2014, prior to referral to Council

2. SUMMARY

- 2.1 As a way of background since 2011 the European Commission, Member States and the European Parliament have negotiated a new set of rules covering public contracts and the procurement discipline. The purpose of the EU procurement rules is to open up the public procurement market and to ensure the free movement of supplies, services and works within the EU. Following extensive consultation throughout the EU including Wales the new rules were agreed by the European Commission and came into force on 17 April 2014. Subsequently Member States including the UK were required to transpose the new rules into national law within twenty four (24) months of the aforementioned date.
- 2.2 On 26 February 2015 the UK formally implemented the New EU Public Contracts Directives 2014 into national law via the UK Public Contract Regulations 2015 ('Regulations'). The implementation of the new Regulations will undoubtedly impact all public sector organisations procurement operation/ function together with any associated rules and procedures.
- 2.3 Standing Orders for Contracts ('SOFC') is an element of the Council's Constitution which details how decisions are made and the procedures which are followed when undertaking the procurement discipline and contracting with third party organisations. The current version of SOFC together with the adoption of the Welsh Government Procurement Policy, Caerphilly County Borough Council Procurement Policy and Strategy was presented and approved by Council on 19 November 2013. The 2013 report also advised Members of the potential changes to the EU Public Contracts Directives.
- 2.4 Due to the implementation of the new Regulations there has been a need for Officers within Legal, Audit and Procurement to review and update the Council's SOFC to ensure legal compliance with the new Regulations.

3. LINKS TO STRATEGY

- 3.1 The Council is under a duty to keep under review its constitution arrangements. SOFC forms part of the Council's Constitution and therefore the recommendations in this report supports that obligation.

4. THE REPORT

- 4.1 The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decision making is efficient, transparent and accountable to local people.
- 4.2 In 2010, the Head of Legal Services, Head of Corporate Finance and Head of Procurement completed a review of SOfC, after extensive consultation, the revision was presented and approved by Council on 27 April 2010. Subsequently the current version of SOfC together with the adoption of the Welsh Government Procurement Policy, Caerphilly County Borough Council Procurement Policy and Strategy was presented and approved by Council on 19 November 2013. This approach demonstrates the Council's commitment of continuously reviewing its Constitutional requirements and meeting the aims and objectives of modern day Procurement.
- 4.3 Implementation of the new Regulations supports not only the UK and Welsh Government priorities for Procurement but fundamentally the aims and objectives of this Council. The changes provide a much more modern, flexible and commercial approach with many new features added to streamline and modernise public sector procurement. Simplistically it is envisaged that the new rules will allow contracting authorities to run procurement exercises faster, with less red tape and more focus on getting the right supplier and the best tender. For suppliers the process of bidding for public contracts should be quicker, less costly and less bureaucratic, enabling suppliers to compete more effectively.
- 4.4 The new regulations will help to deliver the Council's aims and objectives for modern day procurement and many of the new rules are inline with the Council's wider policies and strategies namely:
- Community Benefits
 - Open, Accessible Competition
 - Simplified Standard Processes
 - Electronic Procurement & Timescales
 - Supplier Engagement & Innovation
 - Reserving Contracts
 - Temporary Exemption for Public Service Mutuals
 - Improving Quality of Bids
 - New Lighter Regime / New Rules for Social Services
 - New Reporting and Governance Requirements.
- 4.5 The Council's current version of SOfC is generally considered to be effective; however, there are amendments required to ensure compliance with the new procurement Regulations. The proposed amendments are summarised in **Appendix A** together with SOfC as amended. The amendments will ensure compliance with the new Regulations and allow a legally secure operational guide to procuring in an open, fair and transparent manner whilst maintaining all the principals of the new procurement rules.
- 4.6 To support the implementation of the new rules, training and workshop sessions have been provided to relevant Officers across the Council. These sessions, which have been well received by Officers were undertaken by external practitioners covering both the procurement and legal disciplines. Furthermore continued support and training on SOfC will be provided by Officers of the Corporate Procurement Unit together with providing on going advice and guidance on the new Regulations in consultation with the Council's Legal Services. In addition guidance documentation such as the procurement Code of Practice will be updated in due course and will be a further support mechanism.
- 4.7 Unfortunately there was limited notification given by UK central government for the implementation of the new Regulations, therefore extensive consultation across the Council on the practical operation (day-to-day) of SOfC has not been possible. However a consultation exercise will be undertaken over the next few months and any amendments proposed as a result of the consultation exercise will be presented to members for ratification.

5. EQUALITIES IMPLICATIONS

- 5.1 An EqIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance and no potential for unlawful discrimination and/or low level or minor negative impact have been identified, therefore a full EqIA has not been carried out.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications associated with the amendments to Standing Orders for Contracts, or the implementation of the New EU Public Contracts Directives 2014 via the UK Public Contract Regulations 2015.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications

8. CONSULTATIONS

- 8.1 Consultations on report and its proposals have taken place, comments and views are reflected within the report.

9. RECOMMENDATIONS

- 9.1 It is recommended that

9.1.1 Cabinet note and approve the proposed amendments to the Council's Standing Orders for Contracts in line with proposals set out within Appendix A and recommend to Council that the Council's Monitoring Officer be authorised to make the necessary amendments to the Council's Constitution to reflect the approved amendments.

9.1.2 Members note the implementation of the New EU Public Contracts Directives 2014 via the UK Public Contract Regulations 2015 and how the new rules support the Council's aims and objectives for modern day procurement.

9.1.3 Members note that due to the limited timeline on the implementation of the new Regulations an extensive consultation across the Council on the practical operation (day-to-day) of Standing Orders for Contracts has not been possible. However a consultation exercise will be undertaken in the next few months and any amendments proposed as a result of the consultation exercise will be presented to members for ratification.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To ensure that the Council's rules on the procurement of goods, works and services remain fit for purpose and in compliance with Procurement Regulations.

11. STATUTORY POWER

- 11.1 Local Government Act 1972, The European Union Treaty & Directive made thereunder, Public Contract Regulations 2015.

Author: Elizabeth Lucas, Head of Procurement, lucasej@caerphilly.gov.uk
Consultees: Councillor Barbara Jones, jonesb12@caerphilly.gov.uk
Chris Burns, Interim Chief Executive, burnsc1@caerphilly.gov.uk

Nicole Scammell, Acting Director of Corporate Services & S151,
scammn@caerphilly.gov.uk

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Background Papers:

New European Union ('EU') Public Contracts Directives 2014

UK Public Contract Regulations 2015

Caerphilly CBC Standing Orders for Contracts

Appendices:

Appendix A: Proposed Amendments and Standing Orders for Contracts

STANDING ORDERS FOR CONTRACTS

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1. Introduction

These Standing Orders for Contracts are made under Sections 135 (1) and 135(2) of the Local Government Act 1972. They shall apply to all areas of Council activity, including any type of sub-contracting, apart from contracts for the acquisition and sale of interests in land and the Exempt Contracts described in section 4 below. The funding for all contracts must be in accordance with approved budgets and comply with Financial Regulations.

One of the most significant areas of Council contracting is procurement. Procurement is the process by which the Council manages the acquisition of all its Goods, Services (including but not limited to consultants/consultancy services of any type) and Works of all sorts. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts. These 'Standing Orders' should be read in conjunction with the Council's Procurement Code of Practice.

Procurement by the Council is governed by detailed European and UK legislation, as are other areas of Council contracting. The law requires **all** Council procurement and contracting to be conducted transparently, fairly and in a non-discriminatory and disproportionate manner. In the event of statutory or other legal requirement exceeding the requirements contained within these Standing Orders for Contracts, then statute shall take precedence over any provision in these Standing Orders.

All references to competitive tenders and quotations within these Standing Orders shall apply (with such changes as are appropriate) equally to circumstances where the contract involves the receipt of income by the Council or the disposal of any asset or undertaking by the Council, as they do to purchases to be made by the Council, unless specifically stated otherwise. However, the disposal of any interest in land and buildings is governed by a separate protocol contained with the Council's Constitution.

Any doubt or uncertainty as to how these Standing Orders are to be interpreted and any inconsistency between these Standing Orders and any other Council document shall be referred to the Head of Legal Services, whose decision shall be final.

2. Form and Certification of Contracts

- 2.1 Every Council Contract shall be in writing in a form and on terms approved by the Head of Legal Services and shall specify: -
- a) The work, materials, services or things to be furnished, had, done or disposed of.
 - b) The price to be paid (or, as appropriate, the sums to be received), with a statement of discounts or other deductions, and where not known, committed estimated price, or the basis upon which the final contract sum is to be calculated.
 - c) The time or times within which the contract is to be performed, together with the termination date of the contract.
- 2.2 The flowcharts in the Appendices set out the prescribed routes for all procurements in the six bands of contract value (A, B, C, D, E and F– see sections 13 to 18 below). These flowcharts show the principal rules and components of the relevant processes only, including the numbers of tenders or quotes to be invited. Detailed guidance of the processes is contained in the Procurement Code of Practice, which should be followed in all cases.
- 2.3 The flowcharts in the Appendices specify who is Delegated to sign a contract on behalf of the Council in each Band. Signatories are the minimum level of responsibility required. More Senior Officers can be substituted in all cases.

2.4 Contracts in Band C,D, E and F can be (as well as those contracts specified by the Head of Legal Services) under seal and attested by the Head of Legal Services or the Chief Executive or such other Officer Delegated in writing by either of them.

3. Compliance

3.1 Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and shall comply with:

- (a) All relevant statutory provisions;
- (b) The relevant European Procurement Directives (the EU Treaty, the general principles of community law and the European Union's Public Contracts Directive (2014/24/EU) implemented by the Public Contracts Regulations 2015 or such other amendment, variation or replacement Regulations in force from time to time (" Regulations")
- (c) The Council's Constitution including these Standing Orders for Contracts, the Council's Financial Regulations and Scheme of Delegation.

3.2 The highest standards of probity are required of all Officers and Members involved in the procurement, award and management of Council contracts. Any serious non-compliance could lead to the Council's disciplinary procedures being invoked.

3.3 Officers and Members are reminded of their responsibilities in relation to gifts and hospitality and should ensure that they comply with the obligations set out in the Members' Code of Conduct and Officers' Code of Conduct respectively and any guidance issued in that regard.

3.4 Officers shall take appropriate measures to effectively prevent, identify and remedy Conflicts of Interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all Contractors as set out in the Regulations.

3.5 All contracts must contain a provision allowing the Council to terminate without compensation in the event that there has been actual or attempted fraud or corruption in connection with the procuring, continuation, renewal or performance of the contract. Including appropriate exclusion grounds as set out in the Regulations.

3.6 Any failure to comply with any of the provisions of these Standing Orders for Contracts, the Financial Regulations or UK and European Union legal requirements must be reported by the appropriate Director to the S151 Officer.

4. Exempt Contracts

4.1 The following contracts are exempt from the requirements of these Standing Orders:

- (a) Employment contracts (this exemption does not extend to the recruitment of agency staff or external secondment arrangements).
- (b) Contracts relating **solely** to disposal or acquisition of an interest in land and property, for which there is a separate protocol contained within the Council's constitution.
- (c) In a genuine emergency threatening public health, injury to persons or serious and immediate damage to property the Authorised Officer can take any necessary action to alleviate the threat. This power is limited to the alleviation of the threat and does not extend to any works beyond what is strictly essential.
- (d) In circumstances where a matter, which is not deemed to be an emergency, but nonetheless is considered to be of an urgent nature, arises, prior approval from the appropriate Head of Service must be given in writing. However, should the estimated expenditure exceed £20,000 approval must be sought from 2 of the following Officers:

- S.151 Officer, Head of Legal or Head of Procurement subject to an upper threshold prior to the commencement of the procurement process of £100,000 for goods, works and services.

Where it has been necessary to procure under 4.1 (c) or (d) every such case must be reported to the next available meeting of Corporate Management Team.

- (e) The appointment of Counsel.
- (f) The award of contracts for 'emergency' individual placements will remain at the discretion of the Corporate Directors with responsibility for Education & Lifelong Learning and Social Services in accordance with the Regulations.
- (g) Where the approving (or Delegated) Officer considers that additions, maintenance or repairs can only be carried out by the original contractor or supplier.

Where it has been necessary to procure under 4.1 (e), (f) or (g) the provisions of para. 19.2, 19.3 and 19.4 should be followed.

- (h) Where an external funder makes specific requirements i.e. the terms and conditions of the funding must be followed.

5. Internal Providers

- 5.1 Before commencing the procurement activity and subject to 4(h) above, the Head of Service or Authorised Officer shall ascertain whether an in-house service provider is able to carry out the works or service. If it is confirmed in writing by the in house provider that they do not have the capacity to undertake the works, the relevant Head of Service can proceed to procure in accordance with these Standing Orders. For the purposes of this clause an in-house provider must be able to demonstrate that not more than twenty five percent on the labour element of the value of work for the proposed contract would need to be sub-contracted to the private sector.
- 5.2 Where the in-house provider is able to and has the capacity to undertake the works, the works should automatically be allocated subject to approval of the relevant Head of Service and in accordance with any funding terms and conditions and such decisions shall be recorded in writing. If in such a case the relevant Head of Service does not wish to use the in-house provider then they must seek approval from the Council's Corporate Management Team prior to the commitment of the procurement.
- 5.3 All contracts over £10,000 allocated directly to in-house providers must be entered on the Corporate Contracts Register.

6. Authorised and Delegated Officers

- 6.1 Authorised Officer - This phrase refers to those Officers named in the Central Register held by the Head of Procurement. These Officers are Authorised to lead a given procurement process on behalf of the Council but have no Delegated powers.
- 6.2 Delegated Officer - This phrase refers to those Officers who have powers Delegated to them in writing by either; the Chief Executive, Director, Head of Service or Head of Procurement and can therefore complete actions where explicitly permitted in accordance with the processes and procedures as detailed within these Standing Orders for Contracts.

7. Preliminary Market Consultations

- 7.1 Before commencing a Procurement the Council may conduct market consultations with a

view to preparing the procurement and informing Contractors of the Council's procurement plans and requirements, including seeking or accepting advice from independent experts or Contractors.

- 7.2 Prior to undertaking market consultation, advice and guidance must be sought from the Head of Procurement to ensure that such preliminary consultation does not have the effect of distorting competition and does not result in violation of the principles of non-discrimination, transparency and proportionality.

8. Division of Contracts into Lots

- 8.1 The Council may where it considers appropriate decide to award a contract in a form of separate lots and may determine the size and subject matter of such lots in accordance with the Regulations.
- 8.2 Where the Council has decided not to subdivide a contract into lots it shall provide an indication of the main reasons within the procurement documentation or as provided within the Regulations.

9. Framework Agreements

- 9.1 Before commencing the procurement activity, in consultation with the Head of Procurement (or Delegated Procurement Officer), the Authorised Officer must ascertain whether there is an approved Framework Agreement in place that should be used. Details of all Framework Agreements are held on the Council's Corporate Contracts Register. Details of use of Framework Agreements can be found in the Procurement Code of Practice.
- 9.2 The Framework Agreement may include within its terms a requirement for a mini competition exercise between those Contractors who are parties to the Framework Agreement. These shall be tendered in accordance with the particular Framework Agreement and these Standing Orders for Contracts. Procedure details are available within the Procurement Code of Practice.
- 9.3 Where the Council is able to call off from existing Framework Agreements procured by central Government agencies, purchasing consortia or other local authorities or public bodies, then the Council may benefit from using those contracts without entering into a separate procurement exercise. Where such Framework Agreements contain a number of different Contractors able to provide a particular category of goods or services a mini competition exercise between those Contractors who are parties to the Framework Agreement must be carried out in accordance with the particular Framework Agreement.
- 9.4 However, if such Framework Agreements are used it will be in accordance with the terms of those agreements which may not always be appropriate to the particular procurement in question. Advice should be sought from the Head of Procurement (or Delegated Procurement Officer) prior to commencing procurement through any Framework Agreement.
- 9.5 The setting up of Framework Agreements is governed by detailed EU and UK legislation. Before setting up any framework Agreement, the Procurement Code of Practice must be consulted, and any uncertainties or questions addressed to the Head of Procurement (or Delegated Procurement Officer). Any Framework Agreement set up by a client department must be notified to the Head of Procurement by the Head of Service or Authorised Officer in order that the Procurement department can incorporate the Framework Agreement into the Corporate Contracts Register for use by other departments where applicable.

10. Shared Services

- 10.1 Prior to the Council committing to a shared service arrangement with another public body approval must be sought from Corporate Management Team.

11. Collaborative Arrangements

- 11.1 When a requirement can be fulfilled through an existing arrangement already established by another Public Sector Organisation and the requirements of the Regulations complied with by that Public Sector Organisation, the arrangement will be in compliance with these Standing Orders for Contracts. This includes purchasing through arrangements that have been entered into for example but not limited to the National Procurement Service (NPS), Crown Commercial Services (CCS) and the Welsh Purchasing Consortium (WPC).
- 11.2 Before committing the Council to a contract as set out in 11.1, the Authorised Officer must seek written advice from the Head of Procurement.

12. Estimating the Contract Value

- 12.1 For the sake of consistency, all Contract values should be calculated, strictly in accordance with the Regulations. For the purposes of these Standing Orders the value of any contract shall be taken as the value or consideration for the contract as a whole over the contract period (which is normally a three or four year period). The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for supplies, services or works shall not be split (disaggregated) in an attempt to avoid the applicability of these Standing Orders for Contracts or the Regulations.
- 12.2 The evaluation of cost shall be carried out on the basis that the Council seeks the most economic packaging of the contract. Deliberate downsizing of contracts in order to avoid any provisions of Standing Orders of Contracts or the Regulations shall not be permitted.
- 12.3 Full details on assessing the value of all contracts can be found in the Procurement Code of Practice.

13 Low Value Procurement (Quotations) – Below £10,000 (Band A)

- 13.1 See Appendix A

14. Intermediate Value Procurement (Tenders) - Between £10,000 and £75,000 (Band B)

- 14.1 See Appendix B

15. Medium Value Procurements (Tenders) - Between £75,000 and £172,514 (for Goods and Services) or less than £4,322,012 (for Works). (Band C)

- 15.1 See Appendix C

16. High Value Contracts for Goods & Services (Tenders) – Over £172,514 (Band D)

- 16.1 See Appendix D

17. Schedule 3 Services (Light Touch Regime) between £75,000 and £625,050 (Band E)

- 17.1 See Appendix E

18. High Value Contracts for Works (Tenders) – Over £4,322,012 (Band F)

- 18.1 See Appendix F

19. Late Quotations or Tenders – Reduced number of Tenders

- 19.1 Any tender, quotation or pre-qualification questionnaire received after the specified closing date and time shall not be formally considered but will be opened for the sole reason of being returned to the person who submitted the document, unless the following provisions apply. The only discretion in the above shall be exercised by the Head of Procurement (even for quotations not returned to him/her) who shall record reasons in writing for allowing a late submission to be considered. Any reasons must include confirmation that the contents of the late quotation or tender have not been considered and that the other quotations or tenders have in the meantime been kept securely sealed so that all are opened at the same time and that no person submitting a quotation or tender is thereby disadvantaged.
- 19.2 For a procurement with a value between £10,000 and less than £75,000 where an Authorised Officer wishes to invite less than four tenderers to bid, he/she must seek the approval of the Head of Procurement.
- 19.3 For a procurement in excess of £75,000, where an Authorised Officer wishes to invite less than five tenderers to bid, he/she must seek the approval of the appropriate Director following consultation with the Head of Procurement.
- 19.4 For all procurements in excess of the EU thresholds where an Authorised Officer wishes to invite less than five tenderers to bid he/she must seek the approval of Corporate Management Team following consultation with the Head of Procurement.
- 19.5 Where, having invited the required number of quotations or tenders as specified in these standing orders there is less than a 50% priced response, then consideration must be given (which must be recorded in writing) to re-running the procurement. If the contract is for a sum less than £75,000 the decision can be taken by the Head of Service. If the contract is for a sum in excess of £75,000 the decision will be taken by the appropriate Director after consultation with the Head of Procurement.

20. Tender Evaluation

- 20.1 In the event of establishing award criteria other than the lowest price (or, in the case of the disposal of an asset, the highest price), the evaluation criteria shall be predetermined and approved by the Head of Procurement (or Delegated Procurement Officer) and listed in the Invitation to Tender documentation in order of importance. Any particular scoring or weighting attributable to any criteria must be clearly stated. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Tenders shall only be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender.

21. Errors in Tenders/Quotations and Non-Compliant Tenders/Quotations

- 21.1 Tenders/Quotations which do not comply with the Council's requirements as set out in the invitation to tender/quote or which contain minor errors must be dealt with in accordance with the guiding principles set out within the Regulations and upon compliance with advice received from the Head of Procurement (or Delegated Procurement Officer). An example would be (but not limited to) in the event that a genuine pricing and/or arithmetical error has been made by the contractor which has come to the attention of the Council prior to a contract award being made. In such a case, they may be given an opportunity to correct that error. No correction shall be allowed unless considered proportionate and does not distort competition in accordance with the Regulations. No other adjustment, revision or qualification is permitted. All areas of rectification or clarification must be conducted in writing.
- 21.2 Tender/Quotation documents must state how errors in Tenders/Quotations will be dealt with.

22. Abnormally Low Tenders

22.1 Where as a result of identifying that the overall tendered price or costs raises significant doubts that the Contractor will be able to complete the contract within the contract terms, the Council shall require tenderers to explain the price or costs proposed. This must be undertaken in accordance with the Regulations and in consultation with the Head of Procurement.

23. Post Tender Negotiation

23.1 Where procurement is conducted pursuant to the Regulations, no post-tender negotiations are permitted. The Head of Service may seek clarification from tenderers where appropriate in consultation with the Head of Procurement. Negotiations on price are never permissible except where provided for within the Regulations.

23.2 Where procurements do not need to strictly comply with the Regulations the Head of Procurement may authorise negotiations if considered to be in the best interest of the Council in accordance with guiding principles of the Regulations.

23.3 At all times during the procurement process the Council shall ensure that all tenderers are treated equally and in a non-discriminatory, transparent and proportionate manner.

24. Contract Award Notice

24.1 Where a contract has been tendered pursuant to the Regulations, the Council shall publish a contract award notice in the Official Journal of the European Union no later than 30 days after the date of award of the contract or such other requirements or time limits as are set out in the Regulations. This is the responsibility of the Authorised Officer and undertaken in consultation with the Head of Procurement (or Delegated Procurement Officer).

25. Contract Terms and Conditions

25.1 The relevant Head of Service shall use their best endeavours to ensure that Contracts are entered into on the appropriate set of Council's terms and conditions, which shall be included with each purchase order or invitation to tender. Where this is not possible, variations to the relevant Council terms and conditions and/or the terms and conditions submitted by a contractor must be formally approved in writing by the Head of Legal Services. However, no amendment to the Council's terms and conditions or the terms and conditions submitted by a Contractor shall contravene the requirements set out within the Regulations and in particular but not limited to Regulation 73.

25.2 All Contracts with the provision to extend may be extended before the expiry date of the contract where it is in accordance with its original terms and conditions (which must expressly allow for extension) and proves to deliver Best Value for Money. Approval for such an extension shall be sought from the Head of Procurement or in accordance with the form of contract.

25.3 Where the terms do not expressly provide for extension and prior to the expiry of the contract, if it is felt to be in the Council's interests to extend a contract, then this can only be to the extent that the Regulations allow. For instance, if the Regulations apply to the goods, works or services under the contract and if the value of the proposed extension exceeds the relevant threshold, then this is likely to be regarded as a new contract and should be competitively procured, unless one of the narrow exceptions in the Regulations applies. In cases to which the Regulations do not apply, any extension must be by negotiation in accordance with the guiding principles of the Regulations. In all cases, the extension must follow the rules set out in the Procurement Code of Practice and be approved by the relevant Head of Service and reported to the Head of Procurement for information prior to the extension becoming legally binding on the Council.

- 25.4 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.
- 25.5 All significant Contract variations must be in writing and signed by both the Council and the Contractor. It will be for the appropriate Head of Service to determine whether or not a variation is deemed to be significant (significant is deemed to be the higher of £10,000 or 10% of the contract value). The value of each variation must be assessed by the relevant Head of Service and all necessary approvals sought prior to the variation taking place. Any variation that may be of such significance that it could affect service delivery must be reported to the appropriate Director for approval.

26. Security and Performance

- 26.1 Any Authorised Officer shall, before accepting or recommending acceptance of a quotation or tender, consider whether it is appropriate in all the circumstances to require and take sufficient security for the due performance of any contract. Where the Council's approved procedure for selective tendering is being used, the minimum requirements of that scheme must be followed.

27. Liquidated and Other Damages

- 27.1 Where appropriate contracts for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, save where the Head of Legal Services approves another type of remedy.
- 27.2 Every contract for the supply of goods or materials by a particular date or series of dates which falls into Bands C or D shall contain a clause to secure that, should the contractor fail to deliver the goods or materials, or any portion thereof within the time specified in the contract, the Council, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract either wholly, or to the extent of such default and to purchase other goods, or materials, as the case may be, of the same or similar description to make good (a) such default, or (b) in the event of the contract being wholly determined the goods or materials remaining to be delivered. The clause shall further secure that the amount by which the cost of such purchasing other goods or materials exceeds the amount by which would have been payable to the contractor in respect of the goods or materials, as the case may be, replaced by such purchase if they had been delivered in accordance with the contract, shall be recoverable from the contractor save where the Head of Legal Services approves otherwise another type of remedy.
- 27.3 The above provisions are without prejudice to the obligation to ensure that the form and terms and conditions of all contracts are as approved by the Head of Legal Services.

28. Termination of Contract

- 28.1 For any Contract exceeding £75,000 in value, early termination must be approved by the Head of Procurement and the Head of Legal Services. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract following consultation with the Head of Procurement.

29. Sub-Contracting

- 29.1 Any form of Council sub-contracting must comply fully with these Standing Orders for Contracts and the Regulations.
- 29.2 Where the Council has determined that a particular type of product or provision of service will be stipulated as an essential requirement of a contract then this must be approved by

the Head of Service following consultation with the Head of Procurement.

30. Consultants

- 30.1 The commissioning/engagement of Consultants to work within the Council or to undertake work on behalf of the Council as part of a wider project will be subject to these Standing Orders for Contracts and Section 21 of the Council's Financial Regulations.
- 30.2 Where the Council uses consultants to act on its behalf in relation to any procurement, then the Head of Service shall ensure that the consultants carry out any procurement in accordance with these Standing Orders for Contracts. No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to. The Head of Service shall ensure that the consultant's performance in relation to procurement is in accordance with these Standing Orders for Contracts and the Regulations.
- 30.3 Where the Council uses consultants to act on its behalf in relation to any procurement the consultant must declare any potential conflict of interest that may arise to the Head of Service prior to the commencement of the procurement process.
- 30.4 Where the Head of Service considers that such a conflict of interest is significant the consultant shall **not** be allowed to participate in the procurement process.

31. Record and Document Retention and Control

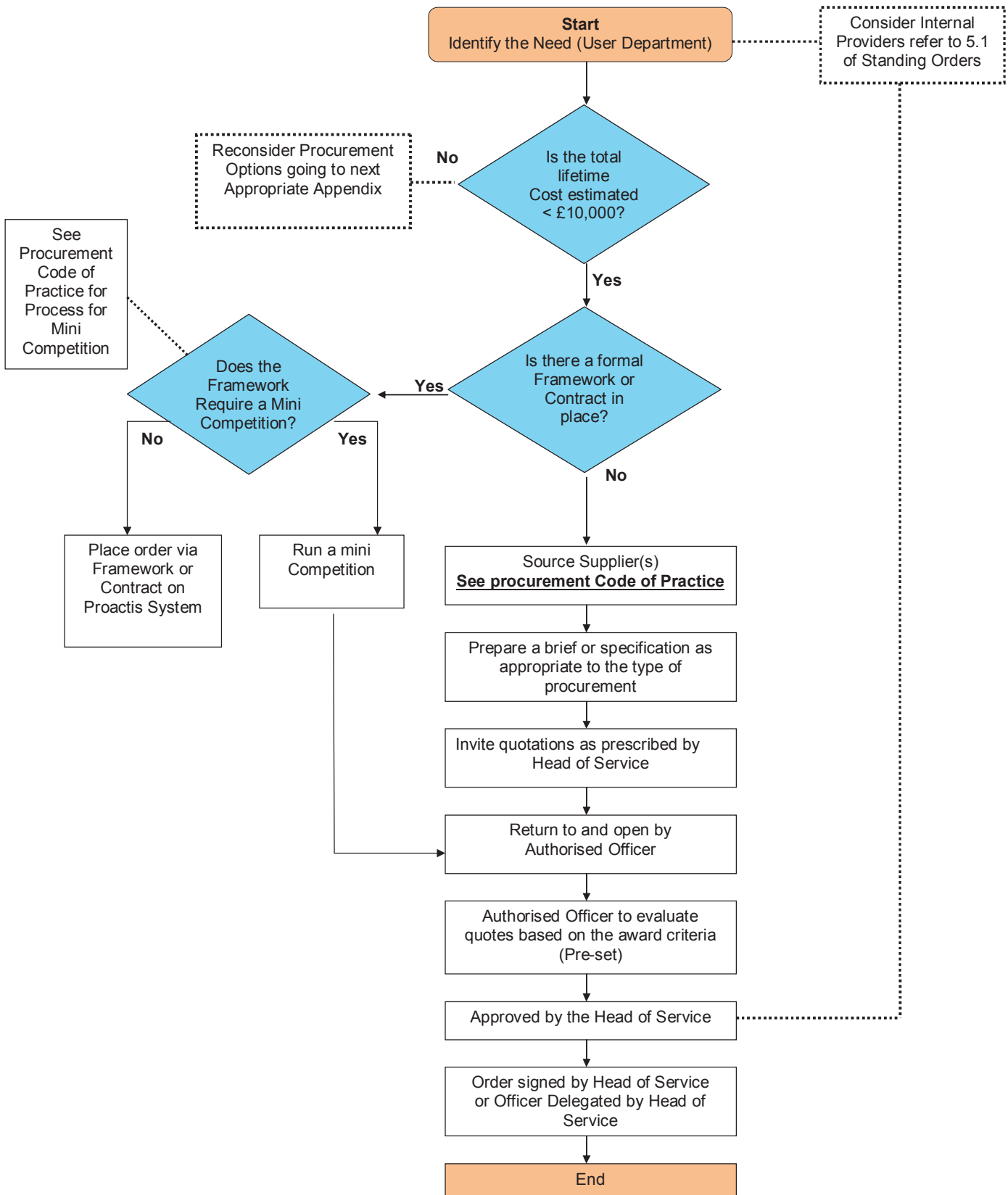
- 31.1 A Corporate Contracts Register of all Contracts over the value of £10,000 shall be administered by the Corporate Procurement Unit and all qualifying contracts must be input by the Authorised Officer.
- 31.2 For every individual Contract above £10,000 a contracts file shall be maintained with appropriate documentation as detailed within the Procurement Code of Practice.

32. Waiver of Standing Orders for Contracts

- 32.1 Approval of waiver of any of these Contract Standing Orders shall only be given in exceptional circumstances and only following a written report to S.151 Officer, following consultation with and the written approval of the Head of Procurement and the Corporate Director with responsibility for Procurement.
- 32.2 When consulting with the Head of Procurement and the Corporate Director with responsibility for Procurement, the originator of the report requesting a waiver of Standing Orders is responsible and accountable for making sure that the contents of the report are factually correct. The originator of the report should ensure that all supporting documentation is retained on an easily accessible file for auditing purposes. Should it be found that incorrect information has been knowingly or negligently submitted or omitted in order to obtain approval for a waiver of these Standing Orders the originator of the report may be subject to the Council's disciplinary procedures.

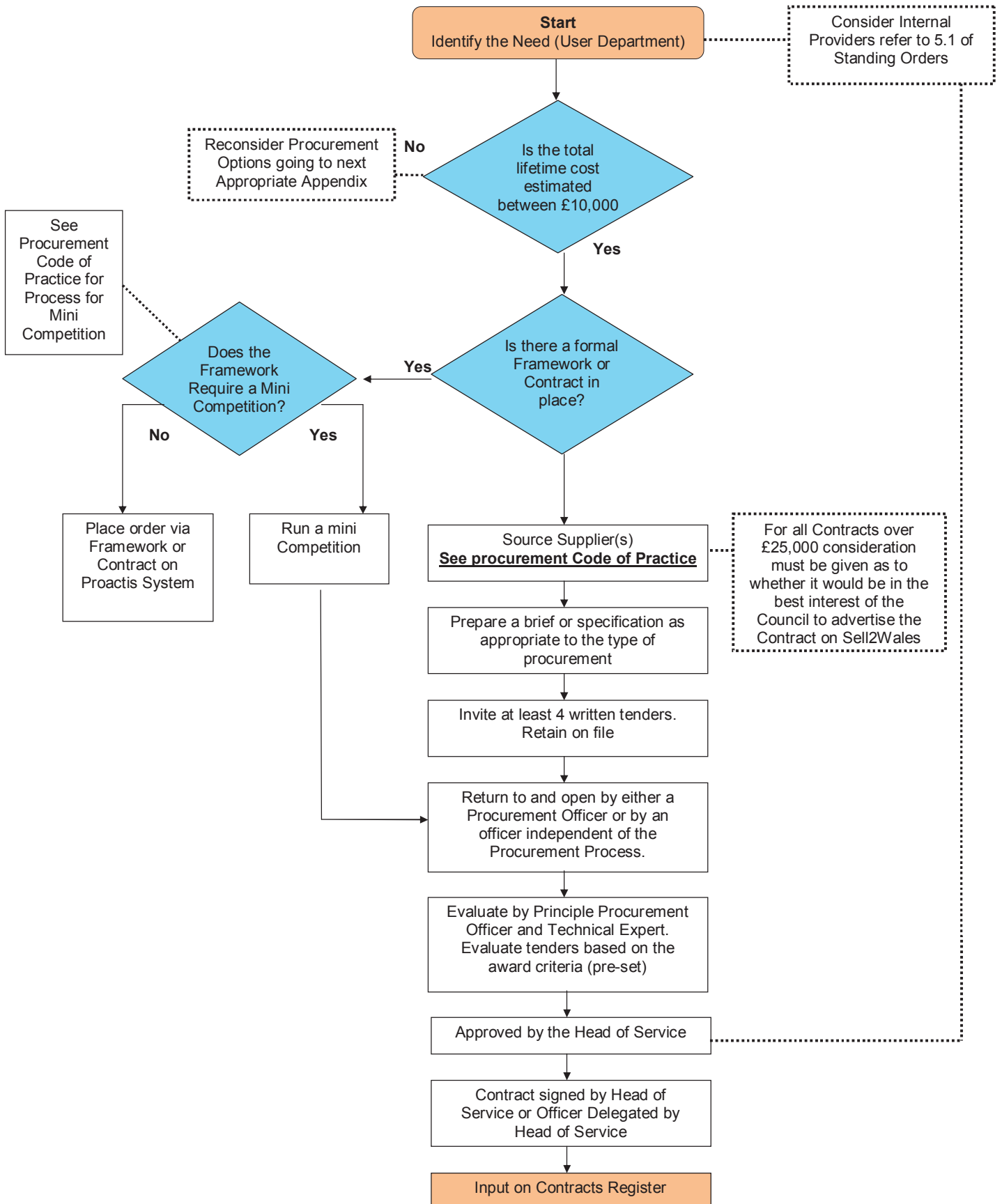
Appendix A: Low Value Procurement (Quotations) below £10,000

Estimating the contract value should always take into account the provisions of para. 12.



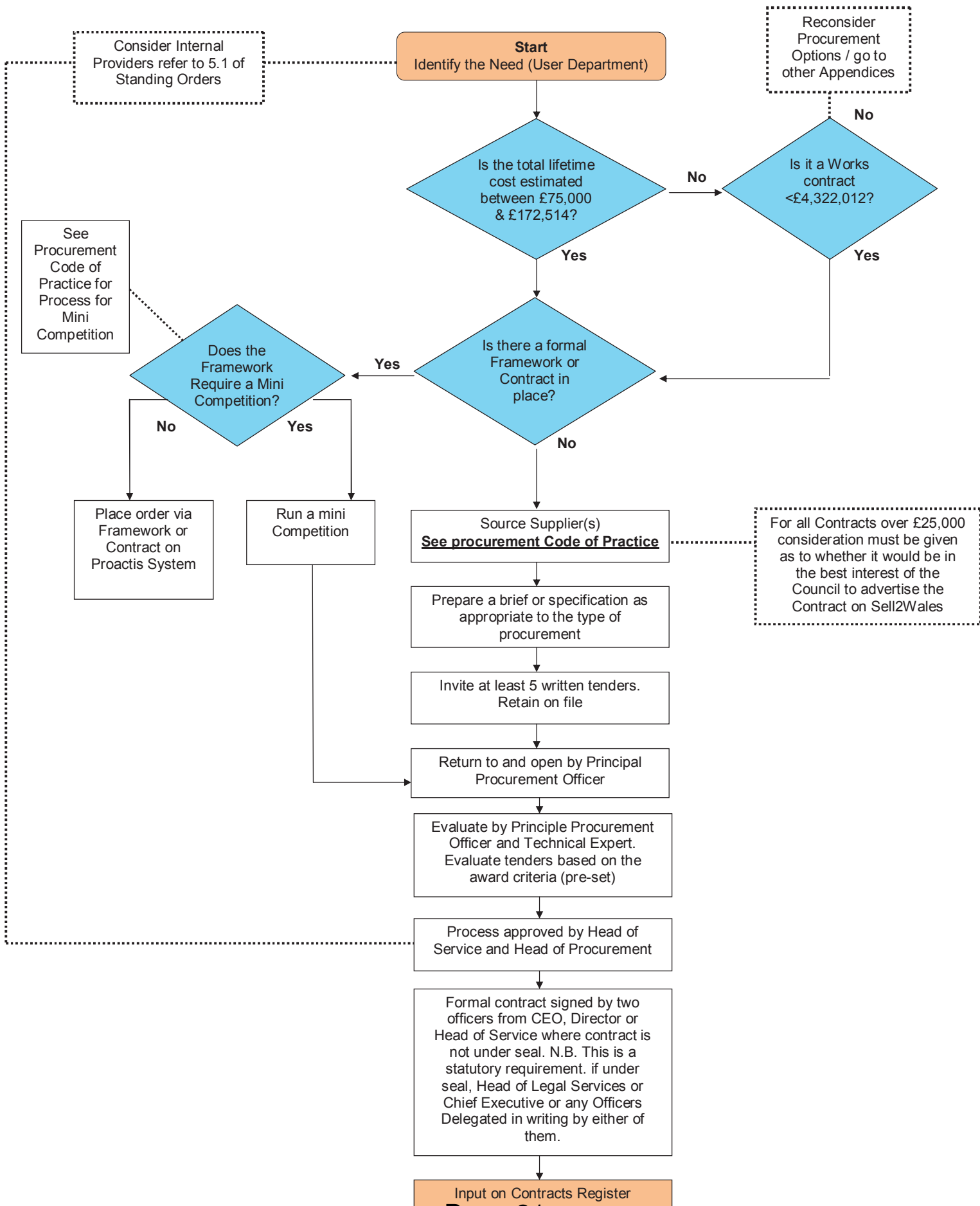
Appendix B: Intermediate Value Procurement (Tenders) between £10,000 and £75,000

Estimating the contract value should always take into account the provisions of para. 12.



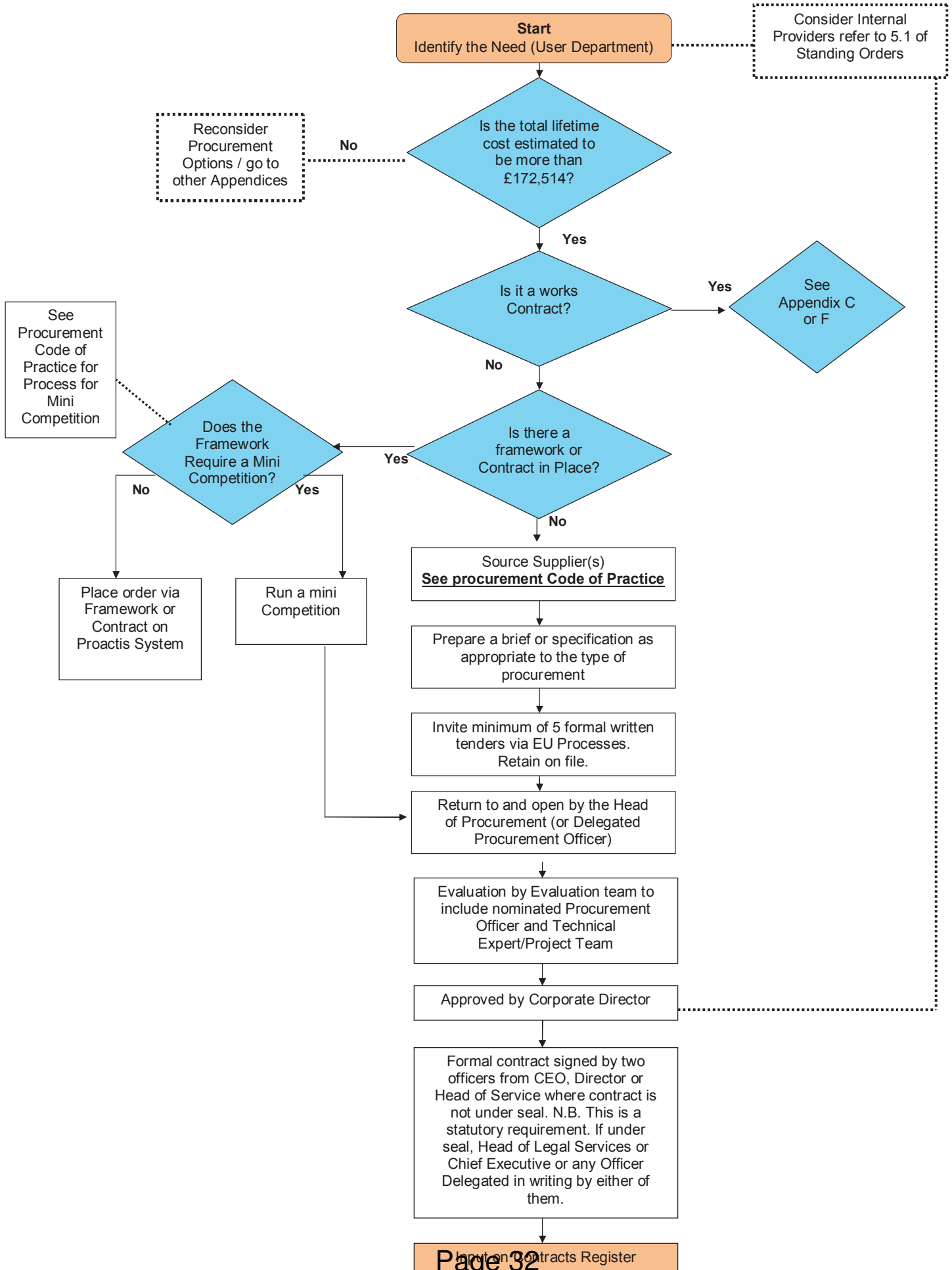
Appendix C: Medium Value Procurements (Tenders) - Between £75,000 and £172,514 (for Goods and Services) or less than £4,322,012 (for Works).

Estimating the contract value should always take into account the provisions of para. 12.



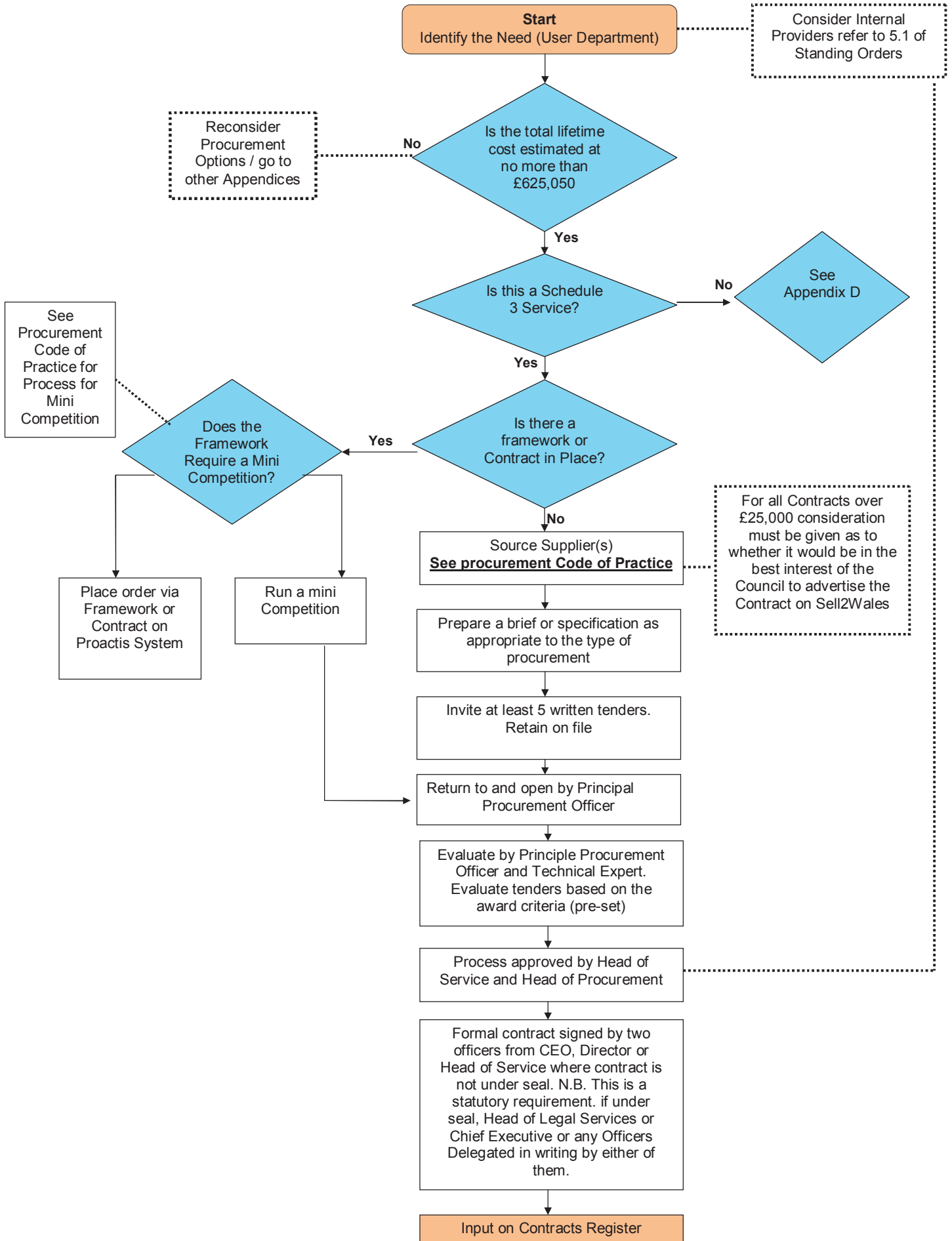
Appendix D: High Value Contracts for Goods & Services (Tenders) – Over £172,514

Estimating the contract value should always take into account the provisions of para. 12.



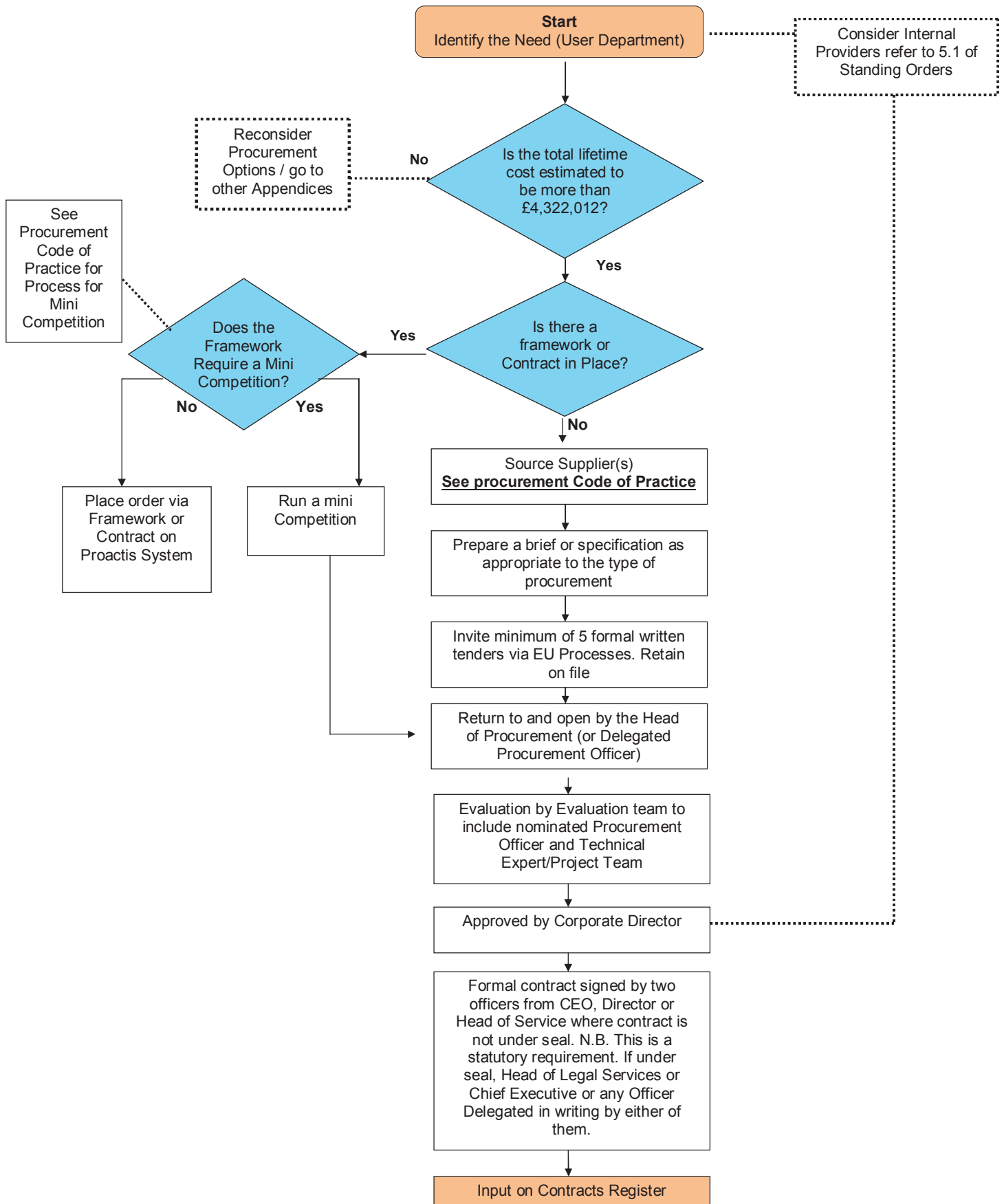
Appendix E: Schedule 3 Services (Light Touch Regime) between £75,000 and £625,050

Estimating the contract value should always take into account the provisions of para. 12



Appendix F: High Value Contracts for Works (Tenders) – Over £4,322,012

Estimating the contract value should always take into account the provisions of para. 12.



Procurement Services – Document Control Sheet

Document Reference: **Standing Orders for Contracts 2010 – Log of Changes**

Issue	Date	Originator	Authorisation
V0.1	September 2010	Rebecca Francombe	Document came into place
V0.2	January 2011	Rebecca Francombe	Minor changes – See log
V0.3	May 2012	Rebecca Francombe	Minor changes – See log
V0.4	13/09/2013 / 22/11/2013	Rebecca Francombe	Issued following LL producing documents for changes in Standing Orders Document from V0.3 (May 2012) to V0.4 (Nov 2013) – Following Full Council (accepted changes) - Minor Changes made
V0.5	01/01/2014	Rebecca Francombe	Changes made to Value for EU Threshold
V0.6	27/03/2015	Ian Evans	To reflect the changes in the EU Public Contracts Regulations 2015.

The document control process attempts to ensure that in all cases all staff use the latest version of an approved document, where appropriate. No changes in the template format of the live document should be made without the approval of Anne Knibbs who controls the 'Document Control Register'. Any queries, issues, changes required should be referred to Anne Knibbs by email in the first instance.

Standing Orders Document Control Log

<u>Version</u>	<u>Title of Section</u>	<u>Clause Number</u>	<u>Action</u>	<u>Revised Wording</u>
V0.6	Index	7	Add In	Preliminary Market Consultation
		8	Add In	Division of Contracts into Lots
		17	Add In	High Level Schedule 3 Services (Light Touch Regime) between £75,000 and £625,050
		22	Add In	Abnormally Low Tenders
		App E	Add In	Appendix E: High Level Schedule 3 Services (Light Touch Regime) between £75,000 and £625,050
V0.6	Form and Certification of Contracts	2	Amend to	The flowcharts in the Appendices set out the prescribed routes for all procurements in the five bands of contact value (A,B,C, D, E and F – see sections 13 to 18 below).
V0.6			Amend to	Contracts in Band C, D, E and F and those contracts specified by the Head of Legal Services shall be under seal and shall be attested by the Head of Legal Services or the Chief Executive or such other Officer Delegated in writing by either of them
V0.6	Compliance	3 3.1(b)	Amend to	The relevant European Procurement Rules (the EU Treaty, the general principles of community law and the European Union’s Public Contracts Directive (2014/24/EU) implemented by the Public Contracts Regulations 2015 or such other amendment or variation that may occur) ('Regulations');
V0.6		3.4	Add in	Officers shall take appropriate measures to effectively prevent, identify and remedy Conflicts of Interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all Contractors as set out in the Regulations.
V0.6		3.5	Amend to	All contracts must contain a provision allowing the Council to terminate without compensation in the event that there has been actual or attempted fraud or corruption in connection with the procuring, continuation, renewal or performance of the contract. Including appropriate exclusion grounds as set out in the Regulations.
	Exempt Contracts	(f)	Amend to	The award of contracts for 'emergency' individual placements will remain at the discretion of the Corporate Directors with responsibility for Education & Lifelong Learning and Social Services in accordance with the Regulations.

V0.6	Internal Providers	5.2	Amend to	Where the in-house provider is able to and has the capacity to undertake the works, the works should automatically be allocated subject to approval of the relevant Head of Service and in accordance with any funding terms and conditions and such decisions shall be recorded in writing. If in such a case the relevant Head of Service does not wish to use the in-house provider then they must seek approval from the Council's Corporate Management Team prior to the commitment of the procurement.
V0.6	Preliminary Market Consultations	7.1	Add In	Before commencing a Procurement the Council may conduct market consultations with a view to preparing the procurement and informing Contractors of the Council's procurement plans and requirements, including seeking or accepting advice from independent experts or Contractors.
V0.6		7.2	Add In	Prior to undertaking market consultation, advice and guidance must be sought from the Head of Procurement to ensure that such preliminary consultation does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency
V0.6	Division of Contracts into Lots	8.1	Add In	The Council may where it considers appropriate decide to award a contract in a form of separate lots and may determine the size and subject matter of such lots in accordance with the Regulations.
V0.6		8.2	Add In	Where the Council has decided not to subdivide a contract into lots it shall provide an indication of the main reasons within the procurement documentation or as provided within the Regulations.
V0.6	Collaborative Arrangements	11.1	Amend to	When a requirement can be fulfilled through an existing arrangement already established by another Public Sector Organisation and the requirements of the Regulations complied with by that Public Sector Organisation, the arrangement will be in compliance with these Standing Orders for Contracts. This includes purchasing through arrangements that have been entered into for example but not limited to National Procurement Service (NPS), Crown Commercial Services (CCS) and the Welsh Purchasing Consortium (WPC).
V0.6	Estimating the Contract Value	12.1	Amend to	For the sake of consistency, all Contract values should be calculated, strictly in accordance with the Regulations. For the purposes of these Standing Orders the value of any contract shall be taken as the value or consideration for the contract as a whole over the contract period (which is normally a three or four year period). The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for supplies, services or works shall not be split (disaggregated) in an attempt to avoid the applicability of these Standing Orders for Contracts or the Regulations.

V0.6		12.2		The evaluation of cost shall be carried out on the basis that the Council seeks the most economic packaging of the contract. Deliberate downsizing of contracts in order to avoid any provisions of Standing Orders of Contracts or the Regulations shall not be permitted.
V0.6	Schedule 3 Services (Light Touch Regime) between £75,000 and £625,050 (Band E)	17	Add in	See Appendix E
V0.6	High Value Contracts for Works (Tenders) – Over £4,322,012 (Band F)	18	Add in	See Appendix F
V0.6	Errors in Tenders/Quotations and Non-Compliant Tenders/Quotations	21	Amend to	Tenders/Quotations which do not comply with the Council's requirements as set out in the invitation to tender/quote or which contain minor errors must be dealt with strictly in accordance with advice received from the Head of Procurement (or Delegated Procurement Officer). For example in the event that a genuine pricing and/or arithmetical error has been made by the contractor which has come to the attention of the Council prior to a contract award being made, in such a case, they may be given an opportunity to correct that error. Unless considered proportionate in accordance with the Regulations no other adjustment, revision or qualification is permitted. All areas of rectification or clarification must be conducted in writing.
V0.6	Abnormally Low Tenders	22.1	Add in	Where as a result of identifying that the overall tendered price or costs raises significant doubts that the Contractor will be able to complete the contract within the contract terms, the Council shall require tenderers to explain the price or costs proposed. This must be undertaken in accordance with the Regulations and in consultation with the Head of Procurement.
V0.6	Post Tender Negotiation	23.1	Amend to	Where procurement is conducted pursuant to the Regulations, no post-tender negotiations are permitted. The Head of Service may seek clarification from tenderers where appropriate in consultation with the Head of Procurement. Negotiations on price are never permissible except where provided for within the Regulations.
V0.6		23.2		Where procurements do not need to strictly comply with the Regulations the Head of Procurement may authorise negotiations if considered to be in the best interest of the Council in accordance with guiding principles of the Regulations.
V0.6		23.3		At all times during the procurement process the Council shall ensure that all tenderers are treated equally and in a non-discriminatory, transparent and proportionate manner.

V0.6	Contract Award Notice	24	Amend to	Where a contract has been tendered pursuant to the Regulations, the Council shall publish a contract award notice in the Official Journal of the European Union no later than 30 days after the date of award of the contract or such other requirements or time limits as are set out in the Regulations. This will be done by the Head of Procurement (or Delegated Procurement Officer).
V0.6	Contract Terms and Conditions	25.1	Amend to	The relevant Head of Service shall use their best endeavours to ensure that Contracts are entered into on the appropriate set of Council's terms and conditions, which shall be included with each purchase order or invitation to tender. Where this is not possible, variations to the relevant Council terms and conditions and/or the terms and conditions submitted by a contractor must be formally approved in writing by the Head of Legal Services. However, no amendment to the Council's terms and conditions or the terms and conditions submitted by a Contractor shall contravene the requirements set out within the Regulations and in particular but not limited to Regulation 73.
		25.3		Where the terms do not expressly provide for extension and prior to the expiry of the contract, if it is felt to be in the Council's interests to extend a contract, then this can only be to the extent that the Regulations allow. For instance, if the Regulations apply to the goods, works or services under the contract and if the value of the proposed extension exceeds the relevant threshold, then this is likely to be regarded as a new contract and should be competitively procured, unless one of the narrow exceptions in the Regulations applies. In cases to which the Regulations do not apply, any extension must be by negotiation in accordance with the guiding principles of the Regulations. In all cases, the extension must follow the rules set out in the Procurement Code of Practice and be approved by the relevant Head of Service and reported to the Head of Procurement for information prior to the extension becoming legally binding on the Council.
V0.6	Sub-Contracting	29	Amend to	Any form of Council sub-contracting must comply fully with these Standing Orders for Contracts and the Regulations.
V0.6	Consultants	30.2	Amend to	Where the Council uses consultants to act on its behalf in relation to any procurement, then the Head of Service shall ensure that the consultants carry out any procurement in accordance with these Standing Orders for Contracts. No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to. The Head of Service shall ensure that the consultant's performance in relation to procurement is in accordance with these Standing Orders for Contracts and the Regulations.

V0.6	Waiver of Standing Orders for Contracts	32.1	Amend to	Approval of waiver of any of these Contract Standing Orders shall only be given in exceptional circumstances and only following a written report to S.151 Officer, following consultation with and the written approval of the Head of Procurement and the Corporate Director with responsibility for Procurement.
		32.2		When consulting with the Head of Procurement and the Corporate Director with responsibility for Procurement, the originator of the report requesting a waiver of Standing Orders is responsible and accountable for making sure that the contents of the report are factually correct. The originator of the report should ensure that all supporting documentation is retained on an easily accessible file for auditing purposes. Should it be found that incorrect information has been knowingly or negligently submitted or omitted in order to obtain approval for a waiver of these Standing Orders the originator of the report may be subject to the Council's disciplinary procedures.
V0.6	Appendix A	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12
		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
V0.6	Appendix B	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12
		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
		End	Amend to	Input on Contracts Register
V0.6	Appendix C	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12
		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
		End	Amend to	Input on Contracts Register
V0.6	Appendix D	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12
		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
		End	Amend to	Input on Contracts Register
V0.6	Appendix E	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12

		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
		End	Amend to	Input on Contracts Register
V0.6	Appendix F	Information	Amend to	Estimating the contract value should always take into account the provisions of para. 12
		Adjacent to Start	Add In	Consider Internal Providers refer to 5.1 of Standing Orders
		End	Amend to	Input on Contracts Register

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COUNCIL – 21ST APRIL 2015

SUBJECT: WELSH GOVERNMENT WHITE PAPER, REFORMING LOCAL GOVERNMENT: POWER TO LOCAL PEOPLE

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To advise Members of the content of the recent White Paper on Local Government, and of the draft response prepared by the Welsh Local Government Association (WLGA).
- 1.2 To invite Members to endorse the draft WLGA response and / or make other comments they see fit as part of the consultation currently being undertaken by Welsh Government on the White Paper.

2. SUMMARY

- 2.1 Welsh Government has published a White Paper on the future of local government in Wales. Consultation on the White Paper closes on the 28th April 2015. The full text of the White Paper and an online consultation response form can be found at <http://wales.gov.uk/consultations/localgovernment/power-to-local-people/?lang=en>.
- 2.2 The White Paper sets out Welsh Government's vision for local government. It contains ambitions for:
 - "Activist councils" working more closely with communities;
 - A limited set of national priorities and standards, with other priorities set at a local level;
 - More diverse membership of local authorities;
 - Reducing the cost of local government;
 - Empowering local people to be more involved in service delivery and decision making.
- 2.3 The Welsh Local Government Association has prepared a draft response to the White Paper which is attached to this report. This response deals with most of the significant questions posed by Welsh government in their consultation document.
- 2.4 Members are invited to consider whether to support this WLGA draft response and / or to offer other views which the authority should submit. Individual members and political groups are entitled to submit responses in their own right if they so wish.

3. LINKS TO STRATEGY

- 3.1 This White Paper is a highly significant development which could have a major influence on the future shape and role of local government in Wales.

4. THE REPORT

- 4.1 Welsh Government has published a White Paper on the future of local government in Wales. Consultation on the White Paper closes on the 28th April 2015. The full text of the White Paper and an online consultation response form can be found at <http://wales.gov.uk/consultations/localgovernment/power-to-local-people/?lang=en>
- 4.2 The White Paper sets out Welsh Government's vision for local government. It contains ambitions for:
- "Activist councils" working more closely with communities;
 - A limited set of national priorities and standards, with other priorities set at a local level;
 - More diverse membership of local authorities;
 - Reducing the cost of local government;
 - Empowering local people to be more involved in service delivery and decision making.
- 4.3 Some parts of the White Paper have attracted significant publicity. These include changes to the way local authorities are elected, including limits on the number of terms elected members can serve.
- 4.4 However, the White Paper includes many other far-reaching ideas which have not been so well publicised.
- 4.5 The White Paper includes proposals regarding the powers, structure and procedures for new authorities which will be formed from mergers of existing authorities. The new authorities will be known as 'counties' but will have the power to appoint Mayors, which is not currently possible in county authorities. Consideration will be given to having new, streamlined constitutions for these new councils, and there could be legislation to provide a general power of competence for these new councils. There would also be more flexible powers to allow authorities to contract out services or to work in partnership with other councils nationally or more locally.
- 4.6 'Renewing Democracy' is another of the key themes in the White Paper. This section deals with options around local government elections (e.g. electing part of the council each year or having fixed terms of 4 or 5 years). It also looks at the role and responsibility of the Leader, Cabinet Members, and Elected Members generally. There is discussion of reducing the size of Cabinets, and having fewer 'senior' full time Cabinet positions, with some becoming 'deputy' positions. Promoting greater diversity amongst local authority membership, and in senior roles, figures prominently in the White Paper.
- 4.7 The Paper looks at reducing the number of councilors, raising the current ratio in Wales (each councilor serving on average 2,401 electors) closer to the English position (1:3,914 electors) or even Scotland (1:4,259).
- 4.8 There could be term limits of five terms for elected members and two terms for continuous service for Leaders and Cabinet Members. There is also consideration of a power of recall of councillors if, for example, there have been sanctions imposed on a councillor by a Standards Committee or the Independent Adjudication Panel and 10% of the electors sign a petition demanding a new election.
- 4.9 The White Paper also looks at the role of Chief Executives and senior managers. There are suggestions included as to term limits for chief executives and more consistency in the number of senior officers in each authority and their remuneration.
- 4.10 A large part of the White Paper looks at the relationship between local government and community organisations, and with Town and Community Councils. Wider powers are envisaged for Community Councils who can pass the test of 'competency' and greater

powers are proposed for community groups who wish to effect 'asset transfer' from local government, or who wish to be given a greater role in service provision.

- 4.11 New models of service provision receive consideration, including co-operative and mutualised forms of delivery. There is an expectation that authorities procure services from "...*the best value provider...*" and that Councils "... *work with other Councils, Community Councils, co-operatives and mutuals, and their local community to develop new models of service delivery*".
- 4.12 The White Paper also looks at several options regarding the monitoring of performance in local government, and options for intervention in authorities where deemed necessary.
- 4.13 These are some of the many wide-ranging and highly significant proposals to be found in the White Paper.
- 4.14 The draft response of the Welsh Local Government Association is included at Appendix 1 to this report. This response deals with most of the major questions posed by the White Paper, and in a separate on-line consultation form.
- 4.15 Members are invited to consider whether they agree with and wish to endorse the WLGA's draft response. Members may alternatively wish to offer a different view on any or all of the issues contained within the White Paper. Individual Members and political groups are also free to respond separately if they so wish.

5. EQUALITIES IMPLICATIONS

- 5.1 No equality impact assessment has been undertaken on this report as it has no implications on service delivery at this time.

6. FINANCIAL IMPLICATIONS

- 6.1 There may be significant financial implications arising from many of the provisions in the White paper but these will be subject to whatever final decision is reached on each of the individual proposals by Welsh Government over time..

7. PERSONNEL IMPLICATIONS

- 7.1 None at this time, dependent on what proposals emerge following the White Paper.

8. CONSULTATIONS

- 8.1 All consultation responses have been reflected in this report.

9. RECOMMENDATIONS

- 9.1 Council is requested to:
 - (i) Consider whether or not to endorse the WLGA Draft response to the White Paper;
 - (ii) Consider whether or not to make any other observations or response to the White Paper.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To respond to this highly important consultation paper from the Welsh Government.

11. STATUTORY POWER

11.1 Not applicable

Author: Chris Burns, Interim Chief Executive
Consultees: Cllr Keith Reynolds, Leader and Leader of the Labour Group.
Cllr. Colin Mann, Leader Plaid Cymru Group
Cllr Dave Rees, Leader Independent Group

Appendices:
Appendix 1



Independent Remuneration Panel for Wales

Annual Report

February 2015



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Foreword



This is our seventh Annual Report since the Panel was established in 2008 and is the fourth Annual Report since the approval of the Local Government (Wales) Measure 2011 ('the Measure')¹.

In 2013 we revisited the 22 principal authorities, the 3 national park authorities (NPAs) and the 3 fire and rescue authorities (FRAs) to discuss how our determinations were working in practice and what matters we should address in our Annual Report. This resulted in a number of significant changes to the Panel's remuneration framework in its Annual Report published in February 2014.

In that Report, and in order to enable flexibility at a local level, the Panel introduced the opportunity for principal authorities to apply for specific or additional senior salaries outside the remuneration framework. To date only one application has been received.

This year we decided to undertake further work on the remuneration of civic heads. The Panel circulated a questionnaire and arranged three regional sessions with those officers who provide support to civic heads and their deputies to ascertain the extent of the use of the local flexibility that has now been introduced into our framework and to gather more information about the remuneration of and support to the civic roles.

We also circulated a questionnaire to the clerks of all town and community councils in Wales to establish the extent to which those councils had utilised the determination in our December 2012 Annual Report which allowed them to make a payment to each of their members of a maximum of £100 per year for costs incurred in respect of telephone usage, information technology, consumables etc. Only 11.5% of the 735 councils responded which was very disappointing and meant that the Panel has not been able to establish a clear picture of the use of this permissive arrangement.

Last year the Panel decided, given the very modest relaxation in the constraints on public sector pay and also to prevent a further erosion of relative levels of remuneration, to increase the basic salary for members of principal authorities by 0.9% from spring 2014, and to increase other payments proportionately. This year we have decided that there will be no increase in remuneration in 2015/16 given the continuing constraints on local government spending.

The Panel remains concerned at the inconsistency of support provided to members to enable them to discharge their functions effectively and has made a number of amendments to its previous determinations to ensure there is greater consistency across Wales. We are also concerned that some councillors have not always fully utilised the support that has been provided through the Panel's remuneration framework and urges all those involved to ensure that the Panel's determinations are

¹ <http://www.legislation.gov.uk/mwa/2011/4/contents/enacted>.

fully implemented and that individual councillors are encouraged to access all the support available including the Care Allowance.

The Panel has noted reports in the media indicating that a number of local authorities intended to take or had made a decision on behalf of all members not to implement the modest increase in basic salary and other payments. Monitoring Officers have been reminded by the Panel that any such decision would be *ultra vires*, and it appears that no local authority has in fact made such a decision.

The Welsh Government amended the Local Government (Wales) Measure 2011 by inserting section 143A that enables the Panel to take a view on any change to the salary of the Head of Paid Service (normally the Chief Executive or Chief Fire Officer) or anything in the Pay Policy Statement of an authority that relates to this post. The Welsh Government has subsequently issued guidance on this to the Panel.

The Panel has continued to contribute wherever possible through its determinations to enhancing diversity in local government in Wales. It has also taken steps to help broaden the Panel's membership when the opportunity occurs.

The Panel is keenly aware of the way the Welsh Government is progressing the work of the Commission on Public Service Governance and Delivery and will be liaising closely with the Local Democracy and Boundary Commission for Wales in preparation for the implementation of the various Acts that will determine the future shape of local government in Wales.

The Panel's determinations for 2015/16 can be found at Annex 1.

Finally, on behalf of the Panel I would like to put on record our appreciation of the support we receive for our work from the Welsh Government officials who constitute our secretariat.

Richard Penn
Chair

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Summary of payments to members and co-opted members of principal councils, community and town councils, national park authorities and Welsh fire & rescue authorities in 2015/16

Table 1: Maximum numbers of council membership eligible for payment of a senior salary

Council	Number of councillors	Number of senior salaries
Group A		
Cardiff	75	19
Rhondda Cynon Taf	75	19
Swansea	72	19
Group B		
Bridgend	54	18
Caerphilly	73	18
Carmarthenshire	74	18
Conwy	59	18
Flintshire	70	18
Gwynedd	75	18
Neath Port Talbot	64	18
Newport	50	18
Pembrokeshire	60	18
Powys	73	18
Vale of Glamorgan	47	18
Wrexham	52	18
Group C		
Blaenau Gwent	42	17
Ceredigion	42	17
Denbighshire	47	17
Isle of Anglesey	30	15
Merthyr Tydfil	33	16
Monmouthshire	43	17
Torfaen	44	17

Table 1 notes

(i) Following the commencement of the provisions of the Local Government (Democracy) (Wales) Act 2013 there is no longer a need for the Panel to express the limit on senior salaries in terms of percentages. It should be remembered, however, that the Measure restricts the maximum number of senior salaries to 50% of the membership of the council, unless Welsh Ministers agree that the Panel may

determine an increased proportion². That has implications for Merthyr Tydfil where the maximum number is 16 and for Isle of Anglesey where the equivalent number is 15 (both of which include civic salaries in respect of the posts of civic head and deputy civic head).

(ii) The civic salaries in respect of civic head and deputy civic head do not count towards the maximum proportion of senior salaries that a council is allowed to pay (except for the Isle of Anglesey and Merthyr Tydfil).

Table 2: Basic salary and senior salaries shall be payable as follows to members of principal councils

Basic salary (payable to all elected members) £13,300			
	Group A (Cardiff, Rhondda Cynon Taf, Swansea)	Group B (Bridgend, Caerphilly, Carmarthenshire, Conwy, Flintshire, Gwynedd, Newport, Neath Port Talbot, Pembrokeshire, Powys, Vale of Glamorgan, Wrexham)	Group C (Blaenau Gwent, Ceredigion, Denbighshire, Merthyr Tydfil, Monmouthshire, Torfaen, Isle of Anglesey)
Senior salaries (inclusive of basic salary)			
Band 1 Leader Deputy leader	£53,000 £37,000	£48,000 £33,500	£43,000 £30,000
Band 2 Other executive	£32,000	£29,000	£26,000
Band 3 Committee chairs:		£22,000	
Band 4 Leader of largest opposition group ³		£22,000	
Band 5 Leader of other political groups		£17,000	

² As set out in The Local Government (Wales) Measure 2011: Section 142; sub-section 5.

³ Leader of largest opposition group. See IRPW Regulations, Annex 2, Part 1(2) for a definition of "largest opposition group" and "other political group".

Table 2 Notes

(i) The Panel has determined that a council must make a senior salary available to the leader of the largest opposition group (subject to the 10% requirement).

Table 3: Civic salaries (where paid) shall be payable as follows to members of principal councils

Remuneration of civic leaders and deputy civic leaders <i>(inclusive of basic salaries)</i>		
	Civic leaders	Deputy civic leaders
a	24,000	18,000
b	21,500	16,000
c	19,000	14,000

Table 4: Fees for co-opted members (with voting rights) of local authorities (including national park authorities and fire and rescue authorities)

Chairs of standards committees and audit committees	£256 (4 hours and over) £128 (up to 4 hours)
Ordinary members of standards committees who also chair standards committees for community and town councils	£226 daily fee (4 hours and over) £113 (up to 4 hours)
Ordinary members of standards committees; education scrutiny committee; crime and disorder scrutiny committee and audit committee	£198 (4 hours and over) £99 (up to 4 hours)

Table 5: Basic and senior salaries shall be payable as follows to members of national park authorities (NPAs)

Basic salary	£3,600
Senior salaries (inclusive of basic salary)	
Chair ⁴ (Band 3)	£12,300
Deputy chair/committee chair (see note i)	
Level 1	£7,300
Level 2	£6,000

⁴ Brecon Beacons, Pembrokeshire Coast, Snowdonia.

Table 6: Basic and senior salaries shall be payable as follows to members of Welsh fire and rescue authorities (FRAs)

Basic salary	£1,700
Senior salaries (inclusive of basic salary)	
Chair ⁵ (Band 3)	£10,400
Deputy chair	£5,400
Committee chair (see note i)	£5,400

Tables 5 & 6 notes

(i) A National Park Authority / Fire & Rescue Authority senior salary can be paid to the chair, deputy chair, and up to two other members.

(ii) National Park Authorities and Fire & Rescue Authorities, as in the case of principal councils, can decide on the maximum number of days for which co-opted members may be paid in any one year.

⁵ Mid & West Wales, North Wales, South Wales.

1. Introduction

- 1.1 This is the seventh Annual Report of the Independent Remuneration Panel for Wales (the Panel), and the fourth published under the requirements of the Local Government (Wales) Measure 2011. The Measure extended the responsibilities of the Panel and its powers under Section 142 to decide (prescribe) payments to members of relevant authorities. This enabled the Panel to move beyond the previous limitation of setting maximum limits for member payments and the Panel has been able to use this power of prescription from April 2012. The Measure also extended the Panel's remit to include responsibility for the remuneration of members of National Park Authorities (NPAs), Fire and Rescue Authorities (FRAs) and Community and Town Councils.
- 1.2 The Panel, established by the Welsh Government in 2008, is now in its seventh year. It comprises five members appointed by the then Minister, Richard Penn, John Bader, Anne Abel, Stephen Mulholland and Gregory Owens. Richard Penn is the Panel member appointed as Chair by the Minister and John Bader is the Vice Chair elected by members of the Panel.
- 1.3 In the determinations for this Annual Report the Panel has continued to take into account affordability and acceptability, given the ongoing constraints on local authority budgets.
- 1.4 Although there has been an increase in population throughout Wales, the 2011 census⁶ did not indicate that this has been sufficient to move any principal council to a higher population group and the Panel's framework is unchanged in respect of population groups.
- 1.5 As with the Panel's previous Reports, and no less now under the Measure, its determinations on member remuneration are underpinned by a set of principles set out in Section 2 of this Annual Report.
- 1.6 The Panel remains firmly of the view that maintaining the democratic values of local governance is not cost-free. Members of local authorities (including co-opted and appointed members) are there to represent the interests of local people, undertake the governance of local communities, and secure value-for-money public services for local tax-payers through effective scrutiny. These are significant and considerable tasks for relevant authorities within the Panel's remit. Publicly funded remuneration is made available to encourage a diversity of willing and able people to undertake local governance through their elected, appointed or co-opted roles.
- 1.7 In determining the level of payments to members of local councils, the Panel has sought to meet its principle of '*acceptability*' by ensuring that these are not '*so great as to require a significant diversion of resources from key council priorities*'. But Section 142(8) of the Measure is more explicit on '*affordability*'

⁶ 2011 Census table CP04: Usual resident population all ages, unitary authorities in Wales.

when it states that “*when setting an amount⁷ ...the Panel must take into account what it considers will be the likely financial impact of doing so on relevant authorities*”. Meeting the requirement of the Measure in regard to affordability has been a challenge for the Panel, not least because of public interest in the payments made to members. The Panel acknowledges that the issue of affordability – in relation both to relevant authorities’ service budgets and to the electorate’s disposable incomes – is likely to exert a powerful impact on the public perception of any proposed increases to members’ payments.

- 1.8 As a charge on the public purse, payments to members for their time, worth and responsibility must be, and must be seen to be, fair and affordable. The Panel’s determinations in its 2009 Report aligned payments to the median gross earnings of all full-time employees resident in Wales as reported in the Annual Survey of Hourly Earnings (ASHE). The basic salary was set at three-fifths of the All Wales Median Salary and senior salaries were set at multiples of this annual median salary. In setting these salaries the Panel recognised that there was an unpaid public service contribution.
- 1.9 Given the very modest relaxation in the constraints on public sector pay and also to prevent further erosion of the relative levels of remuneration, the Panel decided last year to increase the basic salary by 0.9% from spring 2014 and other payments were affected proportionately. The Panel considered that this would go a small way to prevent further erosion of the relative value of the basic salary that is paid in recognition of the duties expected of all elected members. This year has seen a continuation of the severe constraints on local government resources with local authorities being forced to reduce expenditure on services to the public. In view of this the Panel has, with some regret, decided not to increase remuneration in 2015/16. This will further compromise the alignment to median gross earnings in Wales that underpinned the basic salary set in 2009. This is a matter that the Panel intends to re-examine at an appropriate time in the future.
- 1.10 In 2013 we decided to revisit the 22 principal authorities, the 3 national park authorities (NPAs) and the 3 fire and rescue authorities (FRAs) to discuss how our determinations were working in practice and what matters we should address in the Annual Report 2014. This year we decided to focus on the remuneration of civic heads. The Panel circulated a questionnaire and arranged regional sessions with officers who provide support to civic heads and their deputies to ascertain the extent of the use of the local flexibility that was incorporated into the framework last year and to gather more information about the remuneration of civic heads and deputy civic heads. It is clear that whilst there has been variation between councils in the remuneration of civic heads and their deputies, payment has in the main been aligned to the population group for each council rather than taking the opportunity to assess the responsibilities and workloads involved.

⁷ <http://www.legislation.gov.uk/mwa/2011/4/contents/enacted>.

- 1.11 We also circulated a questionnaire to the clerks of all town and community councils in Wales to establish the extent to which those councils had utilised the determination in our December 2012 Annual Report that enabled those councils to make a payment to each of their members of a maximum of £100 per year for costs incurred in respect of telephone usage, information technology, consumables etc. There was a very disappointing response, with less than 11.5% of questionnaires completed and returned, so it has not been possible to establish a clear picture of the situation. The Panel will be undertaking additional evidence gathering and will consult again with town and community councils in Wales in 2015 to further develop the remuneration framework that applies to these councils.
- 1.12 The Panel remains concerned at the wide variation and inconsistency of support provided to members to enable them to discharge their functions effectively. The Panel has determined that such support should be provided without cost to the individual elected member. Costs of support must be appropriate, reasonable and publicly declared. Deductions must not be made from members' salaries by the respective authority as a contribution towards those support costs which the authority considers necessary for the effectiveness and/or efficiency of members. However, the Panel is aware that a number of authorities have not fully implemented the Panel's determinations in this regard and has therefore made amendments to its previous determinations to ensure there is greater consistency across Wales. The Panel is also concerned that councillors have not always utilised the support that has been provided through the Panel's remuneration framework, particularly in respect of the care allowance. In some instances this is because the relevant council officers do not always fully implement the Panel's determinations at a local level, but more often it is because some members are reluctant to claim all that they are entitled to claim in support of their work, particularly the care allowance, because of concerns about the adverse publicity this can attract. The Panel urges all those involved to ensure that the Panel's determinations are fully implemented and that individual members are encouraged to access all the available support, including the care allowance.
- 1.13 The Panel has been concerned at media reports indicating that some local authorities intended to take a decision on behalf of all members not to implement the modest increase this year in basic salary and other payments. The Panel Secretariat wrote to all Monitoring Officers to remind them that any such decision would be *ultra vires*, and it appears that no local authority has in fact made such a decision.
- 1.14 Section 63 of The Local Government (Democracy) (Wales) Act 2013 amended the Local Government (Wales) Measure 2011 by inserting Section 143A. This requires that any principal council or fire and rescue authority that intends to change the salary of its Head of Paid Service must consult the Panel unless the change is in keeping with changes applied to other officers. Section 143A also enables the Panel to take a view on anything in the Pay Policy Statement of an authority that relates to the salary of the Head of Paid Service (normally the Chief Executive or Chief Fire Officer). The Panel's approach to its use of this

power is set out in Section 11 of this Report and accords with the guidance issued to the Panel by the Welsh Government that can be found at Annex 5.

- 1.15 The Panel has continued to contribute wherever possible to enhancing diversity in local government in Wales through its determinations. It has also taken steps along with the Public Appointments Unit that should help broaden the Panel's membership when the opportunity occurs. The Panel responded to an invitation from the then Minister for Local Government and Government Business to report on its approach to increasing diversity within its membership. The report can be found on the Panel's website⁸.
- 1.16 Section 153 of the Measure empowers the Panel to monitor relevant authorities' compliance with its requirements. An examination of the level of compliance by principal authorities revealed that over half of the councils had significant deficiencies in respect of the requirements relating to the Schedule of Member Remuneration and the publication of remuneration as set out in Annual Reports. Although specific concerns were raised with individual authorities and actions taken to address them, the Panel continues to emphasise the importance of providing accurate and timely information about payments to councillors that can be readily accessed by members of the public. In the spring of 2015 Panel members will be meeting with democratic service officers to discuss measures to achieve improving the consistency and ease of access to this information in the future.
- 1.17 The Panel recognises the importance that Welsh Government places on effective scrutiny as an essential element of the cabinet system of local government. Since the Panel was formed members have visited all principal councils in 2009 and 2013. There is a clear indication that during the period between these visits there have been encouraging developments in the way scrutiny is undertaken although there is inconsistency in the manner it is delivered. The Panel has met with the Welsh Government's Scrutiny Reference Panel and will use the outcomes of that Panel's research to inform future determinations in relation to the scrutiny function.
- 1.18 The Panel is also very aware of the way the Welsh Government is progressing the work of the Commission on Public Service Governance and Delivery and will be liaising closely with the Local Democracy and Boundary Commission for Wales in preparation for the implementation of the legislation that will determine the future shape of local government in Wales.

⁸ <http://wales.gov.uk/docs/dsjlg/publications/140926-irp-report-on-local-diversity.pdf>

2. The Panel's Framework: Principles of Remuneration

Upholding trust and confidence

- 2.1 Citizens rightly expect that all those who choose to serve in public authorities uphold the public trust by embracing the values and ethics implicit in such public service. The Principles underpin the contribution that the work of the Panel and its Framework make towards upholding public trust and confidence.

Simplicity

- 2.2 The Framework is clear and easily understandable. This is essential for the Panel to be able to communicate its priorities effectively to all those who are affected by, or who have an interest in, its work.

Remuneration

- 2.3 The Framework provides for payment to members of public authorities who carry a responsibility for serving their identified communities of geography and of interest. The level of remuneration should not act as a barrier to taking up or continuing in post. There should be no requirement that resources necessary to enable the discharge of duties are funded from the salary. The Framework provides additional recompense for those who are given greater levels of responsibility.

Diversity

- 2.4 Democracy is strengthened when the membership of public authorities adequately reflects the demographic and cultural make-up of the communities such authorities serve. The Panel will always take in to account the contribution its framework can make in encouraging the participation of those who are significantly under-represented at local authority level.

Accountability

- 2.5 Taxpayers and citizens have the right to expect to receive value for money from public funds committed to the remuneration of those who are elected, appointed or co-opted to serve in the public interest. The Panel works to ensure that all principal councils make information readily available about the activities of their members in support of public services. In particular, the Panel expects all local authority councillors to produce an annual report of their council-related activity.

Fairness

- 2.6 As an essential test of the framework's fairness, the Panel ensures that its decisions on remuneration for members take account of the earnings of the electorate in Wales. The framework will be capable of being applied consistently to members of all public authorities as a means of ensuring that levels of remuneration are fair, affordable and generally acceptable.

Quality

- 2.7 The Panel recognises that the complex mix of governance, scrutiny and regulatory duties incumbent upon members of principal councils requires all members to engage with a process of continuous quality improvement. The Panel expects each member of a local authority to undertake such training and personal development opportunities as are required to properly discharge the duties for which they are remunerated.

Transparency

- 2.8 Transparency of members' remuneration is in the public interest. Some members receive additional levels of remuneration by virtue of being elected or appointed to more than one public body. The framework serves to ensure that knowledge of all members' remuneration is made easily available to the public.

3. Payments to Elected Members of Principal Councils: Basic, Senior and Civic Salaries

Basic salary for elected members of principal councils

- 3.1 In view of the current public sector funding climate and the increase in the basic salary of 0.9% in our Annual Report February 2014, the Panel has determined there shall be no increase from spring 2015 in the level of basic salary for members of Principal Councils.

Determination 1: Basic salary in 2015/16 for elected members of principal local authorities shall remain at £13,300.

Note to Determination 1:

The Panel originally determined (IRP Annual Report December, 2009) that the payment of basic salary would be aligned to the median gross earnings of all full-time employees resident in Wales as reported in the Annual Survey of Hourly Earnings (ASHE). Given the pressures on public expenditure it was not possible for this alignment to be maintained. The Panel will revisit in a future report the basis on which the basic salary has been determined.

Senior salaries for elected members of principal councils

- 3.2 The limit on the number of senior salaries payable ('the cap') will remain in place. In 2015/16 the maximum number of senior salaries payable within each principal authority will not be altered and will be as set out in Table 1.

Table 1: Maximum numbers of council membership eligible for payment of a senior salary

Council	Number of councillors	Number of senior salaries
Group A		
Cardiff	75	19
Rhondda Cynon Taf	75	19
Swansea	72	19
Group B		
Bridgend	54	18
Caerphilly	73	18
Carmarthenshire	74	18
Conwy	59	18
Flintshire	70	18
Gwynedd	75	18
Neath Port Talbot	64	18
Newport	50	18
Pembrokeshire	60	18
Powys	73	18
Vale of Glamorgan	47	18
Wrexham	52	18
Group C		
Blaenau Gwent	42	17
Ceredigion	42	17
Denbighshire	47	17
Isle of Anglesey	30	15
Merthyr Tydfil	33	16
Monmouthshire	43	17
Torfaen	44	17

Table 1 note:

Responses to the Panel's consultation in 2013 indicated that whilst some councils would prefer an increase in the cap, almost all felt able to operate effectively within the designated maximum.

The senior salary bands

Determination 2: The Panel has determined that senior salary levels in 2015/16 for members of principal councils shall remain as set out in table 2.

Table 2: Basic salary and senior salaries payable to members of principal councils

Basic salary (payable to all elected members) £13,300			
	Group A (Cardiff, Rhondda Cynon Taf, Swansea)	Group B (Bridgend, Caerphilly, Carmarthenshire, Conwy, Flintshire, Gwynedd, Newport, Neath Port Talbot, Pembrokeshire, Powys, Vale of Glamorgan, Wrexham)	Group C (Blaenau Gwent, Ceredigion, Denbighshire, Merthyr Tydfil, Monmouthshire, Torfaen, Isle of Anglesey)
Senior salaries (inclusive of basic salary)			
Band 1 Leader Deputy leader	£53,000 £37,000	£48,000 £33,500	£43,000 £30,000
Band 2 Other executive members	£32,000	£29,000	£26,000
Band 3 Committee chairs (if remunerated):		£22,000	
Band 4 Leader of largest opposition group ⁹		£22,000	
Band 5 Leader of other political groups		£17,000	

Table 2 notes:

- a. The Panel considers that the leadership and executive roles (Band 1 and 2 salaries respectively) carry the greatest individual accountability and that ‘size of population’ remains a major factor in influencing levels of responsibility and the use of the three population groups (A, B and C) has therefore been retained.
- b. Committee chairs will continue to be paid at Band 3 level, regardless of local authority population size, although an individual authority may determine not to pay particular chairs.

⁹ Leader of largest opposition group. See IRPW Regulations, Annex 2, Part 1(2) for a definition of “largest opposition group” and “other political group”.

- c. The Panel is aware of the importance placed by the Welsh Government on the value of the scrutiny function for local democracy and has noted that in total there are currently 89 chairs of scrutiny who receive senior salaries. The Panel believes that this is a clear recognition of the importance of this function and anticipates that this will be maintained.
- d. The stipulation that an opposition group leader or any other group leader must represent at least 10% of the council membership before qualifying for a senior salary remains unchanged.
- e. The Panel has determined that a council must make a senior salary available to the leader of the largest opposition group. The range of responsibility and accountability of the leader of the largest opposition group varies across authorities. Nevertheless, the Panel remains of the view that payment for this position is important for local democracy.
- f. The Panel has determined that, if remunerated, a Band 5 senior salary of £17,000 must be paid to leaders of other political groups.
- g. See IRPW Regulations, Annex 2, Part 1(2) for a definition of “*largest opposition group*” and “*other political group*”.

Payments to civic heads and deputies (civic salaries)

- 3.3 The Panel remains of the view that it is appropriate for authorities to set remuneration levels which reflect activity and responsibility rather than population. It has set three levels of civic salary which can be paid by any authority according to local factors for each of these roles. For example, the civic head of a small council may be paid at the highest rate, whilst the civic head of a large council may be paid at the lowest rate, rates of payment to deputy civic heads may be similarly varied. This also allows for civic heads and their deputies in the same authority to be paid at different levels.
- 3.4 A council may decide not to apply any civic salary to the posts of civic head and/or deputy civic head.

Determination 3: The Panel has determined that (where paid) civic salaries within the following levels are payable (Table 3) and will be applied by principal councils as each considers appropriate, taking account of the anticipated workloads and responsibilities.

Table 3: Civic salaries (where paid) shall be payable as follows to members of principal councils

Remuneration of civic heads and deputy civic heads (inclusive of basic salaries)		
	Civic heads	Deputy civic heads
a)	£24,000	£18,000
b)	£21,500	£16,000
c)	£19,000	£14,000

Table 3 notes:

- a. The posts of civic head and deputy civic head are not included in the cap (with the exception of Isle of Anglesey and Merthyr Tydfil Councils).
 - b. The Panel's principle that members should not have to pay for the cost of the support (see paragraph 3.22) that is needed to carry out their duties applies also in respect of civic heads. The Panel recognises the range of provision made for civic heads in respect of transport, secretarial support, charitable giving and clothing. The Panel does not consider it appropriate for councils to expect or require that contributions towards any such provision should be met from the net senior salaries paid to civic heads.
- 3.5. In 2014 the Panel met with those officers who support these roles and further developed its understanding of the way these roles are carried out across Wales.
 - 3.6. These civic roles are senior posts within councils which are distinct from political or executive leadership. In addition to chairing major meetings the civic head is the authority's 'first citizen' and 'ambassador', representing the council to a wide variety of institutions and organisations, and this requires the post holder to exemplify and promote good citizenship.
 - 3.7. Deputy civic heads are often 'civic heads in waiting' for the following year, 'learning the ropes' by participating in a separate schedule of events as well as deputising for the civic head. Without this role it would not be possible for a council to fully meet the requirements for civic leadership and representation.
 - 3.8. The intention of the civic allowance as defined by sections 22(5) and 24(4) of the Local Government Act 1972 remains to allow a council to pay a chair and vice-chair of a council an allowance which it thinks fit for the purposes of meeting the expenses of those offices.
 - 3.9. In many instances civic heads receive secretarial support, are provided with transport for official duties and can access a separate hospitality budget which is managed and controlled by council officers.

- 3.10 The level of support given, the personal financial outlay and the level of activity during the year of office varies considerably between authorities and the size of authority does not necessarily relate to the commitment required of, or given by, civic heads.
- 3.11 All principal councils have a number of town and community councils within their areas, some of which have active civic heads, and this may have some impact on the workload of the principal council's civic head.
- 3.12 The Local Government (Democracy) (Wales) Act 2013 allows councils to appoint an additional post of presiding member whose role it will be to chair meetings of the whole council. Where appointed, there would be a consequential reduction in the responsibilities of the respective civic head.

Payments to presiding members

Determination 4: The Panel has determined that, where appointed and if remunerated, a presiding member must be paid a Band 3 senior salary of £22,000. This post will count towards the cap.

Determination 5: The Panel has determined that the post of deputy presiding member will not be remunerated.

Key factors underpinning the Panel's determinations:

- 3.13 The basic salary, paid to all members, is remuneration for the responsibility of community representation and participation in the scrutiny, regulatory and related functions of local governance at the time equivalent of three days a week. Any time commitment beyond three days is an unpaid public service contribution.
- 3.14 The remuneration of council leaders and executive members (Band 1 and Band 2 senior salaries) is based on the Panel's assumption that the roles are equivalent to full-time.
- 3.15 The prescribed salary and expenses must be paid in full to each member unless an individual has independently and voluntarily opted in writing to the authority's proper officer to forego all or any element of the payment.

The following must be applied:

- 3.16 An elected member must not be remunerated for more than one senior post within his or her authority (but see section 4 on JOSCs).
- 3.17 An elected member must not be paid a senior salary and a civic salary.
- 3.18 All senior and civic salaries are paid inclusive of basic salary.

- 3.19 If a council chooses to have more than one remunerated deputy leader, the difference between the senior salary for the deputy leader and other executive members should be divided by the number of deputy leaders and added to the senior salary for other executive members in order to calculate the senior salary payable to each deputy leader.
- 3.20 Members in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any NPA or FRA to which they have been appointed.

Supporting the work of local authority elected members

- 3.21 The Panel remains concerned that there has been wide variation and inconsistency of support provided to members. Some authorities made a flat rate payment; some provided IT equipment and consumables; some provided funded telephones/mobiles and/or tablets. Others made little or no provision, and in at least one instance a deduction was made from basic salary. Insufficient support potentially undermines the ability of members to discharge their functions effectively.
- 3.22 The Panel expects that the support provided should take account of the specific needs of individual members. The functions of Democratic Services Committees include a requirement to review the level of support provided to members to carry out their duties and the Panel would expect these committees to carry this out and bring forward proposals to the full council as to what is considered to be reasonable.
- 3.23 The Panel has been requested to give additional guidance in relation to the level of basic IT provision for members of principal authorities. The Panel is of the view that it is necessary for each elected member to have ready use of telephone and e-mail services, and to have electronic access to appropriate information via an internet connection. This comprises the necessary provision for a member to be in proper contact with council services and to maintain contact with those they represent. Many councils in Wales are committed to 'paperless working' and without electronic access a member would be significantly limited in his or her ability to discharge their duties. As indicated above it is the responsibility of each council through its Democratic Services Committee to establish its provision of support based on an assessment of the needs of its members. It would not be appropriate for such facilities only to be available within council offices within office hours. When specific training, additional needs or matters of disability apply, each authority will need to assess any particular requirements of individual members.

Determination 6: The Panel has determined that each authority, through its Democratic Services Committee, must ensure that all its members are given as much support as is necessary to enable them to fulfil their duties effectively. All elected members should be provided with adequate telephone and email facilities and electronic access to appropriate information.

Determination 7: The Panel has determined that such support should be without cost to the individual member. Deductions must not be made from members' salaries by the respective authority as a contribution towards the cost of support which the authority has decided necessary for the effectiveness and/or efficiency of members.

Reimbursement of travel, subsistence and care costs when on official business

Reimbursement of mileage costs

3.24 The Panel has determined that there will be no change to mileage rates which members are entitled to claim. All authorities may only reimburse travel costs for their members undertaking official business within and/or outside the authority's boundaries at current HMRC rates which are:

45p per mile	Up to 10,000 miles in a year by car
25p per mile	Over 10,000 miles in a year by car
5p per passenger per mile	Passenger supplement
24p per mile	Motor cycles
20p per mile	Bicycles

3.25 Authorities should pay mileage at the prescribed rates to a member who has been a passenger in a vehicle driven by someone else provided the authority is satisfied that a cost has been incurred by the member.

3.26 The Panel notes that the UK Government has announced in its Autumn Statement 2014¹⁰ that travel expenses paid to councillors by their local authority will be exempt from Income Tax and employee NICs. The exemption will be limited to the Approved Mileage Allowance Payment rates where it applies to mileage payments. This change will take effect from 6 April 2015.

Reimbursement of other travel costs

3.27 All other claims for travel must only be reimbursed on production of receipts showing the actual cost and will be subject to any requirement or further limitation that an authority may determine. Members should always be mindful of choosing the most cost effective method of travel.

3.28 The Panel noted that in some instances members with disabilities have been reluctant to claim legitimate travel expenses because of an adverse response

¹⁰ Paragraph 2.61, HM Treasury Autumn Statement 2014

following the publication of their travel costs. This is not the case in those authorities where travel arrangements are made directly by the authority.

Reimbursement of subsistence costs

£28 per day	Day allowance for meals, including breakfast, where not provided in the overnight charge
£150 per night	London
£95 per night	Elsewhere
£25 per night	Staying with friends and/or family

- 3.29 These rates are in line with Welsh Government rates. Recommended practice is that overnight accommodation should usually be reserved and paid for on behalf of members by the relevant authority, in which case an authority may set its own reasonable limits and the limits which apply when an individual member claims in arrears for overnight accommodation costs do not then apply.
- 3.30 All authorities must continue to reimburse subsistence expenses for their members up to the maximum rates set out above on the basis of receipted claims except for occasions when members stay with friends and/or family.
- 3.31 There may be instances where an authority has determined that travel costs within its boundaries are payable and require a journey to be repeated on consecutive days. Where it is reasonable and cost effective to reimburse overnight accommodation costs, instead of repeated daily mileage costs, then it is permissible to do so.
- 3.32 It is not necessary to allocate the maximum daily rate (£28 per day) between different meals as the maximum daily rate reimbursable covers a 24 hour period and can be claimed for any meal if relevant, provided such a claim is accompanied by receipts.

Reimbursement of costs of care

Determination 8: All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) up to a maximum of £403 per month. Reimbursement shall only be made on production of receipts from the carer.

- 3.33 The reimbursement of cost of care allowance is intended to enable any person whose ability to participate as a member of an authority would be limited by their responsibilities as a carer. The Panel recognises that there is some sensitivity concerning the publication of this legitimate expense. However the Panel urges authorities to promote this allowance and encourage greater take-

up of this support to facilitate increased engagement amongst authority members.

- 3.34 Such provision would be especially relevant to those individuals in sectors of the population that are currently under-represented in local government but who may become engaged when awareness of the support available for the costs of care becomes more widely known.

Entitlement to family absence

- 3.35 The Regulations relating to Family Absence for elected members of Principal Councils were approved by the National Assembly for Wales in November 2013.

- 3.36 The Panel considered the implications for the remuneration of such members who are given absence under the terms set out in the Regulations and issued a Supplementary Report in March 2014.

The determinations contained in the Supplementary Report are consolidated in this Annual Report and are set out below.

Determination 9: An elected member is entitled to retain a basic salary when taking family absence under the regulations irrespective of the attendance record immediately preceding the commencement of the family absence.

Determination 10: When a senior salary holder is eligible for family absence, he/she will continue to receive the salary for the duration of the absence.

Determination 11: It is a matter for the authority to decide whether or not to make a substitute appointment. The elected member substituting for a senior salary holder taking family absence will be eligible to be paid a senior salary, if the authority so decides.

Determination 12: If the paid substitution results in the authority exceeding the maximum number of senior salaries which relates to it, as set out in the Panel's Annual Report, an addition to the maximum will be allowed for the duration of the substitution. However, this will not apply to the Isle of Anglesey or Merthyr Tydfil Councils if it would result in the number of senior salaries exceeding fifty percent of the Council membership. Specific approval of Welsh Ministers is required in such circumstances.

Determination 13: When an authority agrees a paid substitution for family absence, the Panel must be informed, within 14 days of the date of the decision, of the details including the particular post and the duration of the substitution.

Determination 14: The schedule of remuneration must be amended to reflect the implication of the family absence.

4. Joint Overview and Scrutiny Committees (JOSC)

- 4.1 The Panel issued a supplementary report in July 2013 setting out the arrangements for the remuneration of chairs of Joint Overview and Scrutiny Committees and Sub-committees.
- 4.2 However, the level of the payments contained in that Report have been modified to align with the proposals relating to chairs of committees of principal councils set out in Section 3.

The following determinations apply:

Determination 15: The chair of a Joint Overview and Scrutiny Committee is eligible for a salary equivalent to that part of a Band 3 senior salary that remunerates a committee chair of a principal authority, £8,700.

Determination 16: In cases where the chair is already in receipt of a senior salary for a Band 3, 4 or 5 role the payment will be £4,350.

Determination 17: The chair of a sub committee of a JOSC is eligible for a salary of £2,175.

Determination 18: In cases where the chair of the sub committee is already in receipt of a senior salary for a Band 3, 4 or 5 role the payment will be £1,090.

Determination 19: Payments to chairs of task and finish sub committees are to be pro-rated to the duration of the task.

Determination 20: Payments made to a chair of a JOSC, or a chair of a sub committee of a JOSC, are additional to the maximum proportion of the authority's membership eligible for a senior salary. It should be noted that the statutory limit of no more than 50% of a council's membership receiving a senior salary applies (Section 142 (5) of the Measure).

Determination 21: A deputy chair of a JOSC or sub committee is not eligible for payment.

Determination 22: Co-optees to a JOSC or to a sub committee are not eligible for a co-opted member fee unless they are appointed by an authority under Section 144(5) of the Measure.

- 4.3 The remuneration of chairs of JOSCs (or a sub-committee of JOSCs) is not prescribed and is a matter for the constituent councils to decide whether such a post will be paid. However, if a senior salary is paid, it must be at the level set out in section 4 of this report.

5. Pension provision for elected members of principal councils

The Local Government (Wales) Measure 2011 (“*The Measure*”) provides a power to the Panel to make determinations on pension entitlement for elected members of principal councils.

Determination 23: The entitlement to join the Local Government Pension Scheme (LGPS) shall apply to all eligible elected members of principal councils.

6. Payments to members of national park authorities

6.1 The Panel has based its determinations on the following key points:

The functions of the national parks have not materially changed since the Panel's visits in 2011 and 2013.

- NPA members are drawn from two sources. Welsh Government appointees make up one third of the total of members and two thirds are local authority members nominated by constituent authorities.
- In addition, standards committees of NPAs have co-opted members whose remuneration is included in the framework.
- Welsh Government appointees and council nominated members are treated equally in relation to remuneration.
- NPAs manage their work via formal authority meetings, committees and task and finish groups. Each has a Development/Management/Planning Committee and other committees include Performance and Resources and Audit and Scrutiny. Ordinary NPA members are members of at least one committee as well as being involved in site visits and inspection panels.
- There is an expectation that members will participate in training and development.
- The chair of an NPA has a leadership and influencing role in the authority, a representational role similar in some respects to that of a civic head and a high level of accountability. The chair is not only the leader of the authority but is also the public face of the particular national park and is the link with the Minister and AMs with whom they have regular meetings. The role requires a high level of commitment and time.

Basic and senior salaries

6.2 The Panel has previously determined (in its 2011 Annual Report, and confirmed in its 2014 report) that the role of ordinary members of an NPA warranted alignment to the basic salary of a member of a principal authority and are to be paid for a time commitment of 42 days per year.

6.3 The payment of NPA and FRA chairs is set on the same basis (See Section 7). The remuneration of the chair has been aligned to that part of a Band 3 senior salary received by a committee chair of a principal authority.

6.4 The workload of an NPA chair of development control corresponds to the chair of planning in a principal authority.

6.5 The Panel decided in 2014 to provide local flexibility so that an NPA can decide at which of two levels the roles of deputy chair and other committee chairs can be remunerated. An NPA may choose to pay its deputy chair and/or committee

chairs a salary of either £7,300 or £6,000, commensurate with the duties to be discharged in a particular role.

The Panel has made the following determinations:

Determination 24: The basic salary for NPA ordinary members should be £3,600 ($42/156 \times £13,300$)

Determination 25: The senior salary of the chair of an NPA should be £12,300 (£3,600 + £8,700)

Determination 26: The senior salary of a deputy chair and chairs of NPA committees can be paid at either of the following levels to be decided by the authority to reflect the appropriate responsibility:

Level 1: £7,300 (£3,600 + £3,700)

Level 2: £6,000 (£3,600 + £2,400)

Determination 27: Members must not receive more than one NPA senior salary.

Determination 28: An NPA senior salary is paid inclusive of the NPA basic salary.

Determination 29: Members of principal local authorities in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any NPA to which they have been appointed.

Reimbursement of travel, subsistence and care costs when on official business

Reimbursement of mileage costs

- 6.6 The Panel has decided that there will be no change to mileage rates which members are entitled to claim. All authorities may only reimburse travel costs for their members undertaking official business within and/or outside the authority's boundaries at current HMRC rates which are:

45p per mile	Up to 10,000 miles in a year by car
25p per mile	Over 10,000 miles in a year by car
5p per passenger per mile	Passenger supplement
24p per mile	Motor cycles
20p per mile	Bicycles

6.7 Authorities should pay mileage at the prescribed rates to a member who has been a passenger in a vehicle driven by someone else provided the authority is satisfied that a cost has been incurred by the member.

Reimbursement of other travel costs

6.8 All other claims for travel must only be reimbursed on production of receipts showing the actual cost, and are subject to any requirement or further limitation that an authority may determine. Members should always be mindful of choosing the most cost effective method of travel.

6.9 The Panel noted that in some instances members with disabilities have been reluctant to claim legitimate travel expenses because of an adverse response following the publication of their travel costs. This is not the case in those authorities where travel arrangements are made directly by the authority.

Reimbursement of subsistence costs

£28 per day	Day allowance for meals, including breakfast, where not provided in the overnight charge
£150 per night	London
£95 per night	Elsewhere
£25 per night	Staying with friends and/or family

6.10 These rates are in line with Welsh Government rates. Recommended practice is that overnight accommodation should usually be reserved and paid for on behalf of members by the relevant authority, in which case an authority may set its own reasonable limits and the limits which apply when an individual member claims in arrears for overnight accommodation costs do not then apply.

6.11 All authorities must continue to reimburse subsistence expenses for their members up to the maximum rates set out above on the basis of receipted claims except for occasions when members stay with friends and/or family.

6.12 There may be instances where an authority has determined that travel costs within its boundaries are payable and require a journey to be repeated on consecutive days. Where it is reasonable and cost effective to reimburse

overnight accommodation costs, instead of repeated daily mileage costs, then it is permissible to do so.

- 6.13 It is not necessary to allocate the maximum daily rate (£28 per day) between different meals as the maximum daily rate reimbursable covers a 24 hour period and can be claimed for any meal if relevant, provided such a claim is accompanied by receipts.

Reimbursement of costs of care

- 6.14 All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) up to a maximum of £403 per month. Reimbursement shall only be made on production of receipts from the carer. (See Determination 8)
- 6.15 The reimbursement of cost of care allowance is intended to enable any person whose ability to participate as a member of an authority would be limited by their responsibilities as a carer. The Panel recognises that there is some sensitivity concerning the publication of this legitimate expense. However the Panel urges authorities to promote this allowance and encourage greater take-up of this support to facilitate increased engagement amongst authority members.
- 6.16 Such provision would be especially relevant to those individuals in sectors of the population that are currently under-represented in local government but who may become engaged when awareness of the support available for the costs of care becomes more widely known.

7. Payments to members of Welsh fire and rescue authorities

- 7.1 Key points that underpin the Panel's determinations for FRA member remuneration in 2015/16 are that:
- The chair has a leadership and influencing role in the authority, and a high level of accountability especially when controversial issues relating to the emergency service arise. In addition to fire authority meetings, all FRAs have committees that include in different combinations: audit, performance management, scrutiny, human resources, resource management as well as task and finish groups and disciplinary panels. As well as attending formal meetings of the authority and committees, members are encouraged to take on a community engagement role, including visiting fire stations.
 - There is a strong training ethos in FRAs. Members are expected to participate in training and development. Induction programmes are available as well as specialist training for appeals and disciplinary hearings.
 - Training sessions often follow on from authority meetings to make the training accessible.

Basic and senior salaries

- 7.2 The Panel has previously determined that the remuneration of ordinary members of an FRA should be aligned to the basic salary of a member of a principal authority and that the time commitment required is in the region of 20 days per year.
- 7.3 The Panel determined that the remuneration of an FRA chair should be aligned to that part of a Band 3 senior salary that remunerates a committee chair of a principal authority.
- 7.4 The Panel determined that the role of an FRA deputy chair where there is significant and sustained senior responsibility will be aligned with the Band 5 senior salary.

The Panel has therefore determined that:

Determination 30: The basic salary for FRA ordinary members should be £1,700 (20/156 x £13,300).

Determination 31: The senior salary of the chair of an FRA should be £10,400 (£1,700 + £8,700).

Determination 32: The senior salary of a deputy chair and chairs of

committees of FRAs should be £5,400 (£1,700 + £3,700).

Determination 33: Members must not receive more than one FRA senior salary.

Determination 34: An FRA senior salary is paid inclusive of the FRA basic salary.

Determination 35: Members of a principal council in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any FRA to which they have been nominated.

Reimbursement of travel, subsistence and care costs when on official business

Reimbursement of mileage costs

7.5 The Panel has decided there will be no change to mileage rates which members are entitled to claim. All authorities may only reimburse travel costs for their members undertaking official business within and/or outside the authority's boundaries at current HMRC rates which are:

45p per mile	Up to 10,000 miles in a year by car
25p per mile	Over 10,000 miles in a year by car
5p per passenger per mile	Passenger supplement
24p per mile	Motor cycles
20p per mile	Bicycles

7.6 Authorities should pay mileage at the prescribed rates to a member who has been a passenger in a vehicle driven by someone else provided the authority is satisfied that a cost has been incurred by the member.

Reimbursement of other travel costs

7.7 All other claims for travel must only be reimbursed on production of receipts showing actual expense and are subject to any requirement or further limitation that an authority may determine. Members should always be mindful of choosing the most cost effective method of travel.

7.8 The Panel noted that in some instances members with disabilities have been reluctant to claim legitimate travel expenses because of an adverse response following the publication of their travel costs. This is not the case in those authorities where travel arrangements are made directly by the authority.

Reimbursement of subsistence costs

£28 per day	Day allowance for meals, including breakfast, where not provided in the overnight charge
£150 per night	London
£95 per night	Elsewhere
£25 per night	Staying with friends and/or family

- 7.9 These rates are in line with Welsh Government rates. Recommended practice is that overnight accommodation should usually be reserved and paid for on behalf of members by the relevant authority, in which case an authority may set its own reasonable limits and the limits which apply when an individual member claims in arrears for overnight accommodation costs do not then apply.
- 7.10 All authorities must continue to reimburse subsistence expenses for their members up to the maximum rates set out above on the basis of receipted claims except for occasions when members stay with friends and/or family.
- 7.11 There may be instances where an authority has determined that travel costs within its boundaries are payable and require a journey to be repeated on consecutive days. Where in such a case it is reasonable and cost effective to reimburse overnight accommodation costs, instead of repeated daily mileage costs, then it is permissible to do so.
- 7.12 It is not necessary to allocate the maximum daily rate (£28 per day) between different meals as the maximum daily rate reimbursable covers a 24 hour period and can be claimed for any meal if relevant, provided such a claim is accompanied by receipts.

Reimbursement of costs of care

- 7.13 All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) up to a maximum of £403 per month. Reimbursements shall only be made on production of receipts from the carer. (See Determination 8)
- 7.14 The reimbursement of costs of care allowance is intended to enable any person whose ability to participate as a member of an authority would be limited by their responsibilities as a carer. The Panel recognises that there is some sensitivity concerning the publication of this legitimate expense. However the Panel urges authorities to promote this allowance and encourage greater take-up of this support to facilitate increased engagement amongst authority members.
- 7.15 Such provision would be especially relevant to those individuals in sectors of the population that are currently under-represented in local government but who may become engaged when awareness of the support available for the costs of care becomes more widely known.

8. Payments to co-opted members of principal councils, national park authorities and fire & rescue authorities¹¹

- 8.1 The Panel has determined that a daily/half daily fee is appropriate remuneration for the important role undertaken by co-opted members of authorities. The level of payments is equivalent to the current daily rates for chairs and members of the Welsh Government's Band 2 sponsored bodies.
- 8.2 Authorities can decide on the maximum number of days in any one year for which co-opted members may be paid.
- 8.3 The determinations are set out below:

Determination 36: Principal Councils, NPAs & FRAs must pay the following fees to co-opted members (Table 4) (who have voting rights).

Table 4: Fees for co-opted members (with voting rights)

Chairs of standards, and audit committees	£256 (4 hours and over) £128 (up to 4 hours)
Ordinary members of standards committees who also chair standards committees for community and town councils	£226 daily fee (4 hours and over) £113 (up to 4 hours)
Ordinary members of standards committees; education scrutiny committee; crime and disorder scrutiny committee and audit committee	£198 (4 hours and over) £99 (up to 4 hours)

Determination 37: Reasonable time for pre meeting preparation is eligible to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.

Determination 38: Travelling time to and from the place of the meeting can be included in the claims for payments made by co-opted members (up to the maximum of the daily rate).

Determination 39: The appropriate officer within the authority can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.

¹¹ This section does not apply to co-opted members of community and town councils.

Determination 40: Meetings eligible for the payment of fees include other committees and working groups (including task and finish groups), pre-meetings with officers, training and attendance at conferences or any other formal meeting to which co-opted members are requested to attend.

Reimbursement of travel, subsistence and care costs when on official business

Reimbursement of mileage costs

8.4 The Panel has decided there will be no change to mileage rates which members are entitled to claim. All authorities may only reimburse travel costs for their members undertaking official business within and/or outside the authority's boundaries at current HMRC rates which are:

45p per mile	Up to 10,000 miles in a year by car
25p per mile	Over 10,000 miles in a year by car
5p per passenger per mile	Passenger supplement
24p per mile	Motor cycles
20p per mile	Bicycles

8.5 Authorities should pay mileage at the prescribed rates to a member who has been a passenger in a vehicle driven by someone else provided the authority is satisfied that a cost has been incurred by the member.

Reimbursement of other travel costs

8.6 All other claims for travel must only be reimbursed on production of receipts showing actual expense, and are subject to any requirement or further limitation that an authority may determine. Members should always be mindful of choosing the most cost effective method of travel.

8.7 The Panel noted that in some instances members with disabilities have been reluctant to claim legitimate travel expenses because of an adverse response following the publication of their travel costs. This is not the case in those authorities where travel arrangements are made directly by the authority.

Reimbursement of subsistence costs

£28 per day	Day allowance for meals, including breakfast, where not provided in the overnight charge
£150 per night	London
£95 per night	Elsewhere
£25 per night	Staying with friends and/or family

- 8.8 These rates are in line with Welsh Government rates. Recommended practice is that overnight accommodation should usually be reserved and paid for on behalf of members by the relevant authority, in which case an authority may set its own reasonable limits and the limits which apply when an individual member claims in arrears for overnight accommodation costs do not then apply.
- 8.9 All authorities must continue to reimburse subsistence expenses for their members up to the maximum rates set out above on the basis of receipted claims except for occasions when members stay with friends and/or family.
- 8.10 There may be instances where an authority has determined that travel costs within its boundaries are payable and require a journey to be repeated on consecutive days. Where in such a case it is reasonable and cost effective to reimburse overnight accommodation costs, instead of repeated daily mileage costs, then it is permissible to do so.
- 8.11 It is not necessary to allocate the maximum daily rate (£28 per day) between different meals as the maximum daily rate reimbursable covers a 24 hour period and can be claimed for any meal if relevant, provided such a claim is accompanied by receipts.

Reimbursement of costs of care

- 8.12 All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) up to a maximum of £403 per month. Reimbursements shall only be made on production of receipts from the carer. (See Determination 8)
- 8.13 The reimbursement of costs of care allowance is intended to enable any person whose ability to participate as a member of an authority would be limited by their responsibilities as a carer. The Panel recognises that there is some sensitivity concerning the publication of this legitimate expense. However the Panel urges authorities to promote this allowance and encourage greater take-up of this support to facilitate increased engagement amongst authority members.
- 8.14 Such provision would be especially relevant to those individuals in sectors of the population that are currently under-represented in local government but who may become engaged when awareness of the support available for the costs of care becomes more widely known.

9. Specific or additional senior salaries

- 9.1 The Panel has allowed for greater flexibility through the provision for authorities to apply for specific or additional senior salaries that do not fall within the current Remuneration Framework, or which could not be accommodated within the maximum number of senior salaries relating to the authority.

Determination 41: The Panel has determined to include a provision for development posts within the Remuneration Framework.

- 9.2 Guidance to local authorities on the application process was issued in April 2014 and incorporated the following principles:
- a. The total number of senior salaries cannot exceed fifty percent¹² of the membership (this applies to principal councils; different restrictions will apply to national park authorities and fire and rescue authorities).
 - b. Applications will have to be approved by the authority as a whole (this cannot be delegated).
 - c. There must be clear evidence that the post/posts have additional responsibility demonstrated by a description of the role, function and duration.
 - d. Each application will have to indicate the timing for a formal review of the role to be considered by the authority as a whole.

¹² Local Government (Wales) Measure 2011 Section 142 (5) The proportion fixed by the Panel in accordance with subsection (4) may not exceed fifty percent unless the consent of the Welsh Ministers has been obtained.

10. Payments to members of community and town councils

- 10.1 The Annual Report of December 2012 set out determinations for payments in respect of community and town councils resulting from the extension of its remit provided by the Measure in 2011. These came into effect for the financial year 2013/2014.
- 10.2 A report published by Professor Michael Woods in 2013 commented that *“there is no comprehensive information available on the extent to which community councils have introduced allowances under the new regulations but anecdotal evidence suggests that uptake has been very limited.”* At that point the Panel’s determinations had only just taken effect. However, the Panel has endeavoured to establish the impact of the determinations in its 2013/14 report by conducting its own survey amongst all 735 councils affected. It asked to what extent the permissive powers had been adopted. A total of 85 councils returned a completed questionnaire which equates to a very disappointing response rate of 11.5%. The Panel will be consulting further in 2015.

The Panel has determined that:

Determination 42: Community and town councils are authorised to make a payment to each of their members of a maximum amount of £100 per year for costs incurred in respect of telephone usage, information technology, consumables etc.

Determination 43: Community and town councils are authorised to make payments to each of their members in respect of travel costs for attending approved duties outside the area of the council.¹³ Such payments must be the actual costs of travel by public transport or the HMRC mileage allowances as below:

- 45p per mile up to 10,000 miles in the year.
- 25p per mile over 10,000 miles.
- 5p per passenger per mile – passenger supplement.
- 24p per mile for private motor cycles.
- 20p per mile for bicycles.

¹³ Authorities should pay mileage at the prescribed rates to a member who has been a passenger in a vehicle driven by someone else provided the authority is satisfied that a cost has been incurred by the member.

Determination 44: Community and town councils are authorised to reimburse subsistence expenses to their members for attending approved duties outside the area of the council at the maximum rates set out below on the basis of receipted claims:

- £28 per day allowance for meals, including breakfast where not provided.
- £150 – London overnight.
- £95 – elsewhere overnight.
- £25 – staying with friends and/or family overnight.

Determination 45: Community and town councils are authorised to pay an Attendance Allowance¹⁴ to each of their members for attending approved duties outside the area of the council as follows:

- £16.23 for a period not exceeding 4 hours.
- £32.46 for a period exceeding 4 hours but not exceeding 24 hours.

Determination 46: Community and town councils are authorised to pay a Financial Loss Allowance¹⁵ to each of their members where such loss has actually occurred, for attending approved duties outside the area of the council as follows:

- £30.05 for a period not exceeding 4 hours.
- £60.11 for a period exceeding 4 hours but not exceeding 24 hours.
- £60.11 plus such amount as is payable under (a) and (b) above as appropriate for a period exceeding 24 hours.

Determination 47: Community and town councils are authorised to provide a civic allowance to the mayor/chair and deputy mayor/chair of the council of an amount that they deem appropriate to undertake the functions of that office.

Note (for information): The Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003 were revoked with effect from 1st April 2013.

¹⁴ Set out in the Local Authorities (Allowances for Members of Community Councils)(Wales) Regulations 2003 SI No. 895 (W.115). Rate is frozen as the index stipulated in the Regulations for calculating the percentage annual increase “the Average Male Non-Manual Wage for Wales” has become obsolete.

¹⁵ Local Authorities (Allowances for Members of Community Councils)(Wales) Regulations 2003.

- 10.3 For clarity, determinations 42 to 47 are permissive powers that require a formal decision by each community or town council. But where a community or a town council makes such a decision, it must apply to all its members at the levels determined by the Panel. An individual member may make a personal decision to elect to forgo part or all of the entitlement to any of these allowances by giving notice in writing to the proper officer of the council.

11. Salaries of heads of paid service of principal councils and fire and rescue authorities

- 11.1 Section 63 of the Local Government (Democracy) (Wales) Act 2013 amended the Local Government (Wales) Measure 2011 by inserting section 143A. This enables the Panel to take a view on anything in the Pay Policy Statements of these authorities that relates to the salary of the head of paid service (normally the chief executive or chief fire officer).
- 11.2 Following a consultation exercise, the Welsh Government issued guidance on this to the Panel in the spring of 2014. The guidance, which can be found at Annex 5, sets the basis on which the Panel will carry out the function contained in the legislation.
- 11.3 In essence the functions of the Panel and the requirements on authorities established by the legislation and the subsequent guidance are:
- a) If a principal council or fire and rescue authority intends to change the salary of the head of paid service it must consult the Panel unless the change is in keeping with changes applied to other officers of that authority (whether the change is an increase or decrease). 'Salary' includes payments under a contract for services as well as payments of salary under an employment contract.
 - b) The authority must have regard to the recommendation(s) of the Panel when reaching its decision.
 - c) The Panel may seek any information that it considers necessary to reach a conclusion and produce a recommendation. The authority is obliged to provide the information sought by the Panel.
 - d) The Panel may publish any recommendation that it makes. It is the intention that, in the interests of transparency, it will normally do so.
 - e) The Panel's recommendation(s) could indicate:
 - approval of the authority's proposal
 - express concerns about the proposal
 - recommend variations to the proposal
- as long as these comply with any guidance issued by the Welsh Government.
- 11.4 The Panel also has a general power to review the Pay Policy Statements of authorities so far as they relate to the heads of paid service.
- 11.5 It is important to note that the Panel will not decide the amount that an individual head of paid service will receive.
- 11.6 The Panel is very aware that this additional function is significantly different

from its statutory responsibilities in relation to members' remuneration. However, it will ensure that it undertakes this role with clarity and openness, taking into account all the relevant factors in respect of specific individual cases. Authorities are encouraged to consult the Panel at an early stage in their decision making on such matters. This will enable the Panel to respond in a timely manner.

- 11.7 Future Annual Reports will include appropriate information on any recommendation(s) made by the Panel in respect of this function during the previous year.

12. Compliance with Panel requirements

The Panel's remit under the Measure

- 12.1 Section 153 of the Measure empowers the Panel to require a relevant authority¹⁶ to comply with the requirements imposed on it by a Panel Annual Report and further enables the Panel to monitor the compliance of relevant authorities with the Panel's determinations.
- 12.2 A relevant authority must implement the Panel's determinations in this report from the date of its annual meeting.

Monitoring compliance

- 12.3 The Panel will monitor the compliance with the determinations in this Annual Report by all relevant authorities against the following requirements:
- (i) A relevant authority must maintain an annual **Schedule of Member Remuneration** (IRPW Regulations 4 & 5). Guidance at Annex 3 sets out the content which must be included in the Schedule.
 - (ii) A relevant authority must make arrangements for the Schedule's publication within the authority area (IRPW Regulation 46) and send the Schedule to the Panel as soon as practicable and not later than 31 July in the year to which it applies. Annex 4 provides further details of the publicity requirements.
 - (iii) Any amendments to the Schedule made during the year must be conveyed to the Panel as soon as possible after the amendment is made.

Note: The above requirements do not apply to community and town councils at this time.

- (iv) A relevant authority must make arrangements for publication within the authority area of the total sum paid by it to each member and co-opted member in respect of salary (basic, senior and civic), allowances, fees and reimbursements (in accordance with Annex 4 that sets out the content that must be included in the Publicity Requirements) as soon as practicable and no later than 30 September following the close of the year to which it relates. It must be submitted to the Panel no later than that date.

¹⁶ Interpretation of "Relevant Authority" provided in the Independent Remuneration Panel for Wales (IRPW) Regulations, Part 1, 'Interpretation'.

Annex 1: The Panel's determinations for 2015/16

- (1)** Basic salary in 2015/16 for elected members of principal local authorities shall remain at £13,300.
- (2)** The Panel has concluded that senior salary levels in 2015/16 for members of principal councils shall remain as set out in table 2.
- (3)** The Panel has determined that (where paid) civic salaries within the following levels are payable (Table 3) and will be applied by authorities as each considers appropriate, taking account of the anticipated workloads and responsibilities.
- (4)** The Panel has determined that, where appointed and if remunerated, a presiding member must be paid a Band 3 senior salary of £22,000. This post will count towards the cap.
- (5)** The Panel has determined that the post of deputy presiding member will not be remunerated.
- (6)** The Panel has determined that each authority, through its Democratic Services Committee, must ensure that all its members are given as much support as is necessary to enable them to fulfil their duties effectively. All elected members should be provided with adequate telephone and email facilities and electronic access to appropriate information.
- (7)** The Panel has determined that such support should be without cost to the individual member. Deductions must not be made from members' salaries by the respective authority as a contribution towards the cost of support which the authority has decided necessary for the effectiveness and/or efficiency of members.
- (8)** All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) up to a maximum of £403 per month. Reimbursements shall only be made on production of receipts from the carer.
- (9)** An elected member is entitled to retain a basic salary when taking family absence under the regulations irrespective of the attendance record immediately preceding the commencement of the family absence.
- (10)** When a senior salary holder is eligible for family absence, he/she will continue to receive the salary for the duration of the absence.
- (11)** It is a matter for the authority to decide whether or not to make a substitute appointment. The elected member substituting for a senior salary holder taking family absence will be eligible to be paid a senior salary, if the authority so decides.

- (12) If the paid substitution results in the authority exceeding the maximum number of senior salaries which relates to it, as set out in the Panel's Annual Report, an addition to the maximum will be allowed for the duration of the substitution. However, this will not apply to the Isle of Anglesey or Merthyr Tydfil Councils if it would result in the number of senior salaries exceeding fifty percent of the Council membership. Specific approval of Welsh Ministers is required in such circumstances.
- (13) When an authority agrees a paid substitution for family absence, the Panel must be informed, within 14 days of the date of the decision, of the details including the particular post and the duration of the substitution.
- (14) The schedule of remuneration must be amended to reflect the implication of the family absence.
- (15) The chair of a Joint Overview and Scrutiny Committee is eligible for a salary equivalent to that part of a Band 3 senior salary that remunerates a committee chair of a principal authority, £8,700.
- (16) In cases where the chair is already in receipt of a senior salary for a Band 3, 4 or 5 role the payment will be £4,350.
- (17) The chair of a sub committee of a Joint Overview and Scrutiny Committee is eligible for a salary of £2,175.
- (18) In cases where the chair of the sub committee is already in receipt of a senior salary for a Band 3, 4 or 5 role the payment will be £1,090.
- (19) Payments to chairs of task and finish sub committees are to be pro-rated to the duration of the task.
- (20) Payments made to a chair of a JOSC or a chair of a sub committee of a JOSC are additional to the maximum proportion of the authority's membership eligible for a senior salary. It should be noted that the statutory limit of no more than 50% of a council's membership receiving a senior salary applies (Section 142 (5) of the Measure).
- (21) A deputy chair of a JOSC or sub committee is not eligible for payment.
- (22) Co-optees to a JOSC or to a sub committee are not eligible for a co-opted member fee unless they are appointed by an authority under Section 144(5) of the Measure.
- (23) The entitlement to join the Local Government Pension Scheme (LGPS) shall apply to all eligible elected members of principal councils.
- (24) The basic salary for NPA ordinary members should be £3,600 ($42/156 \times £13,300$)
- (25) The senior salary of the chair of an NPA should be £12,300 (£3,600 + £8,700)

- (26) The senior salary of a deputy chair and chairs of NPA committees can be paid at either of the following levels to be decided by the authority to reflect the appropriate responsibility:
- Level 1: £7,300 (£3,600 + £3,700)
- Level 2: £6,000 (£3,600 + £2,400)
- (27) Members must not receive more than one NPA senior salary.
- (28) An NPA senior salary is paid inclusive of the NPA basic salary.
- (29) Members of principal councils in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any NPA to which they have been appointed.
- (30) The basic salary for FRA ordinary members should be £1,700 ($20/156 \times £13,300$).
- (31) The senior salary of the chair of an FRA should be £10,400 (£1,700 + £8,700).
- (32) The senior salary of a deputy chair and chairs of committees of FRAs should be £5,400 (£1,700 + £3,700).
- (33) Members must not receive more than one FRA senior salary.
- (34) An FRA senior salary is paid inclusive of the FRA basic salary.
- (35) Members of a principal council in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any FRA to which they have been nominated.
- (36) Principal Councils, NPAs & FRAs must pay the following fees to co-opted members (Table 4) (who have voting rights).
- (37) Reasonable time for pre meeting preparation is eligible to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.
- (38) Travelling time to and from the place of the meeting can be included in the claims for payments made by co-opted members (up to the maximum of the daily rate).
- (39) The appropriate officer within the authority can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.
- (40) Meetings eligible for the payment of fees include other committees and working groups (including task and finish groups), pre-meetings with officers, training and attendance at conferences or any other formal meeting to which co-opted members are requested to attend.

- (41) The Panel has determined to include a provision for development posts within the Remuneration Framework.
- (42) Community and town councils are authorised to make a payment to each of their members of a maximum amount of £100 per year for costs incurred in respect of telephone usage, information technology, consumables etc.
- (43) Community and town councils are authorised to make payments to each of their members in respect of travel costs for attending approved duties outside the area of the council. Such payments must be the actual costs of travel by public transport or the HMRC mileage allowances as below:
- 45p per mile up to 10,000 miles in the year.
 - 25p per mile over 10,000 miles.
 - 5p per passenger per mile – passenger supplement.
 - 24p per mile for private motor cycles.
 - 20p per mile for bicycles.
- (44) Community and town councils are authorised to reimburse subsistence expenses to their members for attending approved duties outside the area of the council at the maximum rates set out below on the basis of receipted claims:
- £28 per day allowance for meals, including breakfast where not provided.
 - £150 – London overnight.
 - £95 – elsewhere overnight.
 - £25 – staying with friends and/or family overnight.
- (45) Community and town councils are authorised to pay an Attendance Allowance to each of their members for attending approved duties outside the area of the council as follows:
- £16.23 for a period not exceeding 4 hours.
 - £32.46 for a period exceeding 4 hours but not exceeding 24 hours.
- (46) Community and town councils are authorised to pay a Financial Loss Allowance to each of their members where such loss has actually occurred, for attending approved duties outside the area of the council as follows:
- £30.05 for a period not exceeding 4 hours.
 - £60.11 for a period exceeding 4 hours but not exceeding 24 hours.
 - £60.11 plus such amount as is payable under (a) and (b) above as appropriate for a period exceeding 24 hours.
- (47) Community and town councils are authorised to provide a civic allowance to the mayor/chair and deputy mayor/chair of the council of an amount that they deem appropriate to undertake the functions of that office.

Annex 2: Independent Remuneration Panel for Wales (IRPW) Regulations:

a) for the remuneration of members and co-opted members of relevant authorities

b) for functions relating to the salaries of heads of paid service of local authorities

Introduction

Part 8 (sections 141 to 160) and schedules 2 and 3 of the Local Government (Wales) Measure 2011 (*the Measure*) set out the arrangements for the payments and pensions for members of relevant authorities and the functions and responsibilities of the Independent Remuneration Panel for Wales (the Panel).

Sections 62 to 67 of the Local Government (Democracy) (Wales) Act 2013 amends sections 142, 143, 144, 147, 148 and 151 of the Measure and confers additional powers on the Panel.

The powers contained in part 8 and schedules 2 and 3 of the Measure (as amended) have replaced the following Statutory Instruments:

- The Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 (No. 1895 (W.196)).
- The Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 (No. 2555 (W.227)).
- The Local Authorities (Allowances for Members) (Wales) Regulations 2007 (No.1086 (W.115)).

The Measure also has replaced the sections of the Local Government Act 1972, the Local Government and Housing Act 1989 and the Local Government Act 2000 relating to payments to councillors in Wales.

Allowances for members of community and town councils are set out in Part 5 of these Regulations. The Local Authorities (Allowances for Members of Community Councils) (Wales) Regulations 2003 (No. 895(W.115)) were revoked from 1st April 2013.

Part 1

General

1. a. The short title of these Regulations is: "IRPW Regulations".

- b. The IRPW Regulations came into force on 1 April 2012. The implementation date for each of the relevant authorities is set out in the Annual Report or Supplementary Report of the Panel.
- c. Authorities are required to produce a schedule of payments to members and co-opted members no later than the 31st July each year, for submission to the Panel and publication (see paragraph 46).

Interpretation

2. In the IRPW Regulations:

- “The 1972 Act” means the Local Government Act 1972.
- “The 2000 Act” means the Local Government Act 2000.
- “The 2013 Act” means the Local Government (Democracy) (Wales) Act 2013.
- “Allowance” means the actual or maximum amount which may be reimbursed to members and co-opted members of a relevant authority for expenses necessarily incurred when carrying out the official business of the relevant authority.
- “Annual report” means a report produced by the Panel in accordance with section 145 of the Measure.
- “Approved duty” in relation to community and town councils has the meaning as set out in Part 5 of these Regulations.
- “Attendance Allowance” in relation to community or town councils has the meaning set out in Part 5 of these Regulations.
- “Authority” means a relevant authority in Wales as defined in Section 144(2) of the Measure, and includes a local authority (county or county borough council), a national park authority and a Welsh fire and rescue authority, a community or town council.
- “Basic Salary” has the same meaning as set out in paragraph 6 of these Regulations, and may be qualified as “LA Basic Salary” to refer to the basic salary of a member of a principal council; “NPA Basic Salary” to refer to the basic salary of a member of a national park authority; and “FRA Basic Salary” to refer to the basic salary of a member of a Welsh fire and rescue authority.
- “Care allowance” has the same meaning as set out in paragraph 21 of these Regulations.
- “Civic Head” is the person elected by the council to carry out the functions of the chair of that council and is designated as mayor or chair.
- “Committee” includes a sub-committee.
- “Community or town council” means in relation to Part 8 of the Measure, a community council as defined in section 33 of the Local Government Act 1972 or a town council in accord with section 245B of the same Act.

- “Consultation draft” means the draft of an Annual or Supplementary report under Section 146 (7) or 147(8) of the Measure, representations on which must be taken into account by the Panel.
- “Constituent authority” – for national park authorities this is a local authority falling within the area of a national park authority; for Welsh fire and rescue authorities it is a local authority falling within the area of a fire and rescue authority.
- “Controlling group” means a political group in a local authority where any of its members form part of the executive.
- “Co-opted Member” has the meaning contained in section 144 (5) of the Measure, that is those with the right to vote on matters within the purview of the committee on which they serve.
- “Co-opted Member fee” has the same meaning as set out in paragraph 19 of these Regulations.
- “Democratic Services Committee” means the local authority committee established under section 11 of the Measure.
- “Deputy Civic Head” is a person elected by the council to deputise for the mayor or chair of that council.
- “Executive” means the executive of an authority in a form as specified in sections 11(2) to (5) of the 2000 Act, as amended by section 34 of the Measure.
- “Executive arrangements” has the meaning given by section 10(1) of the 2000 Act.
- “Family absence” as defined in Section 142 (2) (b) of the Measure has the meaning given to it by Part 2 of the Measure, and contained in the Regulations relating thereto.
- “Financial Loss Allowance in relation to community or town councils has the meaning as set out in Part 5 of the Regulations.
- “Fire and rescue authority” means an authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- “Head of paid service” means as designated under section 4(1) of the Local Government and Housing Act 1989.
- Joint Overview and Scrutiny Committee means a committee or sub committee set up by two or more principal councils under the Local Authority (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013.
- “Largest opposition group” means a political group other than a controlling group which has a greater number of members than any other political group in the authority.
- “Local authority” means a county or county borough council.
- “Member” means in respect of a local authority or a community or town council a person who has been elected to serve as a councillor for that

authority; for a national park authority means a member appointed by a constituent authority and also a person appointed by Welsh Ministers; for Welsh fire and rescue authorities means a member appointed by a constituent authority.

- “National Park authority” means a national park authority established under section 63 of the Environment Act 1995.
- “Official business” has the meaning contained in Section 142 (10) of the Measure in relation to the payment of allowances for care, travel and subsistence as reimbursement of expenses necessarily incurred by members and co-opted members of a relevant authority (excluding community and town councils) when:
 - a. Attending a meeting the authority or any committee of the authority or any body to which the authority makes appointments or nominations or of any committee of such a body.
 - b. Attending a meeting of any association of authorities of which the authority is a member.
 - c. Attending a meeting the holding of which is authorised by the authority or by a committee of the authority or by a joint committee of the authority and one or more other authorities.
 - d. Attending any training or development event approved by the authority or its executive.
 - e. A duty undertaken for the purpose of or in connection with the discharge of the functions of an executive within the meaning of Part 2 of the 2000 Act, as amended.
 - f. A duty undertaken in pursuance of a standing order which requires a member or members to be present when tender documents are opened.
 - g. A duty undertaken in connection with the discharge of any function of the authority to inspect or authorise the inspection of premises.
 - h. A duty undertaken by members of principal councils in connection with constituency or ward responsibilities which arise from the discharge of local authority functions.
 - i. Any other duty approved by the authority, or any duty of class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees.
- “Other political group” means a political group other than a controlling group or the largest opposition group (if any) which comprises not less than ten per cent of the members of that authority.
- “Overview and Scrutiny Committee” means a committee of the authority which has the powers set out in sections 21(2) and (3) of the 2000 Act, as amended by Part 6 of the Measure.
- “Panel” means the Independent Remuneration Panel for Wales as set out in section 141(1) and schedule 2 of the Measure.

- “Pay policy statement” means a statement produced by a relevant authority under section 38 of the Localism Act 2011.
- “Presiding Member” means a member of a principal council who has been designated by that council to carry out functions in relation to the chairing of its meetings and proceedings.
- “Principal council” means a county or county borough council
- “Proper officer” has the same meaning as in section 270(3) of the 1972 Act.
- “Public body” means a body as defined in section 67(b) of the 2013 Act.
- “Qualifying provision” means a provision that makes a variation to a previous decision of the Panel. (Section 65 (c) of the 2013 Act).
- “Qualifying relevant authority” is an authority within the meaning of section 63 of the 2013 Act, required to produce a pay policy statement.
- “Relevant authority” is set out in Section 144(2) of the Measure (as amended) and in section 64 of the 2013 Act and, for the purposes of these Regulations, includes a local authority/principal council, a community or town council, a national park authority and a Welsh fire and rescue authority.
- “Relevant matters” are as defined in Section 142(2) of the Measure.
- “Schedule” means a list setting out the authority’s decisions in respect of payments to be made during the year (as relating to that authority) to all members and co-opted members of that authority.
- “Senior Salary” has the same meaning as set out in paragraph 11 of these Regulations and may be qualified as “Local Authority/Principal council Senior Salary” to refer to the senior salary of a member of a principal council; “National Park Senior Salary” to refer to the senior salary of a member of a National Park authority; or “Fire and Rescue authority Senior Salary” to refer to the senior salary of a member of a Fire and Rescue authority.
- “Supplementary report” has the meaning contained in section 146(4 to 8) of the Measure.
- “Travelling and subsistence allowance” has the same meaning as set out in paragraph 25 of these Regulations.
- “Year” has the following meanings:
 - “financial year” – the period of twelve months ending 31 March;
 - “calendar year” – the period of twelve months ending 31 December;
 - “municipal year” – the year commencing on the date of the annual meeting of the local authority and ending the day before the annual meeting of the following year; for national park authorities and Welsh fire and rescue authorities it is the period of up to twelve months following the annual meeting of the authority.

Part 2: Schedule of member/co-opted member remuneration

Commencement of term of office

3. The term of office of:
 - A member of a local authority or community or town council begins on the date which that member makes a declaration of acceptance of that office under section 83(1) of the 1972 Act.
 - A councillor member of a national park authority begins on the date on which that member is appointed as such by a constituent authority and the term of office of a Welsh Government appointed member begins on the date of that appointment. The term of office of the chair and deputy chair of the national park authority begins on the date of election by that authority to that office.
 - A councillor member of a Welsh fire and rescue authority begins on the date on which that member is appointed as such by a constituent authority and the term of office of the chair and deputy chair of the fire and rescue authority begins on the date of election by that authority to that office.
 - A co-opted member of a relevant authority begins on the date of appointment by the relevant authority.

Schedule of member remuneration (the Schedule) (does not apply to community or town councils – see Part 5)

4. An authority must produce annually, a schedule of payments it intends to make to its members and co-opted members. The amount of those payments must accord with the Panel's determinations made for that year in its Annual or Supplementary Reports. The Schedule must be produced no later than four weeks following the annual meeting of the authority.

Amendment to the Schedule

5. An authority may amend the Schedule at any time during the year (as relating to the authority) provided that such amendments accord with the Panel's determinations for that year.

Basic salary

6. An authority must provide for the payment of a basic salary, as determined by the Panel in its Annual or Supplementary Reports, to each of its members. The amount of the salary must be the same for each member. For principal councils only, this salary remains payable during a period of family absence.
7. A member may not receive more than one basic salary from a relevant authority, but a member of one relevant authority may receive a further basic

salary by being appointed as a member of another relevant authority (except in the case as indicated in paragraph 16).

8. The amount of the basic salary will be set in accordance with Section 142(3) of the Measure and will be one of the following:
 - The amount the authority must pay to a member of the authority.
 - The maximum amount that the authority may pay to a member of the authority.
9. Where the term of office of a member begins or ends other than at the beginning or end of the year (as relating to the authority), the entitlement of that member is to such proportion of the basic salary as the number of days during which the member's term of office subsists during that year bears to the number of days in that year.
10. Where a member is suspended or partially suspended from being a member of an authority (Part 3 of the 2000 Act refers) the part of the basic salary payable to that member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority (Section 155(1) of the Measure).

Senior salary

11. Subject to paragraphs 12 to 18 an authority can make payments of a senior salary to members that it has given specific responsibilities. Such payments must accord with the Panel's determination for the year (as relating to the authority) that the payments are made and must be set out in the Schedule of that authority. For principal councils only, a senior salary will remain payable during the family absence of the office holder.
12. The Panel will prescribe in its Annual or Supplementary Reports the following:
 - The categories of members eligible for the payment of a senior salary which may not be the same for all authorities or categories of authorities.
 - The discretion available to authorities in relation to the payment of senior salaries which may not be the same for all authorities or categories of authorities.
13. The amount of the senior salaries payable will be in accordance with section 142(3) of the Measure and specify:
 - The amount that a relevant authority must pay to a member of the authority.
 - The maximum amount that a relevant authority may pay to a member of the authority.
14. The Senior Salary will comprise an amalgam of the basic salary and an additional amount for the relevant specific responsibility determined by the

Panel in its Annual or Supplementary Reports. This may not be the same for all authorities or categories of authorities.

15. The Panel in its Annual or Supplementary Reports will determine either the maximum proportion of its membership or the total number of members that an authority can pay as senior salaries. The percentage may not exceed fifty percent without the express approval of Welsh Ministers (Section 142(5) of the Measure). For principal councils only, the maximum proportion or number may be exceeded to include payment of a senior salary to an additional member who is appointed to provide temporary cover for the family absence of a senior salary office holder (subject to the 50% limit). For national park authorities and Welsh fire and rescue authorities, senior salary payments will be restricted to specified post-holders as determined by the Panel in its Annual or Supplementary Reports.
- 15(a) Payments to chairs of Joint Overview and Scrutiny Committees or Sub Committees are additional to the maximum proportion of its membership that an authority can pay as senior salaries subject to the overall maximum of fifty percent as contained in Section 142(5) of the Measure. The Panel will determine the amounts of such payments in an Annual or Supplementary Report.
16. An authority must not pay more than one senior salary to any member. A principal council member in receipt of a senior salary as leader or executive member of a local authority (determined as full-time by the Panel) may not receive a second salary as a member appointed to serve on a national park authority or a Welsh fire and rescue authority.
- 16(a). Paragraph 16 does not apply to payments made to a chair of a Joint Overview and Scrutiny Committee or Sub Committee who is in receipt of a senior salary for a role that is not classified as full time equivalent. It continues to apply to leaders or members of the executive.
17. Where a member does not have, throughout the year specific responsibilities that allow entitlement to a senior salary, that member's payment is to be such proportion of the salary as the number of days during which that member has such special responsibility bears to the number of days in that year.
18. Where a member is suspended or partially suspended from being a member of the authority (Part 3 of the 2000 Act refers) the authority must not make payments of the member's senior salary for the duration of the suspension (Section 155(1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the member may retain the basic salary.

Co-opted member payment

19. A relevant authority must provide for the payment of a fee to a co-opted member as determined by the Panel in its Annual or Supplementary Reports. In

relation to this regulation 'co-opted member' means a member as determined in Section 144(5) of the Measure and set out in paragraph 2 of these Regulations.

20. Where a co-opted member is suspended or partially suspended from an authority (Part 3 of the 2000 Act refers) the authority must not make payment of a co-opted member fee for the duration of the suspension (Section 155(1) of the Measure).

Allowances

Care allowances

21. Authorities must provide for the payment to members and co-opted members of an authority an allowance ("care allowance") in respect of such expenses of arranging the care of children or dependants as are necessarily incurred in carrying out official business as a member or co-opted member of that authority. Payments under this paragraph must not be made:
 - In respect of any child over the age of fifteen years or dependant unless the member/co-opted member satisfies the authority that the child or dependant required supervision which has caused the member to incur expenses that were necessary in respect of the care of that child or dependant in the carrying out of the duties of a member or co-opted member.
 - To more than one member/co-opted member of the authority in relation to the care of the same child or dependant.
 - Of more than one care allowance to a member or co-opted member of the authority who is unable to demonstrate to the satisfaction of the authority that the member/co-opted member has to make separate arrangements for the care of different children or dependants.
22. The maximum amount of the care allowance payable by an authority is to be determined by the Panel in its Annual or Supplementary Reports.
23. Where a member/co-opted member is suspended or partially suspended from being a member or co-opted member of the authority (Part 3 of the 2000 Act refers) the part of the care allowance payable to that member/co-opted member in receipt of the responsibilities or duties from which that member/co-opted member is suspended or partially suspended must be withheld by the authority (Section 155(1) of the Measure).
24. An authority's Schedule must stipulate the maximum amount of the care allowance payable each month and its arrangements for making claims, taking full account of the Panel's determinations in this respect.

Travel and subsistence allowances

25. Subject to paragraphs 26 and 27 below a member or co-opted member is entitled to receive payments from the authority by way of travelling and subsistence allowances at rates determined by the Panel in its Annual or

Supplementary Reports. Such allowances are in respect of expenditure incurred by a member or co-opted member in the performance of the official business of the authority.

(Paragraphs 26 & 27 apply only to principal councils)

26. Payment of a subsistence allowance to a local authority member for the performance of official business within the boundaries of a county or county borough where s/he is a member should only be made when the authority is satisfied that it can be justified on economic grounds. This does not apply in respect of co-opted members of a local authority who live outside that authority.
27. A local authority may make provision, subject to any limitations it thinks fit, for members to claim mileage expenses for official business in connection with constituency or ward responsibilities where they arise out of the discharge of the functions of the county or county borough.
28. Where a member or co-opted member is suspended or partially suspended from being a member or co-opted member of the authority (Part 3 of the 2000 Act refers), travelling and subsistence allowances payable to that member/co-opted member in respect of the responsibilities or duties from which that member is suspended or partially suspended must be withheld by the authority (Section 155(1) of the Measure).

Part 3: Further provisions

Pensions

29. Under Section 143 of the Measure, the Panel may make determinations in respect of pension arrangements for local authority members in its Annual or Supplementary Reports. Such determinations may:
 - Describe the description of members for whom a local authority will be required to pay a pension.
 - Describe the relevant matters in respect of which a local authority will be required to pay a pension.
 - Make different decisions for different principal councils.

Allowances to support the function of a local authority member

30. A local authority must provide for the requirements of a member to undertake their role and responsibilities more effectively. The way in which this support should be provided is determined by the Panel in its Annual or Supplementary Reports.

Payment of expenses for official and courtesy visits

31. The arrangements contained in Section 176 of the Local Government Act 1972 will continue to apply but no payment may be made to a person under that

arrangement when a payment has been made to that person pursuant to any payment made under these Regulations.

Arrangements in relation to family absence

32. Part 2 of the Measure sets out the rights of local authority members in relation to family absence. The Panel will set out its determinations and the administrative arrangements in relation to the payment of salaries and allowances by Principal councils in this respect in its Annual or Supplementary Reports.

Part 4: Salaries, allowances or fees

Repayment of salaries, allowances or fees

33. An authority must require that such part of a salary, allowance or fee be repaid where payment has already been made in respect of any period during which the member or co-opted member concerned:
- Is suspended or partially suspended from that member's/co-opted member's duties or responsibilities in accordance with Part 3 of the 2000 Act or Regulations made under that Act.
 - Ceases to be a member or co-opted member of the authority.
 - Or in any way is not entitled to receive a salary, allowance or fee in respect of that period.

Forgoing salaries, allowances or fees

34. Under Section 154 of the Measure, any member or co-opted member may by notice in writing to the proper officer of the authority elect to forgo any part of their entitlement to a salary, allowance or fee under the determination of the Panel for that particular year (as relating to the authority).

Part 5: Specific provisions relating to community and town councils ("the council")

Interpretation

35. For the purposes of this Part the term member means both an elected member and a co-opted member.

Allowances

36. Allowances:
- a) The council can if it so determines make an annual payment to members in respect of costs incurred in carrying out the role of a member. The maximum amount payable will be set out in the Annual or Supplementary Report of the Panel.

- b) The council can if it so determines make payments to members in respect of costs of travel for attending approved duties outside the area of the council. The amounts claimable will be set out in the Annual or Supplementary Report of the Panel.
 - c) The council can if it so determines reimburse subsistence expenses to its members when attending approved duties outside the area of the council. The arrangements for reimbursement will be set out in the Annual or Supplementary Report of the Panel.
 - d) The council can if it so determines pay an Attendance Allowance to its members for attending approved duties outside the area of the council. The Allowance will be set out in the Annual or Supplementary Report of the Panel.
 - e) The council can if it so determines pay a Financial Loss Allowance to its members where such loss has occurred for attending approved duties outside the area of the council. The Allowances will be set out in the Annual or Supplementary Report of the Panel.
 - f) The council can if it so determines pay an allowance to the chair or mayor of the council for the purposes of undertaking the role of that office. The allowance will be set out in the Annual or Supplementary Report of the Panel.
37. A member is not entitled to more than one Attendance Allowance in respect of any period of 24 hours or if that member claims a Financial Loss Allowance for the same period.
38. A member may elect to forgo any part of an entitlement to an allowance under these Regulations by giving notice in writing to the proper officer of the council.
39. A member making a claim for Attendance or Financial Loss Allowance must sign a statement that the member has not made and will not make any other claim in respect of the matter to which the claim relates.
- 40 “Approved Duty” under this Part means:
- i. Attendance at a meeting of the council or of any committee or sub-committee of the council or of any other body to which the council makes appointments or nominations or of any committee or sub-committee of such a body.
 - ii. Attendance at any other meeting the holding of which is authorised by the council or a committee or sub-committee of the council, or a joint committee of the council and one or more councils, or a sub-committee of such a joint committee provided that at least two members of the council have been invited and where the council is divided into political groupings at least two such groups have been invited.
 - iii. Attendance at a meeting of any association of councils of which the council is a member.
 - iv. Attendance at any training or development event approved by the council.

- v. Any other duty approved the council or duty of a class approved by the council for the discharge of its functions or any of its committees or sub-committees.

Part 6: Miscellaneous

Arrangements for payments

41. The Schedule of an authority must set out the arrangements for the payment of salaries, allowances and fees to all members and co-opted members of that authority. Such payments may be made at such times and at such intervals as determined by the authority.

Claims

42. An authority must specify a time limit from the date on which an entitlement to travelling or subsistence allowance arises during which a claim for those allowances must be made by the person to whom they are payable. However, this does not prevent an authority from making a payment where the allowance is not claimed within the period specified.
43. Any claim for payment of travelling or subsistence allowance in accordance with these Regulations (excluding claims for travel by private motor vehicle) shall be accompanied by appropriate receipts proving actual expenses.

Avoidance of duplication

44. A claim for a payment of travelling allowance or subsistence allowance must include, or be accompanied by, a statement signed by the member or co-opted member that the member/co-opted member has not made and will not make any other claim in respect of the matter to which the claim relates.

Records of salaries, allowances and fees

45. An authority must keep a record of the payments made in accordance with these Regulations. Such record must:
 - Specify the name of the recipient and the amount and nature of each payment.
 - Be available, at all reasonable times, for inspection (without charge) by any local government elector (within the meaning of section 270(1) of the 1972 Act) for the area of the authority.
 - Allow a person who is entitled to inspect the record to make a copy of any part of it upon payment of such reasonable fee as the authority may require.

Publicity requirements

(The required content of publicity requirements is given at Annex 4)

46. An authority must, as soon as practicable after determining its Schedule of Remuneration for the year under these Regulations and any Report of the Panel and not later than 31 July of the year to which the Schedule refers, make arrangements for the Schedule's publication within the authority's area. **(This section does not apply to community and town councils).**
47. As soon as practicable and no later than 30 September following the end of a year an authority must make arrangements for the publication within the authority's area, the total sum paid by it to each member/co-opted member in respect of basic salary, senior salary, co-opted member fee, care, travel and subsistence allowances. **(This section applies to all relevant authorities).**
48. In the same timescale and in the same manner, a local authority must make arrangements for the publication of any further remuneration received by a member nominated or appointed to another relevant authority. **(This section applies only to principal councils).**

Publicising the reports of the Panel

49. Under Section 146(7) (a) and (b) of the Measure, the Panel will send a consultation draft of its Annual Report or Supplementary Report to all relevant authorities for circulation to authority members and co-opted members, so that representations can be made by members/co-opted members to the Panel, normally in a period of eight weeks.
50. The Panel will determine in its Annual or Supplementary Reports the arrangements publicising its Reports in accordance with Section 151 and 152 of the Measure.

Monitoring compliance with the Panel's determinations

51. Section 153 of the Measure determines that relevant authorities must comply with the requirements imposed by the Panel in its Annual Reports. It also empowers the Panel to monitor the payments made by relevant authorities and for it to require the provision of information that it specifies. The requirements under this section will be set out in the Annual Report of the Panel.

Annex 3: Schedule of member remuneration

1. Principal councils, national park authorities (NPAs) and Welsh fire and rescue authorities (FRAs) (but not community and town councils) must maintain an annual Schedule of Member Remuneration (the 'Schedule') which is in accord with the Panel's determinations on member salary and co-opted member payments and which must contain the following information:

In respect of a Principal Council:

- a. Named members who are to receive only the basic salary and the amount to be paid.
- b. Named members who are to receive a Band 1 and Band 2 senior salary, the office and portfolio held and the amount to be paid.
- c. Named members who are to receive a Band 3, Band 4 and Band 5 senior salary, the office and portfolio held and the amount to be paid.
- d. Named members who are to receive a civic salary and the amount to be paid.
- e. Named members who are to receive the co-opted member fee and whether chair or ordinary member and the amount to be paid.
- f. Named members who are to receive a senior salary as a chair of a Joint Overview and Scrutiny Committee or Sub Committee and the amount to be paid.
- g. Named members in receipt of a specific or additional senior salary approved by the Panel and the amount to be paid.

In respect of National Park and Fire & Rescue Authorities:

- a. Named members who are to receive a basic salary and the amount to be paid.
 - b. Named member who is to receive a senior salary as a chair of the authority and the amount to be paid.
 - c. Named members who are to receive a senior salary as deputy chair of a committee and the amount to be paid.
 - d. Named members who are to receive the co-opted member fee and whether a chair or ordinary member and the amounts to be paid.
2. Amendments made to the Schedule during the municipal year must be communicated to the Panel as soon as it is practicable.
 3. Principal councils must confirm in their annual Schedule that the maximum limit of senior salaries set for the council has not been exceeded.

4. Principal councils, NPAs and FRAs must include a statement of allowable expenses and the duties for which they may be claimed for care, travel and subsistence in their annual Schedule which is in accord with the Panel's determinations.
5. The Schedule must set out the arrangements for the payment of salaries, allowances and fees to all members and co-opted members of the relevant authority (IRPW Regulation 35); arrangements for making claims for care, travel and subsistence expenses (IRPW Regulations 24 and 36-37); arrangements for the avoidance of duplication (IRPW Regulation 38) and arrangements for re-payment of salaries, allowances and fees (IRPW Regulation 33). This schedule must also include the duties for which members and co-opted members are able to claim travel, subsistence and care allowances.
6. Principal councils must declare in the Schedule whether:
 - A statement of the basic responsibility of a councillor is in place.
 - Role descriptors of senior salary office holders are in place.
 - Records are kept of councillor attendance.
 - Annual reports are prepared by councillors, and published on the council website.
7. Principal councils, NPAs and FRAs must make arrangements for the publication of the Schedule of Member Remuneration as soon as practicable after its determination and no later than 31 July of the year to which it applies. This should be sent to the Panel no later than this date. The Schedule should be published in a manner that provides ready access for members of the public.
8. The Schedule must also be sent to the Panel Secretariat to be received by 31st July.

Annex 4: Publicity requirements

In accordance with Section 151 of the Measure the Panel requires that:

Relevant authorities must make arrangements for the publication within the authority area of the remuneration received by its members and co-opted members (including chairs of JOSCs or sub-committees of JOSCs). This information must be published and provided to the Panel no later than 30 September following the end of the year to which the payments relate. The following information must be provided:

- a. The amount of basic salary, senior salary, civic salary and co-opted member fee paid to each named member/co-opted member of the relevant authority, including where the member had chosen to forego all or part of the salary, or fee for the municipal year in question. Where a senior salary has been paid, the title of the senior office held is to be provided.
- b. The payments made by community and town councils to named members as:
 - i. Attendance Allowance.
 - ii. Financial Loss Allowance.
 - iii. Payments for costs incurred in respect of telephone usage, broadband etc.
 - iv. Allowances made to a mayor/chair and deputy mayor/chair.
- c. All care, travel and subsistence expenses and other payments received by each named member and co-opted member of the relevant authority, with each category identified separately.
- d. The amount of any further payments received by any named member nominated to, or appointed by, another relevant authority or other public body as defined by Section 67 of the Local Government (Democracy) (Wales) Act 2013, namely:
 - a local health board
 - a police and crime commissioner panel
 - a relevant authority
 - a body designated as a public body in an order made by the Welsh Ministers.
- e. Names of members who did not receive basic or senior salary because they were suspended for all or part of the annual period to which the Schedule applies.

Annex 5: Guidance to the Independent Remuneration Panel for Wales on the salaries of local authority chief executives

Background

- 1.1. The Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) received Royal Assent on 30 July 2013. Its prime purpose was to reform the structure and functions of what is now known as the Local Democracy and Boundary Commission for Wales. There were, however, other provisions concerning Local Government and related issues. They included:
 - Allowing Principal Councils to appoint Presiding Members to chair their meetings, in preference to the traditional civic chair or mayor;
 - Enabling Local Authorities to promote or oppose private Bills in the National Assembly, rather than Parliament, if it is the appropriate legislature;
 - Requiring Town and Community Councils to publish information on the Internet;
 - Amending provisions within the Local Government (Wales) Measure 2011 (“the 2011 Measure”) relating to remote attendance at Council meetings and the constitution of audit and democratic services committees, and
 - Enabling Local Authorities to establish joint standards committees.
- 1.2. In addition, the responsibilities of the Independent Remuneration Panel for Wales (“the Panel”) within the 2011 Measure were amended by the 2013 Act in a number of ways but particularly in relation to the pay of Heads of Paid Service of certain Local Authorities.
- 1.3. Heads of Paid Service are statutory posts introduced under the Local Government and Housing Act 1989. Principal Councils and some other Local Authorities are required to designate one of their officers as the Head of Paid Service. This is usually the Council’s Chief Executive Officer. This officer is required to advise the Council with respect to the discharge of its functions and as to the number and organisation of its staff. For the purpose of this guidance, the term Chief Executive (“CEO”) is to be considered as a reference to the Head of Paid Service and/or a Chief Fire Officer.

The Panel’s responsibilities in relation to CEO pay

- 2.1. Section 63 of the 2013 Act amends the 2011 Measure by inserting a new section 143A. Sections 141 to 160 of the 2011 Measure deal with Local Authority members’ payments and pensions and the powers of the Panel in relation to them. The new section 143A enables the Panel to take a view, in relation to Principal Councils and Fire and Rescue Authorities (FRAs), on anything in their Pay Policy Statement (PPS) which relates to the salary of their CEO. For the purpose of this guidance, salaries include payments made by a relevant Authority to a Head of Paid Service who is not an employee of the Authority under a contract for provision of services, as well as payments of salary made to an employed Head of Paid Service under an employment contract. The Panel’s power to do so, however, is related only to Authorities which must produce Pay Policy Statements (Principal Councils and FRAs).

Section 64 of the 2013 Act, which enables Welsh Ministers to specify a public body which could be added to the Panel's responsibilities, does not apply in relation to Chief Executives' pay.

- 2.2. Pay Policy Statements are a requirement under the Localism Act 2011 (sections 38 to 43), to be published on an annual basis. The purpose of the statement is to provide transparency with regard to a Local Authority's approach to setting the pay of its employees, by identifying the methods by which salaries are determined. In particular, it must include:
 - a) Policies on all aspects and elements of the remuneration of Chief Officers;
 - b) The approach to the publication of, and access to, information relating to all aspects of the remuneration of Chief Officers;
 - c) The Council's policy on the remuneration of its lowest paid employees;
 - d) The relationship between the remuneration of its Chief Officers and other employees.
- 2.3. The Welsh Government has issued guidance to Local Authorities on this matter.
[\[http://wales.gov.uk/topics/localgovernment/finandfunding/publications/payaccount/?lang=en\]](http://wales.gov.uk/topics/localgovernment/finandfunding/publications/payaccount/?lang=en).
- 2.4. Pay Policy Statements (PPSs) are designed to cater for decision-making in relation particularly, to the pay of Chief Officers and the lowest paid staff. The position of Welsh Government, expressed in the PPS guidance, is decision-making on PPSs takes place in public, is open to scrutiny and is subject to a vote of all Council Members. This is reinforced by the Local Authorities (Standing Orders) (Wales) Regulations 2014, which the Welsh Government proposes to revise to require a Principal Council to advertise publicly where it proposes to appoint a Chief Officer and the remuneration it proposes to pay in respect of that role is £100,000 per annum or greater.
- 2.5. Section 63 of the 2013 Act goes on to say the Panel may make recommendations in respect of any proposal to change the salary of a Chief Executive. Principal Councils and Fire and Rescue Authorities are obliged to have regard to any recommendation the Panel makes in relation to what is in their PPS concerning Chief Executives' pay.
- 2.6. Should a Principal Council or FRA wish to change the salary of their CEO, they will have to consult the Panel, unless the change being considered is commensurate with a general pay increase or cut for other officers. (For the purposes of section 63 of the 2013 Act, "salary" includes payments made to a CEO under a contract for services as well payments of salary under an employment contract). The Council or FRA must have regard to the Panel's recommendation when reaching their decision.
- 2.7. The Panel may request any information they need to assist them to reach a conclusion on the matter and the Council/FRA will be obliged to provide it. The Panel may publish any recommendation they decide to make.

- 2.8. The Panel's recommendation could express approval of the Local Authority's proposal, express criticism of or concerns about the proposal, or recommend variations of the proposals but it cannot make any recommendations without taking into account this guidance issued by the Welsh Government.

The Panel's deliberation

- 3.1. When considering the issue of Chief Executives' salaries, it is important the Panel fully appreciates they are in a fundamentally different position to that in relation to the remuneration of Members of Local Authorities. In the latter situation, the Panel are the final arbiters in the matter. The Panel has the power to set precisely what a member of a Local Authority should receive, unless it confines itself to setting maxima instead. However, even in this situation it is the Panel, not the Local Authority or Welsh Government, who has the power to make the decisions.
- 3.2. In contrast, in relation to Chief Executives, the Panel's role is limited to taking a view and making a recommendation. Although the Local Authority/Authorities concerned must have regard to this opinion, they are not obliged to follow it. It is true other legislation will require any such decision to be made through a vote of full Council. It is also the case the decision would be open to scrutiny, not only by the Authorities' internal scrutiny processes, but also by external regulators such as the Wales Audit Office. The Authority would need to explain why they did not agree with the Panel's recommendation, if that is what has occurred.
- 3.3. Nevertheless, the Panel does not decide what an individual Chief Executive is paid. This should avoid any need for the Panel to be pulled into negotiations with Trade Unions or professional associations, for instance. Although one cannot rule out the possibility of a legal challenge to a recommendation by the Panel, it is less likely because of the indirect nature of the Panel's relationship to the final decision.
- 3.4. The Panel is being asked to use its own experience and expertise to arrive at a recommendation in each case that arises. Local Authorities are required to provide the Panel with any information it may reasonably require in reaching a conclusion and that provides the Panel with considerable power to gather necessary information. The sort of information the Panel may require could include the following:
- Papers or reports prepared by the Authority in relation to the matter;
 - Reports or other information provided to the Authority by any consultancy, Trade Union or professional association;
 - Details of the total package available, or under consideration, for the Chief Executive. This could include the length of contract on offer, pension arrangements, severance package, returning officer fees, performance bonuses, provision for annual and other leave, payment in kind (i.e. cars) and relocation costs;

- Information concerning the remuneration on offer to other Local Authority Chief Executives. (*Note: the Panel are not restricted to only requiring information from the local authority considering a variation in salary*).
- 3.5. It is also likely the Panel would wish to take into account more general data relating to prices and incomes, which they may well have available through its relevance to the remuneration of Local Authority members.
 - 3.6. The legislation does not restrict the Panel to a purely reactive role. If it wished, the Panel could use its power to make recommendations relating to provisions within Local Authorities' PPSs irrespective of any proposal to vary the pay of a Chief Executive provided the recommendation "related to" the salary of the Chief Executive. The Panel would, however, need to consider whether it had the time and resource to carry out such an exercise and bear in mind the policy driver behind the provisions in the 2013 Act was related to control over what were viewed as unacceptable decisions in relation to pay increases. Exercising the power in a way that was inconsistent with its purposes, could give rise to legal challenge. However, it does mean any individual or organisation could refer an issue concerning the Chief Executive's pay to the Panel for its consideration and the Panel could decide to act on that reference if it felt it necessary.
 - 3.7. The Panel needs to be consulted if there is a downward variation being proposed for a Chief Executive's pay (unless, as in the case of an increase, it is commensurate with a general approach to officers pay in that Authority). The Panel is likely to take the same type of evidence requirements into account.
 - 3.8. Finally, what factors should the Panel take into account in reaching a recommendation? It is for the Panel to make its own assessment of what factors are relevant to the exercise of its discretion in any particular case and how much weight is to be given to them. However, the following paragraphs cover what Welsh Ministers consider to be key factors to be taken into account by the Panel.
 - 3.9. When recruiting Chief Executives, public sector bodies are obliged to consider what remuneration will be required to recruit and retain the most suitably qualified persons. That is why there is often a large differential between the highest paid individual officer at Chief Executive level and the next level within an Authority. Particularly in relation to Chief Fire Officers, the Panel needs to recognise the professional expertise required for the post and will need to refer to the National Joint Council for Brigade Managers of Local Authority Fire and Rescue Services ("the Gold Book").
 - 3.10. The Panel will need to be sensitive to this but also take a balanced approach. Public acceptability is a legitimate factor for the Panel to take into account, but it should not be given undue weight. Although perceived excesses in remuneration of politicians and public officials have given rise to public controversy, it is understandable any significant increase in pay for an already

well-paid post may be criticised at a time when economic circumstances are difficult for many families.

- 3.11. Salary levels for Chief Executives within comparable Local Authorities need to be taken into account. In addition, there is a tendency to set arithmetic limits on the differential between the highest and lowest paid staff in an organisation, as well as the differential between the highest and second highest paid. It will be for the Panel to decide whether to take cognisance of this and how much weight to give it.
- 3.12. The Panel will also be able to take into account whether the salary under consideration is reasonable for the area concerned.
- 3.13. In conclusion, the Panel will want to satisfy itself the Local Authority concerned has made a clear business case for a proposed change and examined the options. The view of the Panel should be taken at the end, not the beginning of the process, in order that the Panel is able to see all the evidence the Authority has taken into account in making their proposal. This will be particularly important when an urgent appointment is being considered. If the Panel's view is required quickly, it will need to have all the background information readily available.

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E-mail: irpmailbox@wales.gsi.gov.uk

The Report is available on our website at:

www.remunerationpanelwales.org.uk



COUNCIL – 21ST APRIL 2015

SUBJECT: WELSH GOVERNMENT WHITE PAPER, REFORMING LOCAL GOVERNMENT: POWER TO LOCAL PEOPLE

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To advise Members of the content of the recent White Paper on Local Government, and of the draft response prepared by the Welsh Local Government Association (WLGA).
- 1.2 To invite Members to endorse the draft WLGA response and / or make other comments they see fit as part of the consultation currently being undertaken by Welsh Government on the White Paper.

2. SUMMARY

- 2.1 Welsh Government has published a White Paper on the future of local government in Wales. Consultation on the White Paper closes on the 28th April 2015. The full text of the White Paper and an online consultation response form can be found at <http://wales.gov.uk/consultations/localgovernment/power-to-local-people/?lang=en>.
- 2.2 The White Paper sets out Welsh Government's vision for local government. It contains ambitions for:
 - "Activist councils" working more closely with communities;
 - A limited set of national priorities and standards, with other priorities set at a local level;
 - More diverse membership of local authorities;
 - Reducing the cost of local government;
 - Empowering local people to be more involved in service delivery and decision making.
- 2.3 The Welsh Local Government Association has prepared a draft response to the White Paper which is attached to this report. This response deals with most of the significant questions posed by Welsh government in their consultation document.
- 2.4 Members are invited to consider whether to support this WLGA draft response and / or to offer other views which the authority should submit. Individual members and political groups are entitled to submit responses in their own right if they so wish.

3. LINKS TO STRATEGY

- 3.1 This White Paper is a highly significant development which could have a major influence on the future shape and role of local government in Wales.

4. THE REPORT

- 4.1 Welsh Government has published a White Paper on the future of local government in Wales. Consultation on the White Paper closes on the 28th April 2015. The full text of the White Paper and an online consultation response form can be found at <http://wales.gov.uk/consultations/localgovernment/power-to-local-people/?lang=en>
- 4.2 The White Paper sets out Welsh Government's vision for local government. It contains ambitions for:
- "Activist councils" working more closely with communities;
 - A limited set of national priorities and standards, with other priorities set at a local level;
 - More diverse membership of local authorities;
 - Reducing the cost of local government;
 - Empowering local people to be more involved in service delivery and decision making.
- 4.3 Some parts of the White Paper have attracted significant publicity. These include changes to the way local authorities are elected, including limits on the number of terms elected members can serve.
- 4.4 However, the White Paper includes many other far-reaching ideas which have not been so well publicised.
- 4.5 The White Paper includes proposals regarding the powers, structure and procedures for new authorities which will be formed from mergers of existing authorities. The new authorities will be known as 'counties' but will have the power to appoint Mayors, which is not currently possible in county authorities. Consideration will be given to having new, streamlined constitutions for these new councils, and there could be legislation to provide a general power of competence for these new councils. There would also be more flexible powers to allow authorities to contract out services or to work in partnership with other councils nationally or more locally.
- 4.6 'Renewing Democracy' is another of the key themes in the White Paper. This section deals with options around local government elections (e.g. electing part of the council each year or having fixed terms of 4 or 5 years). It also looks at the role and responsibility of the Leader, Cabinet Members, and Elected Members generally. There is discussion of reducing the size of Cabinets, and having fewer 'senior' full time Cabinet positions, with some becoming 'deputy' positions. Promoting greater diversity amongst local authority membership, and in senior roles, figures prominently in the White Paper.
- 4.7 The Paper looks at reducing the number of councilors, raising the current ratio in Wales (each councilor serving on average 2,401 electors) closer to the English position (1:3,914 electors) or even Scotland (1:4,259).
- 4.8 There could be term limits of five terms for elected members and two terms for continuous service for Leaders and Cabinet Members. There is also consideration of a power of recall of councillors if, for example, there have been sanctions imposed on a councillor by a Standards Committee or the Independent Adjudication Panel and 10% of the electors sign a petition demanding a new election.
- 4.9 The White Paper also looks at the role of Chief Executives and senior managers. There are suggestions included as to term limits for chief executives and more consistency in the number of senior officers in each authority and their remuneration.
- 4.10 A large part of the White Paper looks at the relationship between local government and community organisations, and with Town and Community Councils. Wider powers are envisaged for Community Councils who can pass the test of 'competency' and greater

powers are proposed for community groups who wish to effect 'asset transfer' from local government, or who wish to be given a greater role in service provision.

- 4.11 New models of service provision receive consideration, including co-operative and mutualised forms of delivery. There is an expectation that authorities procure services from "...*the best value provider...*" and that Councils "... *work with other Councils, Community Councils, co-operatives and mutuals, and their local community to develop new models of service delivery*".
- 4.12 The White Paper also looks at several options regarding the monitoring of performance in local government, and options for intervention in authorities where deemed necessary.
- 4.13 These are some of the many wide-ranging and highly significant proposals to be found in the White Paper.
- 4.14 The draft response of the Welsh Local Government Association is included at Appendix 1 to this report. This response deals with most of the major questions posed by the White Paper, and in a separate on-line consultation form.
- 4.15 Members are invited to consider whether they agree with and wish to endorse the WLGA's draft response. Members may alternatively wish to offer a different view on any or all of the issues contained within the White Paper. Individual Members and political groups are also free to respond separately if they so wish.

5. EQUALITIES IMPLICATIONS

- 5.1 No equality impact assessment has been undertaken on this report as it has no implications on service delivery at this time.

6. FINANCIAL IMPLICATIONS

- 6.1 There may be significant financial implications arising from many of the provisions in the White paper but these will be subject to whatever final decision is reached on each of the individual proposals by Welsh Government over time..

7. PERSONNEL IMPLICATIONS

- 7.1 None at this time, dependent on what proposals emerge following the White Paper.

8. CONSULTATIONS

- 8.1 All consultation responses have been reflected in this report.

9. RECOMMENDATIONS

- 9.1 Council is requested to:
 - (i) Consider whether or not to endorse the WLGA Draft response to the White Paper;
 - (ii) Consider whether or not to make any other observations or response to the White Paper.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To respond to this highly important consultation paper from the Welsh Government.

11. STATUTORY POWER

11.1 Not applicable

Author: Chris Burns, Interim Chief Executive
Consultees: Cllr Keith Reynolds, Leader and Leader of the Labour Group.
Cllr. Colin Mann, Leader Plaid Cymru Group
Cllr Dave Rees, Leader Independent Group

Appendices:
Appendix 1

Our Ref/Ein Cyf:
Your Ref/Eich Cyf:
Date/Dyddiad:
Please ask for/Gofynnwch am:
Direct line/Llinell uniongyrchol:
Email/Ebost:

ST/SP

31st March 2015
Steve Thomas
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steve.thomas@wlga.gov.uk



To all Local Authority Leaders and Chief Executives, Chairs and Chief Officers of the Fire & Rescue Authorities, Chairs and Chief Executives of National Park Authorities in Wales

Dear Colleague

WLGA Draft Response to the Welsh Government's White Paper "Reforming Local Government: Power to Local People"

Following unanimous agreement at the WLGA Coordinating Committee meeting on March 27th 2015, it was agreed to seek the views of all WLGA members across Wales on WLGA's draft response to the White Paper "Power to Local People".

It was the view of members that the draft response represents an excellent and detailed summation of potential local government positions to the many and varied proposals in the White Paper. The vision set out by Welsh Government and the debate this has generated has been fully embraced in local government. Indeed, it is the view of members that this approach based on the possible form and functions of local government should have commenced before the discussion on structures.

Members were keen to stress the elements in the White Paper which were positive and are to be welcomed. These include a power of general competence, the push for greater diversity in Councillor membership, and the commitment to have a full examination of local government finance.

There are other elements of the White Paper, however, which are hugely controversial and have generated an adverse response amongst councils. These fall into key categories:

Communities – WLGA leaders agreed that the debate on more powers to councils that is currently happening across the UK is not occurring to a sufficient degree in Wales. The principles of devolution of power to our communities through local government, a localist philosophy and the principle of subsidiarity need to be at the heart of Welsh public policy.

Steve Thomas CBE
Chief Executive
Prif Weithredwr

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Cymdeithas Llywodraeth
Leol Cymru
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Choice – WLGA leaders agreed that key principles of local democratic choice are at stake. Leaders believe for example that it is for communities through the ballot box to determine the length of time politicians are in post. They also believe that it is a fundamental principle that councillors select and appoint their own senior managers. These and many other examples are at the core of a localist approach.

Consistency - Many of the proposals in the White Paper apply exclusively to the local government sector. It is the view of WLGA leaders that for any debates on these matters to have credibility, and for councils to properly engage in a meaningful way, the potential reforms must apply to all levels of government in Wales.

Complexity – The White Paper adds more complexity into an already crowded public services landscape. The White Paper highlights reforms to community councils, a new system of area boards, new requirements around LSBs, the development of City Regions and a raft of other legislative proposals. These proposals appear to contradict the recommendations of the Williams Report, which sought greater clarity and significant reform. The proposals on a new improvement review framework also fall into this category.

Clarity – To properly answer some of the key issues in the White Paper this must be predicated on the need for a resolution to the debate on local government reorganization, for example, determining what is the appropriate number of councillors in Wales. The LGR debate has stalled and a further map is awaited. WLGA leaders repeat their call to be fully involved in the determination of the future shape of Welsh councils.

Commissioning – The White Paper proposes an accelerated model of local authorities commissioning services through mutuals, the third sector, social enterprises etc. The WLGA recognises that this is but one of many mechanisms to transform services and has severe limitations. It is the view of WLGA that the default model of direct public services, democratically accountable to local politicians and infused with a public sector ethos is the preferred operating model.

Councillors and Democracy - WLGA leaders want the debate on the future of local government to be based on the principles of respect, full engagement and partnership. WLGA is eager for Welsh councils to fully reflect the diversity of our communities. But we also want to ensure the contribution of all who stand for election in these difficult times is fully recognised and valued. They should be applauded for their dedication and commitment to serve communities across Wales often to the detriment of their family life and careers.

The WLGA draft response comes in the form of both an Executive Summary and a more detailed document setting out views on the many proposals in the White Paper. This is a long response but the debate generated by the White Paper is fundamental and it is important that WLGA, as the representative body of councils in Wales, seeks to address the issues contained therein. We are consulting councils on the contents of this and asking key questions:

1. Do you broadly support the approach taken and the contents of the response?
2. Do you think that the response sets the right tone and its recommendations can be fully supported?
3. Do you think there are issues or ideas that should be included in the response, which are currently missing?

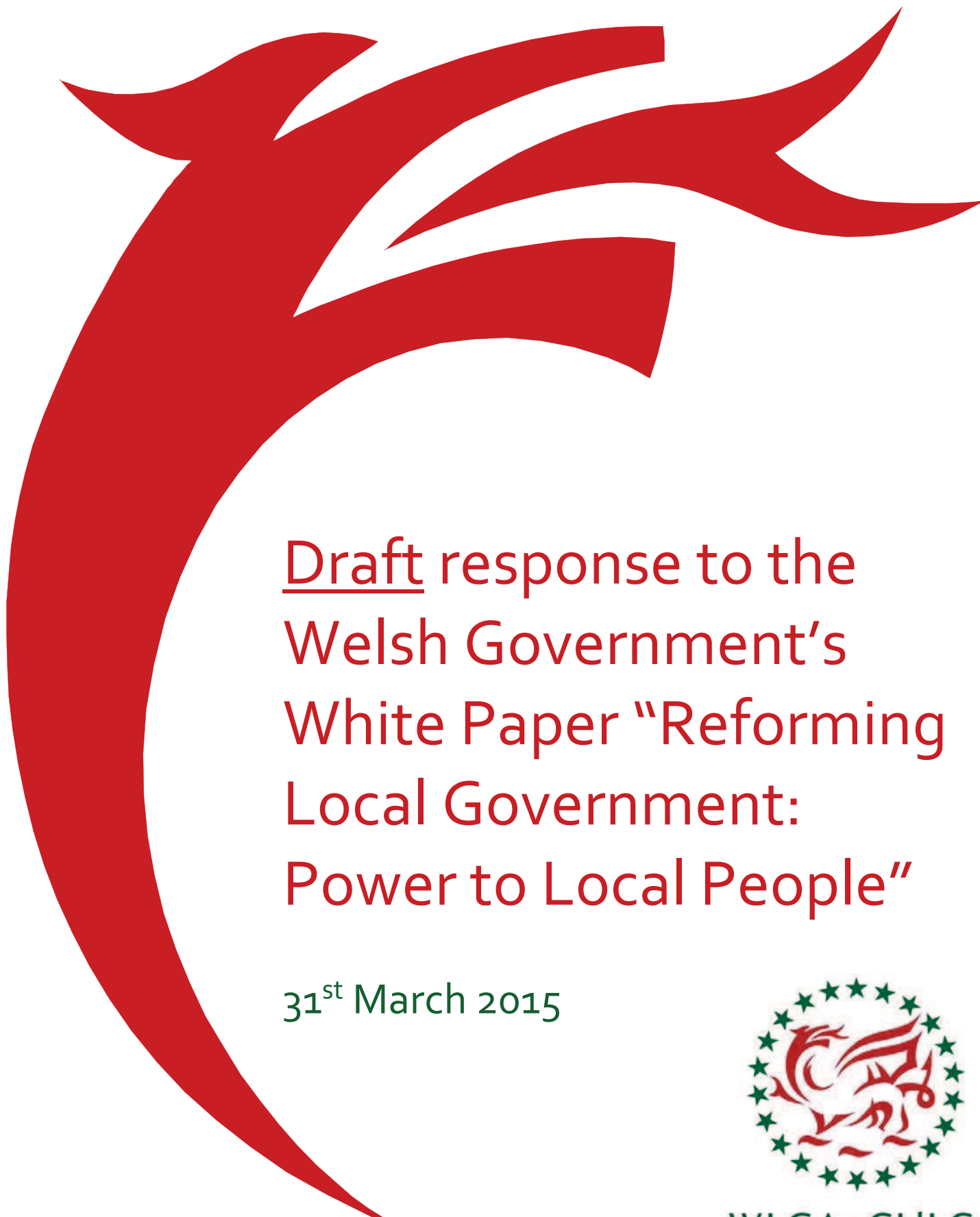
Following our discussion at the last weeks Coordinating Committee we are using this period between now and the end of the Welsh Government consultation to seek authorities views on this draft. We would like to get a firm view on the direction of travel from each authority across Wales and all parts of the WLGA membership. It is hoped that this draft will in addition, assist councils in their formulation of views to the White Paper. Therefore we need your comments by **Tuesday 14th April 2015** to report back to our Management & Audit Sub Committee.

We would also urge those councils who are supportive of this response and thus not intending to submit an individual council submission to write to Welsh Government indicating their endorsement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Wellington', written in a cursive style.

Councillor Bob Wellington CBE
Leader of the Welsh Local Government Association



Draft response to the
Welsh Government's
White Paper "Reforming
Local Government:
Power to Local People"

31st March 2015



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. A draft Executive Summary is set out in pages (i) to (vii).
4. A full draft response to the White Paper is set out in pages 1 to 37.
5. WLGA would be grateful to receive any comments from the membership on the draft response to the White Paper and a response by 14th April 2015 would be appreciated.

For further information please contact:

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Executive Summary - WLGA Draft Response

Chapter 1 - Welsh Government Vision for Local Government in Wales

The Welsh Government vision for local government sets out the concept of an “activist” council which has derived from “the best international experience, and drawn on the experiences of the co-operative councils movement in the UK”. There is a welcome proposal of a power of general competence for all Welsh Councils. However many of the proposals to underpin this vision are qualified and conditional on creating larger reorganised councils.

Response

- WLGA welcomes the debate that has started on developing a vision for the future of local democracy in Wales and is committed to taking this forward in an open and constructive manner.
- WLGA members believe that the “activist” council model has real attractions but that it would require greater autonomy for local authorities than is afforded currently by central government and recognition that a public service ethos is fundamental.
- WLGA members are firmly of the view that the principles of localism and subsidiarity need to be embraced by all levels of government in Wales.
- WLGA and our colleagues across the UK support the concept of a Constitutional Convention following the general election with every nation and region in the country engaged in a dialogue with our communities about how power needs to be dispersed and how sub-national devolution can be strengthened.
- WLGA members believe that the Welsh Government should rapidly move forward to de-hypothecate all specific grants following the approaches in England and Scotland.

Chapter 2 - Balancing the responsibilities of National and Local Government

This chapter recognises that a new approach is needed to underpin central local relations in Wales and will be achieved by a review of the body of local government legislation. It also highlights that Welsh Government remains firmly of the view that both structural and organisational reform of Local Government is necessary.

Central local relations

Response

- WLGA repeats its call for clarity from Welsh Government on how local government reorganisation is to be funded and for an end to the current ambiguity on structures.
- WLGA calls for an independent review of central local relations in Wales aimed at producing clearer accountabilities and ensuring that the interface between devolved and local government drives priorities.
- WLGA calls for an annual meeting between all Welsh Government Cabinet Members and the 22 leaders to exchange ideas, plan implementation of legislation and test strategic direction of key policies. This can also be used as an opportunity to discuss new approaches.
- WLGA supports the review of the body of local government legislation and the recasting of local authority constitutions

Chapter 3 – Renewing Democracy

The proposals in this section deal with suggested reforms aimed at renewed democracy. These include reducing the number of councillors across Wales, term limits, right of recall, possible election by thirds etc. This chapter has proved the most controversial to date in the discussion around the White Paper. The tenor of discussions thus far has failed to recognise the time, commitment and service of existing councillors in relation to working in their communities and improving councils.

Councillor Numbers

Response

- WLGA proposes that a definitive view on council structures needs to be reached before the question of councillor numbers can be answered.
- WLGA advocates that any proposals must examine the optimum level of representation for a locality rather than focusing on averages across the UK.
- WLGA calls for the immediate formation of a Commission between Welsh Government, the Boundary Commission and WLGA to make progress on the way forward on levels of representation.

Remuneration

Response

- WLGA calls on Welsh Government to undertake a national review of comparative levels of remuneration beyond local government across the public sector, including non-elected bodies in Wales.
- WLGA does not feel that the case has been made for reducing allowances at a time when the size of authorities and the scale of responsibilities are increasing.
- WLGA believes that the work of the Independent Review Panel needs to be examined to understand why a system of allowances subject to objective evaluation and accumulated benchmarking since 2007 is now deemed not fit for purpose.

Term Limits

Response

- WLGA does not support the concept of term limits. While WLGA members are fully prepared to engage in a national debate on term limits this must be on the condition that it covers all levels of political representation in Wales.

Right of Recall

Response

- WLGA does not support the concept of right of recall. While WLGA members are fully prepared to engage in a national debate on the right to recall this must be on the condition that it covers all levels of political representation in Wales.

Diversity

Response

- WLGA fully supports the promotion of more diversity in Welsh Local Government and the provisions of the report "On Balance"
- WLGA believes that the promotion of diversity in local government must start with the selection processes of the political parties.

Electoral Cycles

Response

- WLGA fully supports a five year fixed term electoral cycle

- WLGA rejects the proposals for 3 year electoral cycles for the reasons highlighted in our response.

Senior Officers

Response

- WLGA believes that consideration should be given to initial fixed term contracts for Chief Executives so as to avoid the need to legislate in this area.
- WLGA is not persuaded by the case for a public services appointments commission and believes that it denies the key principle of local democratic choice in senior appointments.
- WLGA supports the idea of the Staff Commission having a role in commenting upon and reconciling salary levels for senior managers within a more consistent national framework across all public services.
- WLGA does not support lifting the electoral qualification for officers to stand as councillors in their own authorities.

Chapters 4 & 5 - Connecting with Communities and Empowerment

This section examines the potential role of area boards and reforms to town and community councils. It stresses the importance of member led community governance, however some of the proposals also add to the complexity of local governance frameworks which actually confuse and diminish the accountability of members at the local level.

Response

- WLGA supports fully the concept of member led community governance.
- WLGA believes that in some cases Area Boards can add value but only when there is local demand and not when imposed through national frameworks.
- WLGA calls on Welsh Government to implement the Williams Report recommendations on reducing complexity before any new localized structures are put in place.
- WLGA supports the proposal to give the new principal councils the power to lead reform of town and community councils.

- WLGA does not believe that a full review of governance and structures of Community councils can be completed by 2022
- WLGA is committed to public service provision through local government and, while accepting that alternative models of service delivery must be explored and considered, believes that the future sustainability of public services will rely on direct provision by councils.

Chapter 6 - Corporate Governance and Improvement

The White Paper outlines continued commitment to the concept of self-improvement, where councils themselves remain responsible for identifying their own improvement priorities, identifying and mitigating improvement challenges and risks and managing service performance. The White Paper therefore proposes a repeal of the more general improvement provisions in Part 1 of the Local Government (Wales) Measure 2009 and reaffirms an intention to retain Ministerial intervention powers, including a new power to commission an independent governance review of an authority in certain circumstances.

Response

- WLGA welcomes the Welsh Government's continued commitment to and strengthening of an improvement regime based on self-assessment and self-improvement.
- WLGA supports the general proposals to strengthen the role of Audit Committees, but the Welsh Government should also seek to clarify the distinct remit and roles of audit and scrutiny
- WLGA does not support the proposed reforms to ensure that the chair of Audit is an independent member or that Audit Committees should include a greater proportion of independent members.
- WLGA welcomes the White Paper's recognition of the value of peer review, but believes it should remain a sector-led, sector-owned and sector-commissioned model and should not be statutory or prescribed.

Chapter 7 - Performance in local Government

The White Paper further explores the key components of effective governance and self-improvement and outlines proposals for a requirement for councils to publish a corporate plan that covers the short, medium and long term, annual reporting arrangements covering performance for the previous year. The White Paper also clarifies Welsh Government intention to streamline the performance measurement regime in line with the Williams Commission recommendations and proposes the

establishment of an online information portal including councils' performance information and performance documentation and reports.

Response

- WLGA supports many of the aims of the White Paper around seeking to streamline and more effectively and transparently measure, manage and report council performance.
- WLGA and Data Unit welcome the Welsh Government commitment to working with partners in developing the proposed new, streamlined approach.
- WLGA does not support proposals for 'financial penalties' and thinks it will unfairly undermine performance and attainment of standards. The White Paper does not explore the potential of minimum standards in detail.
- WLGA supports the proposal that councils should produce a comprehensive corporate plan, but is not convinced it will lead to clearer demarcation of the respective roles of councillors and senior managers and, given its comprehensiveness and complexity, it will not support or promote public engagement or accountability.
- WLGA supports the White Paper proposals around openness and transparency of council business and recognises the potential for increased service provision and customer contact through digital channels.

Chapter 8 - Strengthening the Role of Review

The White Paper outlines the Welsh Government's plans continued commitment to the concept of local democratic oversight and scrutiny of local government and, potentially, partner organisations. The White Paper outlines proposals to further clarify, support and strengthen local scrutiny, the relationship of scrutiny with external inspectorates and regulators and improved coordination of information and activities of such external bodies.

Response

- WLGA supports many of the principles and objectives that underpin the chapter on strengthening the role of review, many of the individual proposals are also endorsed.
- WLGA supports the introduction of 'Key Decisions' to clarify the key issues which scrutiny should consider and may be subject to call-in when appropriate. Similarly scrutiny forward work planning could be strengthened, but prescription should be proportionate.

- WLGA recognises the contribution and value of co-optees but it should be a matter for local determination regarding the role and voting rights of co-optees.
- WLGA does not support the proposal to legislate to ensure that collaborative or jointly commissioned services have a joint scrutiny committee. Local accountability arrangements should be left to the discretion of constituent authorities.
- WLGA supports the proposals around strengthening the links between external inspection and regulatory bodies.
- WLGA supports in principle the proposed joint 'whole system assessment' of authorities, but a biennial assessment does not appear to be proportionate and could place a significant burden on authorities.

Chapter 9 - Reforming Local Government Finance

This chapter highlights longer term proposals for reform of the finance system in Wales supported by changes to the way local services are funded and the mechanisms for distributing, raising, managing and accounting for the funding.

Response

- WLGA would argue that as the arena of local government finance is the key issue facing local government, reform should be given greater prominence within the White Paper.
- WLGA fully supports the White Paper proposals on council tax revaluation, reform of the local government funding formula and new approaches to local taxation.
- WLGA has commissioned an Independent Commission on Local Government funding to examine the crisis in local government funding and the Welsh Government is invited to participate in this work.

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Reforming Local Government White Paper – Power to Local People

DRAFT WLGA response

Chapter 1 - Welsh Government Vision for Local Government in Wales

Introduction

- 1.1 The Welsh Government's Devolution, Democracy and Delivery White Paper: Reforming Local Government - Power to Local People, published on 3rd February 2015 and was acknowledged by WLGA as an important contribution to the debate on the future of local democracy in Wales. The WLGA has consistently argued that the debate on future structures of local government in Wales should be firmly based on the need for form to follow function and that a clear vision is needed to underpin any proposed changes.
- 1.2 The White Paper usefully sets Welsh local government within an historical perspective and also seeks to link the "Reforming Local Government Programme" with other Welsh Government strategies. It proposes a range of measures that are progressive such as the view that there must be more diversity within council chambers and that local authorities should more clearly reflect the communities they serve, as well as less developed ideas that will require further discussion and elaboration. This response will consider the White Paper in its entirety and will highlight those ideas which are welcome as well as those proposals that are less persuasive as currently set out.
- 1.3 Consideration will be given to the main themes of the White Paper: local democracy, the roles and remuneration of elected members and senior officers, community governance and community councils, community rights, corporate improvement, service performance, scrutiny, audit, inspection and regulation, and local government finance. The paper reflects the discussions that have taken place to date within the WLGA's various political fora including the WLGA Council on 27th February. The intention at all times is to both constructive and challenging to seek shared solutions for public services in Wales.

The Vision – "Activist" Councils

- 2.1 The Welsh Government vision for "activist" councils is one of the key themes of the White Paper. The Minister for Public Services, Leighton Andrews, states in the introduction that, "We want all our Councils to be activist Councils, engaged in delivering modern, accessible, high quality public services with their communities." The Paper sets local government at the heart of its communities, which is welcome and recognises a functional reality as it exists today. While much focus is placed on the larger services such as education and social care, for the public it is those delivery areas that deal with the "clean, green and safe" services that are often the most valued.
- 2.2 Services such as environmental health, trading standards, leisure, housing, libraries and many more have a key preventative role in terms of community health and wellbeing. It these same services whose sustainability is under threat with

continuing austerity and cuts. As the First Minister recently commented *"Another five years of this, and there won't be any choices at all, no matter how difficult the decisions. It won't be libraries and leisure centres versus social services and playgroups. It will be everything"*.

- 2.3 This is a clear recognition that structural change cannot provide all the answers to the financial predicament of local councils. Thus the White Paper is right to stress that finding new and innovative ways of delivering services now is the key task for local democracy across Wales.

Localism

- 3.1 The White Paper suggests that following reorganisation, the "activist" council model will create the foundation "for local government to determine with local people the bulk of local priorities". It is suggested that this approach is rooted in the cooperative councils' tradition in the UK, and yet the White Paper makes very few references to the localist principles that underpin the cooperative council philosophy. This principle is best expressed by a recent statements from the present and past Chairs of the Cooperatives Council Innovation Network (CCIN) who argue that -

"The outcomes from this innovative new approach to local service delivery will be severely muted if local government is not re-empowered with meaningful economic policy and funding levers". Cllr Andrew Burns Leader of City of Edinburgh Council and Chair of the CCIN

"Top-down governance has failed. Cooperative localism could help us define public services for a new era". Cllr Jim McMahon Leader of Oldham Council and a former Chair of the CCIN

- 3.3 The White Paper suggests that a power of general competence partly addresses this argument. WLGA leaders have argued for such a power since the WLGA's formation 1996 and welcome the fact that the Welsh Government has embraced the principles set out in 2011 Localism Act. In England it has been designed to allow councils to undertake innovative activity to drive efficiency and encourage more calculated risk taking that could benefit council tax payers. It does not however allow any new power to raise tax or precepts, or to borrow. Neither will the proposals enable councils to set charges for mandatory services, impose fines or create offences or byelaws affecting the rights of others, over and above existing powers to do so.

- 3.4 Indeed, in terms of new service powers for local government, the White Paper's proposals are conditional and limited. As stated –

"The Welsh Government is in favour of giving more powers to Local Government but Local Authorities must first demonstrate effective exercise of their existing powers. Reformed Authorities, with greater capacity and capability, will have an opportunity to assert greater responsibility and show tangible improvements. When this has been adequately demonstrated, the Welsh Government will be prepared to consider the appropriateness of further devolution of powers".

- 3.5 This is a source of significant disappointment for the WLGA Council Members as they believe this to be a matter of principle and not a matter for bargaining or negotiation. This is in line with the Silk Commission which took the view that the

concept of devolution should be underpinned by a new assumption that everything is devolved unless stated otherwise. Current performance or the use of existing powers was not a consideration for Silk when deciding on matters of political principle.

- 3.6 Alternatively, for local government the promise of further powers is related to structural reform and undefined criteria of “performance”. This suggests that there will be no further devolution of powers to local government until the new shadow councils are established in 2019 or 2020. This timescale does not align with the current financial pressures on public services, the proposed budget cuts in the next Parliament or the increasing drive within Wales to centralise services. A qualified assurance to do something in the future about the powers of local government does not suggest a deep commitment to the principle of subsidiarity or even a functional vision for public service provision in the future

Activist or Agency?

- 4.1 This limited interpretation of the “activist council” is combined with a strategic commissioning approach where services could be delivered through a range of community enterprises, the third sector and trusts as alternative providers of public services.
- 4.2 The WLGA has always recognised the attractions to social enterprises, trusts and cooperative models as vehicles for delivering public services. Local authorities have already been very active in this arena with community trusts running leisure services and libraries and the presence of mutuals in housing and the exploration and further development of these options is set to continue.
- 4.3 WLGA members however maintain that such models can only provide a partial solution to the scale of current financial challenges. There are doubts about the capacity of these alternative providers to deliver on the scale envisaged in the White Paper. It is the Association’s view that there can be no substitute for publically run services in key areas both statutory and discretionary. The White Paper is right to exhort “local government to assert accountability, challenge complacency and drive out mediocrity”. But it is the view of our members that this is best achieved within a democratic framework with local accountability
- 4.4 The WLGA has always argued that decisions about how services are run and managed should be taken as close to the point of delivery as possible and that those people who use public services should have a say in the way that they are organized and delivered. For that reason the WLGA agrees fully with the sentiment in the White Paper “that the future of public services lies in the quality of the relationship between service providers and local people”. Only local government can safeguard that relationship and provide those opportunities because councillors are the tier of government that is closest to the people they serve. In order to be sensitive to local needs however they must have the freedom and flexibility to respond to local circumstances. While it is accepted that central government must set the strategy for public services it is argued that local government must have the freedom to deliver that strategy by taking account of local circumstances.
- 4.5 While the White Paper speaks of using local government reorganisation to set a smaller number of clear national priorities the current reality does not support this ambition. Finland has one education act and no inspectorate yet is recognized as one of the best education systems in the world. In contrast, the sheer weight of

accumulated and planned legislation applying to local government since the Government of Wales Act 2006 has been prodigious.

- 4.6 In addition the scale of multiple accountabilities (not least the burden of audit and inspection) and complex partnership landscape within which local authorities have to operate has led to both the Beecham and Williams reports to recommend the need to massively delayer and unpick this complexity. Williams in particular highlighted the practice of legislating to “have regard” to a specific concept or objective in their decision making processes simply complicates those processes without necessarily achieving anything in terms of the objectives concerned”
- 4.7 In Chapter 2, the White Paper attempts to link up some of the key frameworks in place currently to underpin sustainability in public services. These include -
- National Model of Regional working in the Education consortia
 - Social Services and Wellbeing (Wales) Act 2014
 - The Development of City Regions
 - The Planning (Wales) Bill
 - The Wales Infrastructure Investment Plan
 - The Local Government (Wales) Measure 2009
 - The Well-being of future generations bill
 - The extension of the role of Public Services Boards, and
 - Proposals for a nationally prescribed system of Area boards
 - Local Government Reorganisation
- 4.8 From the above factors it can be seen that the volume, penetration and diversity of devolved government interventions often occur in silos and lack coherence. For authorities its impact has been to generate largely reactive and coping strategies, reduce local discretion and create initiative overload. To add to into this a national system of area boards would create even more tiers of complexity. In their book the “Politics of Decentralisation – Revitalising Local Democracy” Robin Hambleton, Danny Burns and Paul Hoggart argue that such approaches can only work organically from the bottom up. As they state, a core principle of decentralisation is that “this model recognises that it is unsound to stipulate from the centre quite how service delivery is to be specified”.
- 4.10 It is the view of WLGA that other mechanisms could be introduced immediately that would secure better outcomes across Wales and assist effective localised decision-making.
- 4.11 One simple way of increasing local decision-making would be to embrace the Williams Commission’s recommendations on specific grants. WLGA members remain frustrated at the continued slow progress on the de-hypothecation of specific grants. Although there has been some progress within education where 14 specific grants have been merged to form one Education Improvement Grant (subject to significant cuts) progress in other service areas is slow. This contrasts radically with the situation in Scotland and England. The Williams Report highlighted that problem with such grants is that:
- “They control, rather than focus attention, on inputs rather than outputs or outcomes: requiring money to be spent on particular purposes does not and cannot guarantee better services or better outcomes for citizens”*
- 4.12 There is now a significant political consensus across the UK of the need to drive

greater devolution of powers to local communities through local councils. Such thinking is at the forefront all party general election manifestos. The local government associations across the UK, including the LGA, WLGA, COSLA and NILGA, met the Rt. Hon William Hague MP recently who leads for the Cabinet on this and contributed to the Smith Commission on Devolution.

- 4.13 All four associations support the idea for a Constitutional Convention following the General Election with every nation and region in the country engaged in a dialogue with the people about how power needs to be dispersed and how sub-national devolution can be strengthened. In this setting the UK associations believe that the following three principles are essential in moving forward -

"We must establish a principle of subsidiarity; the presumption that power is transferred to the level of government closest to the people. We recognise that there is a case for some powers to rest nationally. However, this should only happen when there is an explicit demonstration the activity being delivered nationally will result in better outcomes. We want to see real momentum behind the devolution of powers beyond Westminster, Holyrood, Cardiff Bay and Stormont to local government and to local communities.

We want the legal position of local government to be secured and enhanced. At the moment, local government is entirely a creature of devolved authority from "higher" bodies. Our communities want to be able to make local decisions for themselves. We need to consider a defined set of powers and responsibilities which sets out what local government can support at the local level so that we can design public services which are most appropriate to local need.

We want greater fiscal autonomy for local government. Our centralised system of public finance is inefficient and stymies economic growth. We are ready for greater responsibility for funding at a local level to improve public services and ensure that local residents and business see how their money is used."

- 4.14 Overall, the WLGA welcomes the debate that has commenced on the future for local democracy in Wales. The vision contained in the White Paper sets out the views of the Welsh Government in the clearest terms. For WLGA members, it does represent a new approach yet it is one predicated on a structural set of reforms that are receding into the distance. In the next three years, local government in Wales will experience budget shortfalls approaching £900m. On top of existing cuts, this threatens the existence of key services and was recognised by the First Minister in a recent speech to the Wales Labour Conference.
- 4.15 In light of this, WLGA members are firmly of the view that devolved Government needs to go further in applying localist principles and freeing up councils to navigate through the financial crisis. In turn it is incumbent on local government to deliver the services the public need and relies upon, as effectively and efficiently as possible.

Response

WLGA welcomes the debate that has started on developing a vision for the future of local democracy in Wales and is committed to taking this forward in an open and constructive manner.

WLGA members believe that the “activist” council model has real attractions but that it would require greater autonomy for local authorities than is afforded currently by central government and recognition that a public service ethos is fundamental.

WLGA members are firmly of the view that the principles of localism and subsidiarity need to be embraced by all levels of government in Wales.

WLGA fully supports a power of general competence for all Welsh Councils

WLGA and our colleagues across the UK support the concept of a Constitutional Convention following the general election with every nation and region in the country engaged in a dialogue with our communities about how power needs to be dispersed and how sub-national devolution can be strengthened.

WLGA members believe that the Welsh Government should rapidly move forward to de-hypothecate all specific grants following the approaches in England and Scotland.

WLGA believes that Councils need to reflect the diversity of the communities they represent, modernise the way they work and use their resources as effectively and efficiently as possible.

Chapter 2. Balancing the responsibilities of National and Local Government

Central Local Relations

- 1.1 WLGA members welcome the recognition in the White Paper that it is time to review and rethink relations between national and local government. The White Paper quotes the existing mechanism of the Partnership Council and the Partnership Scheme. These are important structures, particularly as they set the framework and reporting relationships for a number of other key bodies such as the Reform Delivery Group, Finance Sub Group and Distribution Sub Group.
- 1.2 While the WLGA values these structures and arrangements it agrees with the sentiment of the White Paper “that we are in a very different position from 1999”. All mature democracies are founded on a system of checks and balances so that no one element of government becomes too powerful. In 1999, a strong local government sector was seen as a counter balance to possible centralising impulses of a newly created National Assembly and the Partnership Council was created as the mechanism for managing that relationship.
- 1.3 The institutions of central local relations are now tired however and need refreshing in order to retain their relevance. The Partnership Council now meets only once a year and the Partnership Scheme was last recast in 2012 while its provisions are not meaningfully applied in practice. They are nevertheless important as central local relations provide the necessary checks and balances within every successful modern political system. The arrangements that govern and manage this relationship must therefore be robust, must stand the test of time and must be above the ebb and flow of day-to-day politics.
- 1.4 The challenges ahead require genuine engagement and dialogue. WLGA members are committed to the principles of open, constructive and respectful debate. Leaders recognise that reform is necessary and that it is vital that the structures that define and manage central local relations in Wales are refreshed and modified.

Complexity

- 2.1 This response has already touched on the numerous frameworks that have emerged from various Welsh Government Departments which have built up a formidable infrastructure of policy which is growing increasingly difficult to join up. WLGA leaders believe that it is the key role of Welsh Government to set strategic direction and ensure greater integration across Welsh public policy. A number of authorities have responded to this and factored this into their proposals for new local government structures based on the City Regions. The WLGA welcomed the establishment of the role of Minister for Public Services responsible for driving the Williams agenda and also supported the requirement for a single integrated plan produced for Local Service Boards. The Association also values mechanisms like the Workforce Partnership Council which has allowed cross sector discussion with other social partners in the trade union movement. These arrangements have not always aligned with Welsh Government policy however and there is often a dislocation between competing national strategies plus national strategy and local delivery.

- 2.2 It is recognised of course that policy integration is difficult in the complexity of modern government and there are good examples in social services, education and the environment where heavy investment in a partnership approach has reaped dividends. Taking waste management as an example, whilst there has been significant disagreement on collections policy, all involved have worked together to produce the best recycling outcomes in the UK. Equally the Social Services and Wellbeing Act has not been without controversy, but was clearly underpinned by genuine commitment from Welsh Government and local government at political and officer levels to produce a transformative change.

Moving forward

- 2.3 This approach to transformational change is based on a sense of shared endeavour and mutual respect. Partnership working and co-construction are challenging and can only succeed if there is genuine commitment among all partners and the circumstances are conducive. In this respect the whole debate around local government reorganisation in Wales has proved a huge source of frustration for WLGA members. What could have been a chance to properly debate the future of Welsh public services, their form, function and purpose has ended up as an exercise dominated by structures.
- 2.4 The White Paper is often dismissive and about the role of local government. It is difficult to understand the value of suggesting that "Leadership has not risen to the challenge, collaboration has stuttered and parochial interests have prevailed." Such statements are subjective, inaccurate and less than constructive. There are numerous examples throughout Wales of where local government has embraced and driven collaboration to great effect. The biggest public procurement since devolution has been Prosiect Gwyrdd devised from a consortium of five south Wales authorities working with Welsh Government. The North Wales Regional Partnership Board is a hugely influential cross public sector body and has been instrumental in attracting a new super prison to Wrexham, lobbying for rail improvements to the Holyhead to Crewe line and creating shared services across the region. South West and Central has a regional learning partnership and devised a shared legal service which has rolled out across the majority of authorities.
- 2.5 However this debate is taken forward, it is the view of elected members that the role of the WLGA as the representative body of local government is central. In this setting it is the national dialogue between elected politicians that should be driving the debate, but as the construction of this White Paper demonstrates the current process can be one sided.
- 2.6 WLGA would also advocate that there needs to be much more interchange between Welsh Government civil servants and local government officials so as to improve understanding their respective roles, gaining sector based experience and understanding the context of political environment.
- 2.7 In light of the above and with the severe challenges being faced by authorities with finances and the uncertainty over local government reorganisation, there is a need to take stock on the effectiveness of the current state of central local relations. WLGA welcomes the White Paper proposal to review the body of local government

legislation as a sensible starting point. We also fully support local authorities reviewing council constitutions and seeking to simplify them with an aim to improving transparency and understanding. The WLGA has been working with Lawyers in Local Government in recent years in developing a new model constitution. Many authorities have or are revising their constitutions, although a more fundamental review will be required given the proposed structural and governance reforms outlined throughout the White Paper.

Response

WLGA repeats its call for clarity from Welsh Government on how local government reorganisation is to be funded and for an end to the current ambiguity on structures.

WLGA calls for an independent review of central local relations in Wales to define and set out responsibilities and accountabilities and to improve the interface between devolved and local government.

WLGA proposes an annual meeting between all Welsh Government Ministers and the 22 council leaders to discuss new ideas, the implementation of legislation and the direction of strategic policies. This can be used as an opportunity to discuss new approaches.

WLGA supports a review of all current local government legislation and local authority constitutions.

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Chapter 3 - Renewing Democracy

Introduction – Getting the tone right

- 1.1 The WLGA welcomes the wide-ranging debate generated by Welsh Government on “renewing democracy”. It has led to considerable discussion within our membership on whether and how we move forward on these proposals. WLGA members strongly believe that local democracy in Wales needs to be re-empowered and fully accept that more diversity in local government would be at the heart of this renaissance.
- 1.2 It has come as no surprise that the focus of media and political attention thus far has almost been exclusively confined to the measures around “Renewing Democracy”. It links into a wider set of issues not least the political settlement in Wales, questions about the number of politicians and moves to increase the number of AMs. As a result the WLGA Leader Councillor Bob Wellington has already publically responded that these raise issues for debate that need to go beyond local government into all parts of the political sphere.
- 1.3 Equally the narrative of the White Paper as a ‘renewal’ of a supposed dysfunctional local government sector has been openly contested across councils. There is a full and clear recognition that local democracy needs to be revitalised and diversity must be at the heart of this. But this should not mean devaluing the contribution and civic commitment demonstrated by existing hard-working councillors in Wales. All who stand for election in these difficult times should be applauded for their service not dismissed with labels and stereotypes. WLGA is eager for Welsh councils to fully reflect our communities. But we also want to ensure that we do not demoralise those existing councillors who have given a full measure of time and commitment to serve those same communities often to the detriment of their family life and careers.
- 1.4 In this context councillors must not be singled out. For example we now have fewer women Assembly Members, fewer women in the Cabinet and fewer women Council Leaders than we did ten years ago. Only 7 current MPs out of 40 are women. As a result WLGA firmly believes that whatever the outcome of these debates around Renewing Democracy, any potential reforms that might emerge must apply equally across all tiers of elected government in Wales. Not to do so completely undermines the credibility of the proposals.

Reduction in number of councillors in line with UK average.

- 2.1 The paper is “seeking views on the number of elected members to inform the work of the Boundary Commission”. It highlights ratios of councillors to population as follows -

Wales	2,401
England	3,814
Scotland	4,259

- 2.2 There are currently 1,254 councillors in Wales. In Scotland there are 1,223 and England 20,523. Ratios between Scotland and Wales are very different. For example Glasgow has 79 councillors with a population per councillor of 7,551 based on an overall population of 596,000 people. Cardiff has 75 councillors with a ratio to electors of 1 to 4,689 based on a smaller population of 351,000.
- 2.3 The comparison with England is not as stark when urban areas are compared. Cardiff has similar size populations to a range of councils in Scotland and England and the councillor numbers are broadly similar.

	Population	Councillors
Cardiff	351,470	75
Cheshire West and Cheshire	331,026	75
Ealing	342,494	69
Wirral	320,295	75
Fife (Scotland)	366,910	78
N Lanarkshire (Scotland)	337,370	70

- 2.4 The issue in Wales partly emerges because of the geographical size, sparsity and rural nature in places like Powys (1 councillor to 1,843 population) and Gwynedd (1 councillor to 1,625), and also in a range of larger medium scale authorities who have 70 or above councillors.
- 2.5 The White Paper suggests that the way forward is to reduce the numbers of councillors in Wales nearer to the UK average. Clearly by UK standards (although not European standards) Wales has more councillors than its nation counterparts. The question is however not one of averages but what should be the optimum number within the new authorities to produce vibrant local democracy and a firm basis for political management?
- 2.6 As an example if the suggested "Williams Report Cap" of a maximum of 75 councillors per authority were applied to a new model of 8 authorities for Wales then that would mean 600 councillors and a consequent reduction of 654. That would mean the councillor elector ratio average in Wales would be 5,166 well above both Scotland and England. If applied to 12 authorities it would mean 900 councillors with a reduction of 354 with a councillor to elector ratio of 3,444 still higher than England but smaller than Scotland. The other question which the White Paper does not address is the question whether the model of local democracy will be on single member or multi member wards which again will impact on numbers

Response

WLGA proposes that a definitive view on council structures needs to be reached before the question of councillor numbers can be answered.

WLGA advocates that any proposals must examine the optimum level of representation for a locality rather than focusing on averages across the UK.

WLGA calls for the immediate formation of a Commission between Welsh Government, the Boundary Commission and WLGA to make progress on the way forward on levels of representation.

A review to reduce the level of remuneration of councillors, Leaders and Cabinet members.

- 3.1 The White Paper commits to reducing the cost of politics and suggest that remuneration in Welsh councils should be more in line with “England, Scotland and Northern Ireland”. What does this mean in practice?
- 3.2 In **England** there is not a nationally set scheme of allowances. They vary from council to council. In Manchester for example the Councillors basic allowance is £15,956. The leader of the Council receives £55,804, while the Councillor Chair of the Greater Manchester Transport authority receives £44,206. On the other end of the scale a small district council like Slough sets its basic allowance at £7,100. Comparing this however to the responsibilities of a councillor in a Welsh Unitary is not legitimate. More relevant is the new Cornish unitary authority where the standardised basic allowance is £12,249. The top-paying London borough was Croydon with £11,239, while the lowest was Kingston upon Thames at £7,528. Bradford, Coventry and Kirklees councils all offered annual allowances in excess of £12,000 while Birmingham heads the list at £16,267.
- 3.3 In **Scotland** the situation bares closer comparison to Wales because all councils are unitary. Here the basic allowance for Scottish Councillor is £16,560, which is £3,260 higher than the £13,300 basic allowance set by the IRP in Wales. Where Scottish councillors are less well paid than Wales is at the leadership level. In Edinburgh the Council Leader’s annual pay is £49,683. The Deputy Leader and Lord Provost (civic head) each receive a salary of £37,262. In more medium size authorities like Falkirk (153,000 population) the leader of the council is paid £32,795 and Convenors (Cabinet Members) have £22,020. There are also fewer councillors across the 32 unitaries at 1,223. There is clearly a significant contrast between Wales and Scotland at the leadership level
- 3.4 In **Northern Ireland** local government is not a good comparator since councils have a very small range of functions, which have been constrained because of the “Troubles” over the past decades. They are essentially district councils. In this setting, the budget of Belfast City Council would rank between Monmouthshire and Torfaen in terms of gross revenue expenditure.
- 3.5 Other comparators should also be employed for consistency. A backbench AM in the Assembly currently receives £54,000 (and could receive an anticipated 18% increase) and a MP receives £67,060. Assembly Members who are not re-elected are also entitled to a Resettlement grant to the value of one calendar months salary for each completed year of service subject to a maximum payment equal to six months’ salary.
- 3.6 The question is the scale and breadth of responsibility. It could be argued that a Council Leader, certainly of larger authorities, on a straightforward “job evaluation”

basis carries much more responsibility than either a back-bench AM or MP. Unelected chairs of LHBs also receive a range between £59,760-£69,840 for 15 days a month.

- 3.7 Finally Members allowances are already subject to annual review in Wales by the IRP. There seems to be little point of another review as suggested by the White Paper until the new authorities are established. If the current IRP is now instructed to put forward a scheme with significant reductions to allowances then it means that much of their evidence-based work to date and their independence and objectivity will have been undermined.
- 3.8 Similarly if it is the intent of Welsh Government to attract more professional people into local government leadership positions, remuneration need not only to be proportionate to responsibilities and expected time commitment, but also comparative and competitive. The average wage of a qualified solicitor in Wales is £32,500. Newly qualified teachers (NQTs) in England and Wales start on the main salary scale, which rises incrementally from £22,023 to £32,187. Civil Service Fast Stream Graduate Salary average is £27,000 to £29,000. Qualified accountants average wage in Wales is £42,035. Thus the current level of cabinet allowances ranging from £26,000 to £32,000, which are deemed to be full time roles may not be sufficient to encourage potential representatives from abandoning a professional vocational career.

Response

WLGA calls on Welsh Government to undertake a national review of comparative levels of remuneration beyond local government across the public sector, including non-elected bodies in Wales.

WLGA does not feel that the case has been made for reducing allowances at a time when the size of authorities and the scale of responsibilities are increasing.

WLGA believes that the work of the Independent Review Panel needs to be examined to understand why a system of allowances subject to objective evaluation and accumulated benchmarking since 2007 is now deemed not fit for purpose.

Term limits of 5 terms for councillors and 2 terms for leaders and cabinet members.

- 4.1 The modern idea of term limits largely stems from the American political system and most famously was applied after President Roosevelt's fourth consecutive victory in office was achieved in 1944. The Amendment to Section 22 of the US constitution passed in 1951 limits a President's tenure in office to **two terms** of four years each. There were specific historical reasons for this although it has been widely applied in other parts of the US. It should be noted over the recent past that six legislatures have had their term limits nullified (Idaho, Massachusetts, Oregon, Utah, Washington State and Wyoming). The reason for this reversal was based on the view that it is a fundamental right of the voters to determine their own representation.

- 4.2 The White Paper, despite critical narrative and recent rhetoric, provides little evidence to underpin the proposal. Indeed, the Welsh Government's own figures from the 2012 survey of councillors shows that around 50% of councillors had served less than 10 years and the average length of service from responders (390) was around 16 years. Moreover, in England (according to LGA research) the average length of service of councillors in their current council in 2013 was 9.5 years and fewer than 15% had served for longer than 21 years.
- 4.3 There is limited evidence in the White Paper as to the potential benefits of term limits and in the Welsh context it leads to the following questions:
- If this measure is to be introduced why does it not apply at all levels of Welsh politics including Assembly Members and MPs?
 - Within Wales do we want to limit the choices of the voters and what is the view of voters on this proposal?
 - Is the view which is emerging about the level of over 60s representation in line with Welsh Government policies on ageing well and its commitments in the Strategy for Older People?
 - Does the proposed five term limit have unintended consequences for younger councillors who could be forced to stand down in their forties?
 - How does it resonate with the principles of Article 3 of Human Rights Act which gives individuals a right to stand for elections?
- 4.4 Another key argument against term limits stems from the complicated and difficult political environment within local government. The Local Government Act 2000 introduced the Cabinet system that was premised on an element of acceptance of seniority, namely that there was a cadre of councillors with experience in key services that could specialise in an Executive role. It may take more than a term or two to fully understand the intricacies of finance, education, planning and social care roles. Similarly those with more knowledge of the system can mentor those coming into politics especially into executive positions.
- 4.5 The same kind of experience-driven expertise is common to all political systems not least Welsh Government. Political stability is often at the heart of this. For example two Welsh Cabinet members have been in place for 16 years. Others like the former education Minister Jane Davidson AM served for eleven years in total. Seven years between 2000 and 2007, was in the single portfolio of education. In that same period in England there were six education Ministers.
- 4.6 Other problems with a 5-term limit are the law of unintended consequences. For example it would be problematic for young people entering local government. By these criteria a 21 year old councillor would have to give up at 46 well below the average age of a current Welsh councillor. Equally the proposal is not clear whether a councillor could have a break in service but then return at a subsequent election? This is a feature of the American system.

Response

WLGA does not support the concept of term limits. While WLGA members are fully prepared to engage in a national debate on term limits, this must be on the condition that it covers all levels of political representation in Wales.

A possible recall mechanism for councillors in line with proposals for MPs.

- 5.1 In terms of a **right to recall** while there is the bill promoted by Rt Hon Nick Clegg MP, this is not yet law in Westminster and has not gained huge support. The primary reason for it derives from the fallout as a result of MP's expenses scandal.
- 5.2 The coalition bill says an MP can be exposed to a recall petition if he or she is convicted of an offence in the UK and receives a custodial sentence of 12 months or less; or if the Commons orders their suspension for at least 21 sitting days (or at least 28 calendar days if the motion is not expressed in terms of sitting days). Under the current rules, MPs who go to prison for more than 12 months automatically lose their seat. If either of these triggers is met an MP's constituents will have the opportunity to sign a recall petition, calling for a by-election. If 10% of parliamentary electors in the constituency sign the petition, the MP's seat will become vacant and a by-election will be held. The recall petition process does not prevent the unseated MP from standing in the by-election.
- 5.3 There is no suggestion however that in Welsh local government that the Code of Conduct for Elected Members of local authorities is broken. Indeed a recent meeting with the Ombudsman suggests that standards of conduct are improving. The code however is underpinned by Penal sanctions and members who have broken the code are regularly suspended. Quite how a "right to recall" adds value is questionable and again consistent application across all political tiers would need to be addressed.

Response

WLGA does not support concept of the right to recall. While WLGA members are prepared to engage in a national debate on the right to recall this must be on the condition that it covers all levels of political representation in Wales.

Council Leaders to have explicit duties in respect of diversity and standards of behaviour, including bullying and harassment of councillors and staff

- 6.1 This is supported. Indeed such duties are already set out in the Code of Conduct for Members. In terms of diversity, the Welsh Government and WLGA have jointly led campaigns to seek to address this issue and we were also heavily involved in the

production of the report from the Expert Group on Local Government Diversity “On Balance”.

- 6.2 It should of course be noted that political parties largely determine the nature and diversity of representation across most councils in Wales. Across the 22 councils 75% of all elected councillors belong to a political party with the other 25% standing as independents. The break down is-

Labour 579, Independents 313, Plaid 171, Conservatives 105 and 73 Lib Dems

- 6.3 Thus while council leaders can promote diversity within their councils and specifically within their own groups, the nature and make up of the council membership is determined elsewhere. Because of this it is vital that political parties also play a significant role in ensuring at ward levels that the people selected to stand for councils represent a balanced cross section of Welsh society. Should all political parties (not including independents) have committed in 2012 to 50-50 representation this would have meant that the number of women councillors on current figures would have increased from 26% to 42%.

Response

WLGA fully supports the promotion of more diversity in Welsh Local Government and the provisions of the report “On Balance”

WLGA believes that the promotion of diversity in local government must start with the selection processes of the political parties.

Councils will be elected on a fixed five year election cycle in line with Parliament and the Assembly.

Views are sought on whether Council elections should be phased in thirds.

- 7.1 The first proposal moves from the current 4 year cycle to five years in order to achieve a clearly defined polling day which would focus on local government and relieve potential pressures and risks around electoral administration. This is welcome and is supported.
- 7.2 The White Paper also floats the proposal of phasing electoral cycles in thirds The WLGA does not support this proposal. Indeed, the White Paper itself outlines a number of challenges with the proposal, notes that the Kerslake Review in England rejected it and that councils in England are moving away from the approach.
- 7.3 The general concern is that it would cause political instability in the council, administrative and governance complications (such as political balance and committee membership changes) and would also be an additional burden on

electoral administration and would further add to an already crowded electoral calendar.

- 7.5 The Electoral Commission in England undertook a major study of electoral cycles in 2004. This followed a major consultation across councils at that time. They highlighted their concerns “that the current mixed pattern of local electoral cycles in England provides an unclear and inconsistent picture to voters which, at the very least, does not help to encourage participation in the democratic process at a local level”. In contrast they found that “elections of the whole council can give the ruling group the opportunity of a clear four-year period within which it can fulfil its manifesto promises before being judged on its policies and performance, including the setting of council tax”.

Response

WLGA fully supports a five year fixed term electoral cycle

WLGA rejects the proposals for 3 year electoral cycles for the reasons highlighted above.

Proposed term limits on chief executive appointments.

Chief Executives to be recruited through a national recruitment process via a Public Sector Appointments Commission.

Tight and more consistent, nationally set standards and controls on the remuneration of chief executives and other chief officers

- 8.1 This debate has followed from well-publicised cases where problems have emerged in individual authorities. There are however some fundamental principles of local democratic choice at stake.
- 8.2 In terms of proposed limits on the terms of Chief Executives, it is rare for the tenure of an average Chief Executive to go beyond two “terms”. Indeed many are on fixed term contracts, which is a principle that could be extended without legislation for an initial term (fixed term contracts for four years or more automatically becoming permanent on renewal under the Fixed Term Workers Regulations 2002). Equally if a Chief Executive is subject to regular performance assessment, is deemed to be running a “tight ship” and delivering the authorities organisational priorities to a high level of public satisfaction, the idea of a cut-off point linked to terms limits could be potentially harmful to an authority’s performance. It may also deter good candidates from applying for Welsh CEO posts, particularly where no such structures operate elsewhere in the UK or indeed in the other parts of the public sector. As such while WLGA welcomes the debate on this issue, care is needed moving forward.

- 8.3 An example is the suggestion of a Public Sector Appointments Commission stemming from the Williams report recommendations. Williams pointed to the process in New Zealand but as the White Paper recognises this is a civil service national model and does not apply to local government. WLGA would need to see far more compelling evidence on this idea. As it stands it a fundamental principle of local democratic choice that councillors select and appoint their own head of paid service and senior management.
- 8.4 The principle of equality is also import here. If a Commission were to be established why confine this debate to local authority chief executives? Whilst well remunerated many local authority senior managers are often lower paid than other counterparts across the Welsh public sector including Welsh Government, NHS, Universities and the housing association sector many of whom have less responsibilities in terms of budgets, functions, organisational span and are not democratically accountable. In this sense the section on the "Cost of senior management in local government" is unfortunate as the figures published are misleading and cross sector comparison entirely absent.
- 8.5 To stress WLGA is fully supportive that there should be a more consistent national framework for evaluating Chief Executive salaries and ensuring more accurate benchmarked outcomes across councils. The WLGA believe this is a role for the Staff Commission. In turn we think the IRP must concentrate on its core brief which is the setting of a national allowances framework for councillors. The White Paper also proposes that councillors should monitor and report annually on the performance of their Chief Executive, which WLGA would support. Indeed it already occurs in many authorities.
- 8.6 The current Local Government Bill contains a provision that will require that all salary changes for chief officers (as defined under the Localism Act) are referred to the IRP under the same terms as is currently required for CEOs, and this is referred to in the White paper. While the WLGA can support the idea of a more consistent approach to overall salary levels we do not see this as a role for the IRP and believe that it should be the Staff Commission that undertakes this task. We also strongly believe that clear guidance will be needed to limit the impact of this provision as it is currently drafted to ensure that it is actually workable and of benefit. As it stands the Localism Act definition of chief officers covers many more officers (566.5 in total) than just local government statutory or non-statutory chief officers. The vast majority of these are at a lower grade than chief officer. It would therefore make sense to set an actual salary level at which the reference would be required for any change.
- 8.7 There are also a range of day to operational pay decisions made within existing authority policy guidelines (e.g. honoraria payments, re-grading applications, market supplements) that there would be little benefit in having submitted given the amount of work that would be generated. Further it will be important that the Staff Commission or IRP has the necessary skills and experience to be able to properly evaluate proposed pay changes taking into account all the pay relativities and organisational structures within an authority. The WLGA has received QCs opinion on this issue which highlights the potential for equal pay problems to be created if this provision becomes law, stating that from the QCs experience 'a single

pay anomaly can result in claims and entitlements affecting literally thousands of people’.

- 8.8 WLGA disagrees with the section on lifting the current restriction to let local authority officers within the same authority stand as a councillor. Whilst it is not intended to apply this to politically restricted posts it could cause huge problems in policy areas where more junior officers are involved in formulation, where non-politically restricted officers offer advice to members and the whole interface around functions like democratic and electoral services. WLGA feels that this would lead to confusion, potential conflicts of interest and a potential worsening of relationships between officers and members.

Response

WLGA believes that consideration should be given to initial fixed term contracts for Chief Executives so as to avoid the need to legislate in this area.

WLGA is not persuaded by the case for a public services appointments commission and believes that it denies the key principle of local democratic choice in senior appointments.

WLGA supports the idea of the Staff Commission having a role in commenting upon and reconciling salary levels for senior managers within a more consistent national framework across all public services.

WLGA does not support lifting the electoral qualification for officers to stand as councillors in their own authorities.

Chapters 4 & 5 - Connecting with Communities and Empowerment

Introduction

- 1.1 Chapters Four and Five on “Connecting with Communities” and “Power to local communities” are some of the most important in the White Paper. Here the focus shifts into new models of service delivery and engagement with the communities we serve.
- 1.2 WLGA fully accepts the premise in the section that local government can no longer be a “monopoly” provider of services and that new capacity needs to be built to take on those functions that are currently facing the heavy brunt of cuts. The last 5 years has seen a significant acceleration of councils seeking to work with Community Councils, the third sector and other bodies to pragmatically ensure that services remain in place.
- 1.2 WLGA fully supports strengthening the role of elected members in the community setting and wider governance frameworks. However as stated previously we have real concerns about adding more structures into an already crowded public services landscape. The White Paper describes this as “rich” yet as the Williams Report recognised there is a downside with “multiple overlapping and layered partnerships with unclear governance which often added little value and blurred lines of accountability”.

Area Boards

- 2.1 WLGA recognises that innovative neighbourhood management, decentralisation and area committees can be found across Welsh councils. This has however grown organically as a response to local circumstances. The inference in the White Paper that this could part of a nationally imposed system contradicts the philosophy behind such approaches. To suggest further that adding Area Boards on top of existing structures is not a “significant risk” is disputed. It contradicts the recommendations set out in the Williams Report which berated the fact that the existing levels of complexity actually undermined Welsh public services.
- 2.2 Clearly area boards could have role in a reformed local government structure particularly in larger authorities. In Wiltshire for example 18 area boards are in place that bring together public and third sector bodies and have their own budget. Each area board covers a community area within the county - in most parts of the county this includes a market town and its surrounding villages. There may be lessons that could be learned from this approach. However there are also dangers.
- 2.3 In the UK’s largest authority Birmingham City Council despite a system known as “triple devolution” the recent Kerslake report considered whether the council should be broken up and highlighted that while finance had poured into big city centre projects, residents in poorer parts of the city were being left behind without jobs or skills. This points to the fact that such approaches can be divisive with communities pitted against one another.

- 2.4 Consequently while we completely agree with the White Paper that Member led community governance is the way forward much more detail and debate needs to go into the concept of area boards. This includes their “fit” into existing frameworks and the opportunity they could present to rationalise a raft of local partnerships. WLGA would welcome that debate.

Community Councils

- 3.1 In terms of community councils there are many sensible proposals in the White Paper. We agree with the tests of competence approach and the relevant provision as applied to community councils in the Wellbeing of Future Generation Bills. WLGA. We will defer to our colleagues in One Voice Wales whether linking competence to a minimum annual budget of £200k is the right level. WLGA has also raised in the past the idea of meaningful delegation of services that is by no means straightforward. Key questions need to be answered include -
1. What are the sorts of services that may be delegated;
 2. what are the different types of delegation scheme;
 3. what are the considerations for setting up a scheme; and,
 4. what is typically involved in taking on a service delegation;
- 3.2 From our ongoing discussions with Community Councils difficult issues on the nature of the delegation, the transfer of sufficient funding and most importantly the capacity to undertake the service further underpin this. Across Wales there have been many functions that could be considered for delegation. These include:
- Maintenance of highway verges,
 - Open spaces, Tree preservation orders
 - Street cleansing (such as litter picking, sweeping and graffiti removal)
 - Public conveniences
 - Street lighting (except on principal roads)
 - Parking restrictions
 - Cutting grass verges and looking after local footpaths;
 - Managing council allotments.
 - Street naming
- 3.3 If currently only 10% of community councils pass the White Papers capacity test of having a budget of over £200k this could be a block to further delegation. The White Papers solution to this is to give the new principal councils after LGR the power to lead reform of town and community councils.
- 3.4 This proposal is based on the principle of subsidiarity and is supported by WLGA but with a significant qualification. The reason for this is that the White Paper stipulates the aim of this new power is to achieve “fewer and larger community councils”, through a review of governance and structure to be completed by 2022. Logistically this is not possible. Setting aside the hugely contentious and contested process of such mergers of community councils, the idea that new principle councils set up in 2020 can complete such an exercise in two years is unrealistic and setting the exercise up to fail. WLGA would also have concerns that the current moves towards federations amongst existing community councils might also be stalled as a result of the above provisions.

New Models of Delivery

- 4.1 In terms of moves towards new mechanisms like mutuals with community transfers WLGA is supportive. We are fully engaging with the review by Keith Edwards and previously gave evidence to the Andrew Davies Commission.
- 4.2 The WLGA position on this is clear. Members believe that service quality, standards and accountability can best be achieved through a default model of Welsh public services being delivered through public sector workers and accountable within a democratic framework to local elected councillors. This model includes a commitment to finding “public sector solutions to public sector problems” wherever possible. However members also recognise that the current financial challenges within the Welsh public services are such that the “default” model is one which is unable to provide all the answers to the scale of cost reductions and the need to produce balanced budgets.
- 4.3 In this context Members believe that there is a role for the third sector particularly the cooperative movement, mutuals and not for profit companies in delivering services when they have an enhancing and innovative contribution to make or when funding sources that cannot be accessed by statutory bodies can be utilised. The private sector also has a role to play and has traditionally done so, for example, in services such as social care. However much of the private sector’s involvement tends to concentrate in capital projects where authorities commission large-scale infrastructure investment such as housing, road building and waste management facilities
- 4.4 WLGA therefore recognise that the model should in the first instance be based on protecting and enhancing in house services and supporting a public services ethos but also pragmatically recognising that in the current financial crisis this will not always be possible.
- 4.5 It is of course vital to put people at the centre of service delivery although we must also be realistic that with busy family, working and personal lives many people are not seeking engagement. Others will want to engage but in new ways. Evidence from some areas for example on budget consultations suggest that the traditional approaches on public meetings are variable in response. Alternatively using new social media approaches across Twitter has generated significant interest. Undoubtedly as digital technology increases its dominance in relation to communication such approaches will grow in significance. In addition the role of dedicated forums in areas such as business and young people all serve to increase engagement and tap into wider civil society.
- 4.6 The provisions of the White Paper on community asset transfers are supported. It is readily understood in local government that for services like leisure and libraries this may be “the only show in town” if current austerity continues. A range of authorities including Torfaen, Bridgend, Neath Port Talbot and the Vale of Glamorgan have already put leisure centres into community trusts or the private sector. More authorities are exploring this route.

- 4.7 We would point out however that discussions between employers and trade unions have revealed distinct and diverging policy positions in this area. We fully respect the stance of the trade unions. It is their view that they do not support models of service delivery that 'hollow out' local councils. The trade unions have pointed out what may appear attractive in terms of potential to deliver savings or achieve greater efficiencies may have unintended costs and consequences which will have an impact on the public sector as a whole. In this sense it is important that issues are explored in more detail through the mechanism of the Workforce Partnership Council to examine if consensus is possible. Wherever possible WLGA wishes to move forward in consensus with social partners.

Response

WLGA supports fully the concept of member led community governance.

WLGA believes that in some cases Area Boards can add value but only when there is local demand and not when imposed through national frameworks.

WLGA calls on Welsh Government to implement the Williams Report recommendations on reducing complexity before any new localized structures are put in place.

WLGA supports the proposal to give the new principal councils the power to lead reform of town and community councils.

WLGA does not believe that a full review of governance and structures of Community councils can be completed by 2022

WLGA is committed to public service provision through local government and, while accepting that alternative models of service delivery must be explored and considered, believes that the future sustainability of public services will rely on direct provision by councils.

Chapter 6: Corporate Governance and Improvement

Introduction

- 1.1 The White Paper outlines continued commitment to the concept of self-improvement, where councils themselves remain responsible for identifying their own improvement priorities, identifying and mitigating improvement challenges and risks and managing service performance. The White Paper therefore proposes a repeal of the more general improvement provisions in Part 1 of the Local Government (Wales) Measure 2009 and reaffirms an intention to retain Ministerial Intervention powers, including a new power to commission an independent governance review of an authority in certain circumstances.
- 1.2 The WLGA welcomes the Welsh Government's continued commitment to and strengthening of an improvement regime based on self-assessment and self and sector-improvement. In Wales the WLGA has been at the heart of designing and supporting this approach during the past decade. The concept has generally worked successfully, but requires effective political and professional leadership, a commitment to openness and challenge, robust internal corporate governance, performance management and scrutiny, supplemented by peer review led by the sector. There are clear links to the proposed new duty under the WBFG Bill to audit the work of partnerships via the Public Service Boards.

Capacity

- 2.1 Local government is currently collecting data for the Welsh Government's Review of Administrative Services as referenced in the White Paper. Whilst the outcomes of the review will not be published until after the general elections, it is welcomed the Welsh Government's recognition that:

"...the Commission on Public Service Governance and Delivery found that in releasing efficiency savings, Authorities' corporate capacity has often been the casualty of cuts...It is essential Local Authorities retain resilient governance capability and strategic capacity. Local Authorities are large, complex organisations, spending hundreds of millions of pounds of public money. A capable, adaptive and strategic corporate apparatus is a prerequisite for managing change and improving services."

- 2.2 The White Paper's description of arrangements for effective corporate governance provide an appropriate general overview of the range of core characteristics featured in more detailed and comprehensive corporate governance frameworks and guidance currently available.
- 2.3 The general proposals to strengthen the role of Audit Committees is broadly supported, but the Welsh Government should also seek to clarify the distinct remit and roles of audit and scrutiny, which can occasionally cause confusion and blur accountability and governance arrangements.

- 2.4 The WLGA does not support the proposed reforms to ensure that the chair of Audit is an independent member or that Audit Committees should include a greater proportion of independent members. Whilst many independent members and chairs already provide a valued contribution in the current audit arrangements, such decisions around appointment and balance should be left to local discretion. No evidence is presented in the White Paper to suggest that independent members provide more effective or more objective assurance than elected members. The proposal also runs counter to other White Paper chapters which seek to strengthen local democratic engagement and oversight.

Self Assessment and Peer Review

- 3.1 The WLGA strongly endorses the proposed central role of local authority self-assessment as a key mechanism for focusing collective corporate leadership on the key challenges, priorities, performance and direction of travel of the authority. The overarching self-assessment features outlined in the White Paper appear appropriate. The self-assessment model, with appropriate internal and external peer challenge arrangements, has developed and embedded in recent years. These approaches have been developed by authorities and the WLGA, with support from the Wales Audit Office. The WLGA, through the Welsh Government's Improvement Grant, has provided guidance and extensive challenge and support to authorities' self-assessment arrangements which have been reflected and recognised in a range of Wales Audit Office Annual Improvement Reports¹.
- 3.2 The WLGA, along with the LGA, has developed the peer review concept and model during that past decade of sector-led improvement. The approach in Wales has previously been supported by Welsh Government and has delivered a credible, robust and respected mechanism for providing critical-friend challenge and supporting improvement in services and corporate governance arrangements.
- 3.3 The WLGA welcomes the Welsh Government's recognition of the value of peer review and agrees that it should remain a key component of a reformed improvement regime in the future. Peer review however should remain a sector-led, sector-owned and sector-commissioned model and should not be legislated for or prescribed as set out in the White Paper.
- 3.4 To date, 7 authorities have received a peer review since the 2012 elections and all authorities, through the WLGA Council in 2013, have committed to receive a peer review once during a rolling four year period (as is the case in England). The WLGA agrees that peer review reports should be published, but that this is a matter for local discretion and does not need legislation; to date, all WLGA peer reviews have been published by authorities.

Proportionality

- 4.1 Legislating and prescribing a peer review process would also change what is at present an effective improvement process owned by an authority and designed and

¹ <http://www.wlga.gov.uk/ig-publications/wlga-improvement-support-evaluation-2013-14>

timed to meet the needs of an authority into a quasi-regulatory role which potentially duplicates the role of the Wales Audit Office. Formalizing the process will affect the dynamics and flexibility of the review process and the openness and ownership of the authority. The present approach works and works well and therefore the WLGA does not believe it needs to be reformed as outlined.

- 4.2 The proposed biennial cycle of peer reviews is too frequent and is not proportionate to risk. The current external challenge and regulatory regime is based on proportionality, whereas the White Paper effectively proposes an annual cycle of external review (a joint inspection from the WAO, CSSIW and Estyn followed by a corporate peer review the following year and so on).
- 4.2 There is also a significant issue of capacity and coordinating peer reviews; whilst the WLGA intends to continue to offer peer reviews despite the withdrawal of Welsh Government support, peer reviews are only as effective as the calibre and credibility of the peer team. The peer review model not only provides improvement challenge and support to authorities, but it allows peers to observe and learn new ideas or approaches which can be taken back to their own authorities. Ideally therefore, it would be beneficial to develop a model with greater use of senior political and professional peers from Welsh authorities, as well as from England and other sectors. The issue with a biennial peer review therefore, particularly in a future with significantly fewer authorities, is that it would not be feasible to expect authorities to release senior corporate leaders to undertake a peer review in another authority at the same time that they themselves are planning for or undergoing a full corporate inspection from the WAO.
- 4.3 The provision (or otherwise) of capacity and resources to promote and support self and sector-led improvement have been well-rehearsed during recent months. The WLGA, through the Welsh Government's Improvement Grant, previously worked closely with the Welsh Government, WAO and authorities in promoting and providing improvement support to authorities particularly around the self-assessment and peer challenge agenda. Whilst this resource has now been withdrawn and the central coordinating corporate capacity removed, it is critical that authorities receive adequate improvement support in the future.
- 4.4 Whilst the WLGA champions self and sector-led improvement, it is appropriate that Welsh Ministers retain a back-stop power to provide support or intervene in certain circumstances. These circumstances have been codified in the Local Government Support and Intervention Protocol and it is appropriate that this is revised in light of the wider reforms to the improvement regime. The WLGA supports the notion outlined in the White Paper that such powers should only be exercised in extreme circumstances and where there is clear evidence of governance or service concerns.
- 4.5 The WLGA also strongly believes that any intervention should be subject to prior discussion with partners, such as the WLGA, to ensure that intervention and the proposed model of intervention is appropriate and the most effective approach to rapidly and sustainably improve governance or service performance.
- 4.6 The WLGA is aware that the WAO was considering undertaking an assessment of the impact of Welsh Government interventions and it is important that lessons are learned before any proposals outlined in the White Paper are introduced. The rationale behind the White Paper proposal for Welsh Ministers to commission an

independent review of corporate governance arrangements prior to triggering any intervention is not properly justified and unclear. Welsh Ministers (as outlined in the White Paper) would already have access to independent assessment from the WAO, an independent peer review as well as more robust, independent internal audit reporting.

- 4.7 It is therefore our view that there are sufficient checks and balances in place. It leads us to question what added value a further assessment of corporate governance would provide and its possible impact on the timeliness of any remedial support or intervention response?

Response

WLGA welcomes the Welsh Government's continued commitment to and strengthening of an improvement regime based on self-assessment and self-improvement.

WLGA supports the general proposals to strengthen the role of Audit Committees, but the Welsh Government should also seek to clarify the distinct remit and roles of audit and scrutiny.

WLGA does not support the proposed reforms to ensure that the chair of Audit is an independent member or that Audit Committees should include a greater proportion of independent members.

WLGA welcomes the White Paper's recognition of the value of peer review, but believes it should remain a sector-led, sector-owned and sector-commissioned model and should not be statutory or prescribed.

WLGA recognises that it is appropriate that Welsh Ministers retain a back-stop power to provide support or intervene in certain circumstances but such an approach should be clearly codified and subject to consultation.

Chapter 7: Performance in Local Government

Introduction

- 1.1 The White Paper further explores the key components of effective governance and self-improvement and outlines proposals for a requirement for councils to publish a corporate plan that covers the short, medium and long term, annual reporting arrangements covering performance for the previous year. The White Paper also clarifies Welsh Government intention to streamline the performance measurement regime in line with the Williams Commission recommendations and proposes the establishment of an online information portal including councils' performance information and performance documentation and reports.
- 1.2 The WLGA supports many of the aims of the White Paper around seeking to streamline and more effectively and transparently measure, manage and report council performance. The WLGA and the Local Government Data Unit (Data Unit) work closely with local authorities, Welsh Government and partners in developing, updating and reporting performance measurement information. The WLGA, through the Data Unit, has openly and transparently reported local authority performance publicly on an annual basis and last year launched the My Local Council platform to aid public understanding and engagement.
- 1.3 The WLGA supports the proposal that councils should produce a comprehensive corporate plan, which will be the key overarching council document that brings together the Leader's political vision, the council's wider corporate documents such as financial management plans, the risk register etc. as well as links to the wider Well-being Plan outcomes as agreed by the Public Service Board.
- 1.4 Whilst the WLGA supports the aim of clarifying the respective roles and responsibilities of the Chief Executive and senior officers and those of Executive members and scrutiny members, it is not clear that the proposals to make the corporate plan the chief executive's plan, as opposed to the council's plan, will achieve this. Many of the proposed elements of the corporate plan, such as corporate priorities for service delivery, financial management plans and planned performance levels, require clear policy direction from the political leadership.
- 1.5 The WLGA agrees that the list of key elements of the corporate plan is appropriate given *'the corporate plan is a tool of management and we [Welsh Government] intend that to continue'*. The White Paper however continues that the corporate plan will be a *'public document [which] will support the Authority in engaging with the public about strategic issues which affect the whole Local Authority area, as well as issues which affect specific communities and or particular services.'* The corporate plan will be a very large, comprehensive and complex management tool, as a result it will not effectively serve the purpose of engaging the public in council business, and summary documents and materials will inevitably have to be produced to fulfil this purpose.

Streamlining Performance Management

- 2.1 The WLGA welcomes the Welsh Government's stated ambitions and commitment to clarify, streamline and strengthen performance management information. The Welsh Government also recognises the challenges it will face, in particular the aspiration of translating outcomes into meaningful, comparable and relevant performance measures.
- 2.2 There is some confusion regarding the consistency between the White Paper (full) and the Consultation Survey (full); the latter asks a series of significant questions around 'minimum performance outcomes or standards' and whether there should be 'financial penalties' for failure to meet such standards, yet minimum standards only receive a passing reference in the White Paper and there is no mention or consideration of the merits or otherwise of financial penalties.
- 2.3 Nationally set targets are well established in a number of key service areas. Local government and Welsh Government have also explored the concept of minimum standards with open minds previously, it is however an extremely challenging concept and has implications in terms of local accountability, local prioritisation and should be linked to an agreed spending assessment for the included.
- 2.4 The exploratory work around minimum standards led to the development and introduction of Improvement Agreements (subsequently Outcome Agreements) which achieved greater consistency and a clearer causal link between national outcomes and performance expectations and local performance and service priorities.
- 2.5 The concept of 'financial penalties' for non-attainment of set standards is not explored in the White Paper but is referenced in the Consultation Survey. Financial penalties can be contested in terms of equity for communities but also in terms of perverse consequences; a failure to achieve standards may be as a result of capacity or financial constraints which would be further compounded by a consequential financial penalty, which in turn has a further detriment to outcomes for communities.
- 2.6 The WLGA and Data Unit welcomes the Welsh Government commitment to working with partners and looks forward to working with and supporting the Welsh Government in developing:
 - *"a more strategic approach to performance management across the whole public sector;*
 - *outcome indicators and performance measures to support public service leaders in their decision-making;*
 - *better value for money from collecting performance information; and*
 - *more transparent reporting of information which will have a greater impact."*

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- 3.1 The WLGA, through the Data Unit, has extensive expertise, experience and networks with which to contribute to and support this work. "My Local Council" is a recently launched sector-led platform, which has received very positive evaluative

feedback from councillors and the public. It is planned to further expand this platform to include financial information as well as published performance reports and could therefore provide the platform as described in the White Paper. It is vital that Welsh Government support this.

- 3.2 As the White Paper notes the 'pull of public demand' is as important if not more so than the 'push of government expectation', it is therefore important to provide appropriate balance and clarity around the range of contextual and performance information available, and where possible allow for a range of interests and needs from general or simple comparative overview, through to more detailed interrogation of specific localised performance and contextual data.
- 3.3 The WLGA recognises the potential for councils to become 'digital pioneers' and further develop the potential for the public's digital interface with services as well as ensuring digital allows effective operation of back-office and support services. Whilst the WLGA recognises the White Paper's criticism that councils' could have made further and quicker progress, this arena has been subject to a multiplicity of devolved government initiatives over the years and the announcement that the PAN performance management system would not proceed.
- 3.4 The WLGA supports the White Paper proposals around openness and transparency; the WLGA has worked closely with the Welsh Government in delivering the webcasting programme and promoting the use of social media, through guidance and training for members. Whilst increasingly Councils are webcasting meetings, including Cabinet meetings, and some allow public questioning and participation in some debates, the Welsh Government should also seek to apply such commitments and practice to the principles of openness and transparency in its own arrangements.
- 3.5 The WLGA also supports proposals around the introduction of a streamlined online approach to complaints. The National Assembly's Finance Committee is currently conducting an Inquiry into the powers of the Ombudsman and is exploring local authority complaints handling; the report of this inquiry should provide valuable evidence to inform any potential practice to be shared or reforms to be introduced. All authorities have introduced the Ombudsman's model complaints policy and process, and twenty authorities currently have a web-based complaints process (the other two provide an email option via their websites). All authorities also report complaints information and use it to inform service improvements, but there remains scope for improvement, sharing practice and greater consistency.

Response

WLGA supports many of the aims of the White Paper around seeking to streamline and more effectively and transparently measure, manage and report council performance.

WLGA and Data Unit welcome the Welsh Government commitment to working with partners in developing the proposed new, streamlined approach

WLGA does not support proposals for 'financial penalties' will unfairly undermine performance and attainment of standards. The White Paper does not explore the potential of minimum standards in detail.

WLGA supports the proposal that councils should produce a comprehensive corporate plan, but is not convinced it will lead to clearer demarcation of the respective roles of councillors and senior managers and, given its comprehensiveness and complexity, it will not support public engagement or accountability.

The WLGA supports the White Paper proposals around openness and transparency of council business and recognises the potential for increased service provision and customer contact through digital channels.

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Chapter 8: Strengthening the Role of Review

Introduction

- 1.1 The White Paper outlines the Welsh Government's plans continued commitment to the concept of local democratic oversight and scrutiny of local government and, potentially, partner organisations. The White Paper outlines proposals to further clarify, support and strengthen local scrutiny, the relationship of scrutiny with external inspectorates and regulators and improved coordination of information and activities of such external bodies.
- 1.2 The WLGA supports many of the principles and objectives that underpin the chapter on strengthening the role of review, many of the individual proposals are also endorsed.

Overview and Scrutiny

- 2.1 The WLGA agrees with much of the analysis and ambition around strengthening internal review or overview and scrutiny. The resourcing of scrutiny support has been recognised as a challenge for a number of years, particularly in recent years where diminishing resources are prioritised towards front-line services. In this context, both the WLGA and Centre for Public Scrutiny have provided a range of support to scrutiny members and officer during recent years. That said, it is not clear that the 20% reduction in scrutiny support cited in the White Paper is a Wales only figure (or England and Wales) and it is not clear how this compares to wider reduction in resources in the corporate centre as observed elsewhere in the White Paper.
- 2.2 The WLGA would support the removal of the prohibition of the Monitoring Officer from being the statutory Head of Democratic Services, but does not agree that the Head of Democratic Services should become a Chief Officer post in legislation. Such matters should be left to local determination and local management arrangements. Such a development would not necessarily translate into additional resources for scrutiny given the wider financial pressures and competing priorities remain and will become even more challenging in future years.
- 2.3 The WLGA supports the introduction of 'Key Decisions' to clarify the key issues which scrutiny should consider and may be subject to call-in when appropriate. Similarly scrutiny forward work planning could be strengthened, but requirements around inclusion of details around which community groups will be engaged with and when may not be proportionate or allow future flexibility, and the current wider duty to engage with the public should be sufficient.
- 2.4 The WLGA recognises the experience, expertise and contribution that co-optees can make to councils' scrutiny committees and there are examples of effective co-optation in practice currently. That said, it should be a matter for local determination regarding the role and in particular voting rights of co-optees. Scrutiny committees can receive external advice and expertise in other ways, including expert witnesses or committee 'advisors' as well as formal co-optees.

- 2.5 There is a risk that providing co-optees voting rights undermines local democracy and further weakens the unique, representative role of elected councillors. This proposal combined with the White Paper's wider proposals about 'sharing' elected members' powers and responsibilities with unelected, unaccountable community representatives undermines the White Paper's central theme about strengthening local democracy and making the role of a councillor an attractive one.

Joint and Public Sector Scrutiny

- 3.1 The WLGA does not support the proposal to legislate to ensure that collaborative or jointly commissioned services have a joint scrutiny committee. Local accountability arrangements should be left to the discretion of constituent authorities; it may be appropriate in certain circumstances to establish a Joint Overview and Scrutiny Committee (as per powers in the 2011 Measure) but similarly, some services although delivered jointly may require local scrutiny arrangements to ensure clear links to local accountability arrangements and local democratic priorities reflecting the needs of local communities. In such circumstances there should be effective communication and planning between constituent authorities' committees to avoid duplication or burden on joint delivery bodies.
- 3.2 The concept of Local Public Accounts Committees is interesting and it would be worth re-examining the impact of the English pilots. But it is not clear how the proposal differs from the current statutory duty around scrutiny of designated persons and the provisions in the Well-being of Future Generations Bill regarding scrutiny of PSBs. The proposal also describes the Committee's potential role in scrutinising 'pooled or joint budgets agreed under place-based finance arrangements' yet this interesting concept of 'place-based finance arrangements' is not referenced elsewhere in the White Paper or in the Well-being of Future Generations Bill.

Links between Internal and External Scrutiny

- 3.3 The WLGA supports the proposals around strengthening the links between external inspection and regulatory bodies and internal scrutiny; this was a key recommendation from the Williams Commission and has been explored further by authorities and partners through a Cardiff Council led research project.
- 3.4 The WLGA also supports proposals for strengthening the links between external regulators, notably the WAO, CSSIW and Estyn. The WLGA in principle supports the proposed joint 'whole system assessment' of authorities, but a biennial assessment as outlined in the White Paper does not appear to be proportionate and could place a significant burden on authorities. The White Paper does not explore this concept in detail and the WLGA would welcome further dialogue with the Welsh Government, WAO, CSSIW and Estyn to explore how such an approach could be managed.
- 3.5 It is important that any overarching annual national 'assessment of the health of local government' will add value to local performance reports and the proposed online portal of comparative performance; it is important that such a national

report does not generalise and underplay or overlook legitimate local differences, performance achievements or challenges.

Response

WLGA supports many of the principles and objectives that underpin the chapter on strengthening the role of review, many of the individual proposals are also endorsed.

WLGA supports the introduction of 'Key Decisions' to clarify the key issues which scrutiny should consider and may be subject to call-in when appropriate. Similarly scrutiny forward work planning could be strengthened, but prescription should be proportionate.

WLGA recognises the contribution and value of co-optees but it should be a matter for local determination regarding the role and voting rights of co-optees.

WLGA does not support the proposal to legislate to ensure that collaborative or jointly commissioned services have a joint scrutiny committee. Local accountability arrangements should be left to the discretion of constituent authorities;

WLGA supports the proposals around strengthening the links between external inspection and regulatory bodies.

WLGA supports in principle the proposed joint 'whole system assessment' of authorities, but a biennial assessment does not appear to be proportionate and could place a significant burden on authorities.

Chapter 9: Reforming Local Government Finance

Introduction

1.1 The impact of austerity and cuts on Welsh councils is by far the biggest issue facing local government. The main lever utilised to tackle deficit reduction by Westminster has been the most significant reductions in public spending in recent decades. Total public spending and receipts on the 2015 budget spending plans are forecast by the Office of Budget Responsibility to dip to 36.0% of GDP by 2018/19². The same figure in 2009 was 47.4%³, thus the reduction in total managed expenditure within a short period has been huge.

1.2 In the devolved context this has impacted dramatically on the Welsh Budget. It has also occurred at a time when structural problems and issues within the Welsh NHS have required a massive shift in Welsh Government budget allocations to the detriment of the published plans that support medium-term financial planning. The upshot of all these factors is significant reductions in funding to local government, particularly in 2014-15 and continuing into 2015-16.

Overall, councils in Wales had a £155 million (3.8%) real-terms reduction in their revenue funding from the Welsh Government in 2011-12. Funding levels are continuing to decline where revenue funding from the Welsh Government was approximately £283 million (7%) lower in 2013-14 than 2010-11. In October 2013, the Welsh Government announced reductions in core funding of £175 million for 2014-15 and a further £65 million in 2015-16. Changes to published plans meant that by the time the 15-16 settlement was published the reduction was nearer £146m. By the end of 2017-18, WLGA forecasts a budget shortfall nearing £900m

1.3 These are dramatic cuts and grow increasingly comparable with those in England. Indeed whilst the level of reductions to grant income appear lower in percentage terms, councils in Wales are far more grant dependent so the cuts have impacted equally. The functional presence of schools in local government in Wales is also a factor where in England this is no longer the case. Schools have received significant protection since 2010, which has meant disproportionate cuts for other services as councils struggle to meet the threshold of protecting schools 1% above the Welsh Government Block Grant. The impact on other services has been significant. In evidence to the Finance Committee, the WLGA has argued that spending on some services is lower in real terms than it was in 1999-00.

Commission of Local Finance Wales

2.1 As stated above the recent period of reductions in government funding has highlighted the degree of dependency on the Welsh Government as a source of funding for Welsh local government. Relative to England, Welsh authorities are over-reliant on central funding which in turn makes managing these reductions in central funding more difficult to manage. As we have argued in this White Paper response there is also a need to examine the core functions of local government, the future funding needed to provide for them and the potential sources of the

² HM Treasury Budget 2015

³ HM Treasury Budget 2013

funding required, in order that future sustainability can be gauged. In terms of distribution of Welsh Government funding to local government, the independent members of the Distribution Sub Group are clear that the current approach needs to be radically rethought. Work should continue within the DSG but there is a need for a fundamental examination of how local government is funded.

- 2.2 The White paper rightly states “We need to take a more strategic and longer term approach to reform of the finance system”. Many of the factors highlighted and supported by WLGA such as council tax revaluation, reform of the local government funding formula and new approaches to local taxation cannot happen overnight. However the White Paper is somewhat “leisurely” in tone when it comes to immediate problems. The figures highlighted above and the tribulations of many budget rounds this year show that the next three years will shape the form and functions of local government for years to come. The big savings envisaged by local government reorganisation will have all but dissipated by 2020.
- 2.3 In this setting there is need for urgent thinking and action. There is clear evidence that the pressures on expenditure on local services, particularly those other than education and social services will continue to grow well into the future. In light of this the sustainability of local services in the medium-term has to be questioned. In its submission to Welsh Government on the White Paper “Reforming Local Government in Wales” the WLGA argued the need for establishing an Independent Commission on Local Finance in Wales. This was fully agreed at the WLGA Council 28 November 2014 and authorisation for funding the work given by the Management and Audit Sub Committee held on 17 December 2014.
- 2.4 Why is there a need for an Independent Commission on Local Government Finance in Wales? The financial framework that underpins the provision of local services is outdated and increasingly circumvented through the use of specific grants and controls on the amount of money that Councils can raise themselves. The longstanding system of local accountability for tax and spend decisions on local services is becoming weaker.
- 2.5 A wider debate is also occurring post Scottish Independence referendum on greater devolution across the UK. This has inevitably raised the issue of the relevance of the Barnett formula and its continued application. Equally important is a debate on “localism” and how devolution must not stop at Westminster, Holyrood or Cardiff Bay. In England this has led to a debate about devolution to city regions with local government in the driving seat on economic regeneration, housing and infrastructure investment. In Wales these same debates about financial flexibilities, the future of business rates, new powers to raise income, service commissioning and deepening localism seem to be stuck at the starting gates.
- 2.6 WLGA and our Data Unit have recently led public sector wider conferences on strategic commissioning, digital inclusion to tackle poverty and demand management/prevention. We would also envisage the Commission looking at the massive inherent potential in such approaches. The key outcome of the Commission would therefore be to formulate a proposal for the next Welsh Government, which is a practical and evidenced basis for making our financing sustainable in the long term and, crucially, understandable and transparent not only to practitioners but especially to council taxpayers and service users.

Response

WLGA would argue that the arena of local government finance is the key issue facing local councils, reform should be given greater prominence within the White Paper

WLGA fully support the White Paper proposals on council tax revaluation, reform of the local government funding formula and new approaches to local taxation.

WLGA has commissioned an Independent Commission on Local Government funding to examine the crisis in local government funding and the Welsh Government is invited to participate in this work.

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