

MODEL WELSH CONSTITUTION

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MODEL WELSH CONSTITUTION

SECTION 1

1. INTRODUCTION

1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, [Overview and Scrutiny Committee] [*add other arrangements*], Standards Committee and Regulatory Committees. Section 11 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section 13 says which Council bodies, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, eg Full Council (Section 4), the [Cabinet] [Executive] (Section 5) and Overview and Scrutiny (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5 Sections 18 to 20 have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

1.2 How the Council Operates

- 1.2.1 The Council is comprised of [*insert number*] Councillors elected every four years. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in [*add name of area*]. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 1.2.2 All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council [*insert period of time*]. The [Leader] [Full Council] then

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

If you need any further help please do not hesitate to contact us.

[add contact details]

Whilst the Constitution is very long we hope that you will find it easy to use. We have spent a lot of time trying to make it as easy to follow as is possible with such a long and complex legal document.

SECTION 2

2. PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

2.1 Purpose of the Constitution

The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;
- 2.1.2 support the active involvement of citizens in the process of local authority decision making;
- 2.1.3 help Councillors represent their constituents more effectively;
- 2.1.4 enable decisions to be taken efficiently and effectively;
- 2.1.5 create a powerful and effective means of holding decision makers to public account;
- 2.1.6 ensure that no one will scrutinise a decision in which they are directly involved;
- 2.1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 2.1.8 provide a means of improving the delivery of services to the community.

2.2 Definitions in the Constitution

- 2.2.1 The Constitution of the Council is this document (Sections 1 to 23).
- 2.2.2 Within the Constitution the following words and phrases have the meaning set out below:
 - “Budget” the overall revenue and capital budget approved by Full Council (Section 4);
 - “Chief Officer” any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who:
 - reports directly to the Head of Paid Service in respect of all or most of his/her duties; or
 - the Head of Paid Service is directly responsible for;
 - “Corporate Team” the senior management body for Officers (Section 11). It includes those Officers designated by the Head of Paid Service from time to time as Members of the Corporate Team;
 - “Councillor” a person elected to the Council to represent an area (called an electoral division) within [*name of Council*];

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| “Deputy Chief Officer” | any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who reports directly to a Chief Officer in respect of all or most of his/her duties; |
| “Executive” | the [Cabinet] [Executive] or a Member or Members of the [Cabinet] [Executive] when exercising Executive Functions; |
| “Executive Decision” | any decision taken by the [Cabinet] [Executive] to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the [Cabinet] [Executive] has delegated Executive Functions to exercise or refrain exercising those functions; |
| “Executive Function” | <p>(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.</p> <p>(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>(c) Regulatory functions such as planning licensing and building control, are not Executive Functions;</p> |
| “Forward Work Programme” | the Forward Work Programme is a document which lists all of the decisions that the Council and the [Cabinet] [Executive] intend to take and what business the [Overview and Scrutiny Committee] [<i>add other arrangements</i>] will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered; |
| “Full Council” | the body where all Councillors act to exercise functions of the Council; |
| “Head of Paid Service” | an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service; |
| “Local Choice Functions” | there are some functions which the Council may treat as being the responsibility of the [Cabinet] [Executive] (in whole or in part) or as being non-executive, at its discretion; |

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| “Local Government (Wales) Measure 2011” | referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments; |
| “Member” | either a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”); |
| “Member Body” | <p>any of the following:</p> <ul style="list-style-type: none"> • Full Council; • Cabinet; • an [Overview and Scrutiny Committee] [<i>add other arrangements</i>]; • Licensing Committee; • Standards Committee (or one of its sub-committees); • Planning Committee; • Appeals Panel; • Audit Committee; • Democratic Services Committee; <p>Note - references to Committee also includes Sub-Committee;</p> |
| “Monitoring Officer” | an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer; |
| “Non-Executive Functions” | any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the [Cabinet] [Executive]; |
| “Planning Application” | <p>any of the following:</p> <ul style="list-style-type: none"> • application for planning permission (including renewal); • application for approval of reserved matters; • application for listed building consent; |

- application relating to trees;
- proposal to serve an urgent works notice or acquire a listed building in need of repair;
- application for conservation area consent;
- application for advertisement consent;
- application to vary or remove conditions on a planning condition;

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| “Policy Framework” | See Section 4.2; |
| “Section 151 Officer” | an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer; |
| “Service” | one of the services provided by the Council; |
| “Single Integrated Plan (SIP)” | this is the single plan for the area that reflects the needs of the local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples and the Health Social Core and Wellbeing Partnership Plan. |

2.3 **Interpretation of the Constitution**

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

2.4 **Duty to Monitor and Review the Constitution**

The [Monitoring Officer] will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 16 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Section 16 to the next available Council meeting for noting.

2.5 **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

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

- 2.5.1 observe meetings of different parts of the Member and Officer structure;
- 2.5.2 undertake an audit trail of a sample of decisions;
- 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

2.6 **Changes to the Constitution**

2.6.1 Approval

Subject to paragraphs 2.6.2 and 2.6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the [Monitoring Officer] or on recommendation of the [Cabinet] [Executive].

2.6.2 Minor Changes

If, in the reasonable opinion of the [Monitoring Officer], a change is:

- (a) a minor variation; or
- (b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- (c) required to be made so as to put into effect any decision of the Council or its committees or the [Cabinet] [Executive],

in which case the [Monitoring Officer] may make such a change. Any such change made by the [Monitoring Officer] shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

2.6.3 Legislative Change

Any part of the Constitution may be amended by the [Monitoring Officer] where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the [Monitoring Officer] so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

2.7 **Suspension of the Constitution**

2.7.1 Limit to Suspension

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

2.7.2 Procedure to Suspend

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

2.8 **Publication**

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

2.8.2 The Monitoring Officer will [give a printed] [give an electronic] [provide a link to a] copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

2.8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

SECTION 3

3. GETTING INFORMATION AND GETTING INVOLVED

3.1 Getting Information

3.1.1 Information Available to Members of the Public

(a) *When Meetings of the Member Bodies Will Take Place*

A programme of meetings is available by contacting the Council direct or via the website.

(b) *Forward Work Programme*

From the Forward Work Programme, see what decisions will be taken by the [Cabinet] [Executive] or Council and what issues the [Overview and Scrutiny Committee] [add other arrangements] will be considering and when these matters will be discussed.

(c) *Information Available Prior to a Meeting*

[Insert number] days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

(d) *Information Available at a Meeting*

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded).

(e) *Information Available After a Meeting*

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

(f) *Council's Accounts*

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

Information which is confidential or exempt (as defined in paragraphs 14.10.3 and 14.10.4) will not be disclosed to members of the public at any time.

3.1.2 Information Available to Members of the Council

- (a) Members can see any information, which is available to a member of the public.
- (b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as “need to know”). A Member will not make public information which is confidential or exempt (as defined in Section 14) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.

3.1.3 Members of [an Overview and Scrutiny Committee] [add other arrangements]

A Member of [an Overview and Scrutiny Committee] [add other arrangements] may also see any document containing material relating to:

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

[An Overview and Scrutiny Committee] [add other arrangements] Member is not be entitled to:

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

NB. No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

3.1.4 Information Available to Officers

The Monitoring Officer, the Section 151 Officer and the Head of Paid Services may see any papers or records held by any part of the Council or its Officers. Other Officers may see any information held by the Council provided:

- (a) they need to see the information to do their job; and
- (b) that information is processed lawfully in accordance with the Data Protection Act 1998.

3.2 Getting Involved

3.2.1 Members of the Public

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

- (a) *Voting for Councillors*

If they are over 18 years and registered as a local elector with the Council.

(b) *Suggesting Items of Business for Meetings*

A member of the public can seek to get a matter included in an agenda by:

- (i) asking the Chair of any Member Body to add an item to the agenda; and/or
- (ii) attending a meeting of the body and suggest that it looks at an issue when it is considering “items of future business relating to the functions of the Member Body”.

(c) *Taking Part in Meetings*

- (i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.
- (ii) You can also ask Formal Questions at meetings of Full Council (Section 4).

(d) *Views of the Public*

Under the arrangements put in place by the Authority under section 62 of the Local Government (Wales) Measure 2011, to bring to the attention of the relevant [Overview and Scrutiny Committee] *[add other arrangements]* their views on any matter under consideration by the relevant [Committee] *[add other arrangements]*, the relevant [Overview and Scrutiny Committee] *[add other arrangements]* must take into account any views brought to their attention under these arrangements.

(e) *When are Meetings Open to the Public?*

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section 14.10 for definition of exempt information and section 14.11 for definition of public interest.)

(f) *Making Comments/Complaints*

- (i) A member of the public may comment or complain about Council services by:
 - (A) contacting their local councillor;
 - (B) contacting the Member of the [Cabinet] [Executive] responsible for the service;
 - (C) contacting the Officer responsible for delivering the service or their manager;
 - (D) using the Council’s complaints procedure;

- (E) contacting the Public Services Ombudsman for Works at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsman-wales.org.uk.
- (ii) Comments or complaints can be made about an Officer or Member by:
 - (A) *Officer*
Contacting the Officer or the Officers manager.
 - (B) *Members*
If the complaint is against a Member then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(g) *Engage with Overview and Scrutiny*

All members of the public who live or work in the area of the Council may bring to the attention of [an Overview and Scrutiny Committee] [*add other arrangements*] their views on any matter under consideration by that [Committee] [*add other arrangements*]. [An Overview and Scrutiny Committee] [*add other arrangements*] must take into account any views brought to its attention by a member of the public.

3.3 **Getting Involved – Members**

Members can get involved by:

3.3.1 **Suggesting Items of Business for the Agenda**

As a Member of the Council, you have the same rights as members of the public. In addition to these rights you also have the following rights:

- (a) Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

| Column A | Column B |
|---|--|
| Democratic Services Committee | Council |
| [Overview and Scrutiny Committee] [<i>add other arrangements</i>] | [Cabinet] [Executive] (Section [], page []) [Cabinet] [Executive] (Section [], page []) |

- (b) Any Member can submit a Notice of Motion to Council (Section 4) and also ask questions (Section 4).

3.3.2 **Participating in Meetings**

Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the [Cabinet] [Executive].

- (a) Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.
- (b) Members of the [Cabinet] [Executive] have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

3.3.3 Comments and Complaints

- (a) Members may comment, subject to restrictions in the Code of Conduct for Members (Section 18) on any aspect of Council business by:
 - (i) talking to Officers;
 - (ii) talking to the Leader or Member of the [Cabinet] [Executive];
 - (iii) talking to the Chair of [an Overview and Scrutiny Committee] [*add other arrangements*].

(b) If a Member wishes to complain about an:

(c) *Officer*

The procedure set out in the Protocol on Member/Officer Relations may be used (Section 21).

(d) *Member*

The procedure set out in Appendix 3 to Section 18 may be followed.

SECTION 4

4. FULL COUNCIL

4.1 Introduction

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

4.2 The Policy Framework

The Policy Framework means the following plans and strategies:

[List plans and strategies]

4.3 The Single Integrated Plan

This replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

4.4 The Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 15 for how the Council can change the Policy Framework or Budget referred to it for approval by the [Cabinet] [Executive].)

4.5 Housing Land Transfer

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

4.6 Functions of the Full Council

Only the Full Council will exercise the following functions:

- 4.6.1 adopting and changing the Constitution;
- 4.6.2 approving or adopting the Single Integrated Plan, Policy Framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 of this Constitution, making decisions about any

matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;

- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 changing the name of the area or conferring the title of freedom of the [Borough] [City];
- 4.6.7 [making or confirming the appointment of the Head of Paid Services;] [making or confirming the appointment of the Head of Paid Services and other Chief Officers]; [other;]
- 4.6.8 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- 4.6.9 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the [Cabinet] [Executive]; and
- 4.6.10 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.11 [appointing representatives to outside bodies unless the appointment has been delegated by the Council.]

4.7 **Membership**

- 4.7.1 All Members of the Council shall be Members of Full Council.
- 4.7.2 Substitution is not possible at meetings of the Council.
- 4.7.3 Chairing the Council
 - (a) The Councillor elected annually by the Council as its chair will be called the ["Mayor"] ["Chair"] ["Presiding Member"].
 - (b) The [Chair] [Mayor] [Presiding Member] will cease to be [Chair] [Mayor] [Presiding Member] if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as [Chair] [Mayor] [Presiding Member] after an election until their successor has been appointed.
- 4.7.4 [Role and Function of the [Chair] [Mayor]

The [Chair] [Mayor] of the Council and in his/her absence, the [Deputy Mayor] [Vice Chair] will have the following roles and functions:

(a) *Ceremonial Role*

The [Chair] [Mayor] of the Council:

- (i) is the civic leader of [*insert name of Council/area*];
- (ii) promotes the interests and reputation of the Council and [*insert name of Council/Area*] as a whole and acts as an ambassador for both; and
- (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.]

(b) *Responsibilities of the [Chair] [Mayor]*

- (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the [Cabinet] [Executive] are able to hold the [Cabinet] [Executive] and Committee Chair to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate;]

OR

4.7.5 [Role and Function of the Presiding Member]

The Presiding Member of the Council and in his/her absence the Deputy Presiding Member shall have the following roles and functions:

- (a) to uphold and promote the purpose of the Constitution and to interpret the Constitution where necessary;
- (b) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of the Councillors and the interests of the Community; and
- (c) [to ensure that the Council meeting is in a forum for the debate of matters of concern to the local community and the place at which Members who are not on the [Cabinet] [Executive] are able to hold the [Cabinet] [executive] and Committee Chair to account.

4.7.6 [Role and Function of the Civic Chair]

The Councillor elected annually by the Council as its Civic Chair and in his/her absence the Civic Vice Chair shall have the following roles and functions:-

(a) *Ceremonial Role*

The Civic Chair of the Council:

- (i) is the civic leader of [*insert name of Council/area*];
- (ii) promotes the interests and reputation of the Council and [*insert name of Council/Area*] as a whole and acts as an ambassador for both; and
- (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

(b) *Responsibilities of Civic Chair*

- (i) [to promote public involvement in the Council's activities;]
- (ii) [to be the conscience of the Council;] and
- (iii) [to attend such civic and ceremonial functions as the Council and he/she determines appropriate.]]

4.7.7 [The Civic Chair and Civic Vice Chair will cease to be Civic Chair/ Civic Vice Chair if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as Civic Chair after an election until their successor has been appointed.]]

4.8 **Council Meetings**

There are three types of Council meeting:

- 4.8.1 the annual meeting;
- 4.8.2 ordinary meetings; and
- 4.8.3 extraordinary meetings

4.9 **Rules of Procedure and Debate**

The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council.

4.10 **Council Procedure Rules - Annual Meeting of the Council**

4.10.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In

any other year, the annual meeting will take place in March, April or May. The annual meeting will:

- (a) elect a person to preside if the [Chair] [Mayor] [Presiding Member] and [Vice Chair] [Deputy Mayor] [Deputy Presiding Member] of the Council is not present;
- (b) elect the [Chair] [Mayor] [Presiding Member] of the Council;
- (c) elect the [Vice Chair] [Deputy Mayor] [Deputy Presiding Member] of the Council;
- (d) [elect the Civic Chair of the Council;]
- (e) [elect the Civic Vice Chair of the Council;]
- (f) approve the minutes of the last meeting;
- (g) receive any announcements from the Civic Chair;

OR

- (h) receive any announcements from the [Chair] [Mayor] [Presiding Member] and/or the Head of Paid Service;]
- (i) elect the Leader of the Council, except where the Leader was appointed for a period of four years at the initial annual meeting of the Council;
- (j) [to agree the number of Members to be appointed to the [Cabinet] [Executive];] (weak leader model)

OR

- (k) [the Leader to inform Council of the number of Members to be appointed to the [Cabinet] [Executive];] (strong leader model)
- (l) appoint the [Overview and Scrutiny Committees] [*add other arrangements*], a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- (m) [receive from the Leader the scheme of delegations (as set out in Section 13 of this Constitution);] (strong leader)

OR

- (n) [agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Section 13 of this Constitution);] (weak leader)
- (o) approve a programme of ordinary meetings of the Council for the year; and
- (p) consider any business set out in the notice convening the meeting.

4.10.2 [Selection of Councillors on Committees [and Outside Bodies]

At the annual meeting, the Council meeting will:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the [Cabinet] [Executive].]

4.11 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the [Chair] [Mayor] [Presiding Member] and [Vice Chair] [Deputy Mayor] [Deputy Presiding Member] are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 [receive any announcements from the Civic Chair;]
- OR
- [receive any announcements from the [Chair] [Mayor] [Presiding Member];]
- 4.11.5 receive a report from the Leader and receive questions and answers on the report;
- 4.11.6 receive a report from the [Cabinet] [Executive] and receive questions and answers on the report;
- 4.11.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.8 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the [Cabinet] [Executive] in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the [Overview and Scrutiny Committee] [*add other arrangements*] [];
- 4.11.10 consider motions; and

- 4.11.11 deal with questions from Members in accordance with Rule 4.19
- 4.11.12 [receive questions from, and provide answers to, the public in relation to matters which in the opinion of the [Chair] [Mayor] [Presiding Member] are relevant to the Council's functions.]

4.12 **Extraordinary Meetings**

4.12.1 **Calling Extraordinary Meetings**

The [Proper Officer] [*other Officer*] may call Council meetings in addition to ordinary meetings. Those listed below may request the [Proper Officer] [*other*] to call additional Council meetings:

- (a) the Council by resolution;
- (b) the [Chair] [Mayor] [Presiding Member] of the Council;
- (c) any five Members of the Council if they have signed a requisition presented to the [Chair] [Mayor] [Presiding Member] of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4.12.2 **Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the [Chair] [Mayor] [Presiding Member] may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

4.13 **Time, Place and Duration of Meetings**

4.13.1 **Time and Place of Meetings**

The time and place of meetings will be determined by the [Head of Legal and Democratic Services] [*other*] and notified in the summons.

4.13.2 **Duration of Meetings**

At an ordinary meeting of the Council, when [three hours] have elapsed after the commencement of the meeting, the [Chair] [Mayor] [Presiding Member] shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and dated fixed by the [Chair] [Mayor] [Presiding Member]. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.14 **Notice of and Summons to Meetings**

The [Head of Legal and Democratic Services] [*other*] will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 14. At least [*insert number*] clear days before a meeting, the [Head of Legal and Democratic Services] will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting

and specify the business to be transacted, and will be accompanied by such reports as are available.

4.15 **Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the [Chair] [Mayor] [Presiding Member]. Where these rules apply to committee and sub-committee meetings, references to the [Chair] [Mayor] [Presiding Member] should instead be read as reference to the chair of that committee or sub-committee.

4.16 **Quorum**

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

4.17 **[Remote Attendance]**

4.18 **Questions by the Public**

4.18.1 **General**

- (a) Members of the public may ask questions of Members of the [Cabinet] [Executive] at ordinary meetings of the Council.
- (b) The total time allocated for questions by the public should be limited to 30 minutes.

4.18.2 **Order of Questions**

Questions will be asked in the order notice of them was received, except that the [Chair] [Mayor] [Presiding Member] may group together similar questions.

4.18.3 **Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the [Head of Legal and Democratic Services] [other] no later than midday [insert number] working days before the day of the meeting. Each question must give the name and address of the questioner.

4.18.4 **Number of Questions**

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

4.18.5 **Scope of Questions**

The [Head of Legal and Democratic Services] [other] may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the [County Borough] [other];
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.

4.18.6 Record of Questions

- (a) The [Head of Legal and Democratic Services] [other] will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- (b) Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

4.18.7 Asking the Question at the Meeting

The [Chair] [Mayor] [Presiding Member] will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the [Chair] [Mayor] [Presiding Member] to put the question on their behalf. The [Chair] [Mayor] [Presiding Member] may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

4.18.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The [Chair] [Mayor] [Presiding Member] may reject a supplementary question on any of the grounds set out in Rule 4.18.5 above.

4.18.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

4.18.10 Reference of Question to the [Cabinet] [Executive] or a Committee

Unless the [Chair] [Mayor] [Presiding Member] decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the [Cabinet] [Executive] or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

4.19 Questions by Members

4.19.1 On Reports of the [Cabinet] [Executive] or Committees

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

4.19.2 Questions on Notice at Full Council

Subject to Rule 4.19.4, a Member of the Council may ask:

- (a) the [Chair] [Mayor] [Presiding Member];
- (b) a Member of the [Cabinet] [Executive];
- (c) the chair of any committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the [*name of Council*].

4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 4.19.4, a Member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the [County Borough] [*other*] and which falls within the terms of reference of that committee or sub-committee.

4.19.4 Notice of Questions

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- (a) they have given at least [*insert number*] working days' notice in writing of the question to the [Head of Legal and Democratic Services] [*other*]; or
- (b) the question relates to urgent matters, they have the consent of the [Chair] [Mayor] [Presiding Member] or Member to whom the question is to be put and the content of the question is given to the [Head of Legal and Democratic Services] [*other*] by [*insert time*] on the day of the meeting.

4.19.5 Maximum Number of Questions

A Member may ask only one question under Rule 4.19.2 or 4.19.3 except with the consent of the [Chair] [Mayor] [Presiding Member] of the Council, committee or sub-committee. The maximum number of questions that may be asked at any meeting of the Full Council is [*insert number*] and if the number of questions exceeds [*insert number*] the questions to be asked shall be determined by ballot to be conducted by the [Head of Legal and Democratic Services] [*other*].

4.19.6 Order of Questions

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in the order determined by the [Chair] [Mayor] [Presiding Member] of the Council, committee or sub-committee.

4.19.7 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the [Chair] [Mayor] [Presiding Member]:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact.

4.19.8 Response

An answer may take the form of:

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

4.19.9 Supplementary Question

A Member asking a question under Rule 4.19.2 or 4.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.19.10 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 and a Member answering such a question may speak for no longer than [*insert number*] minutes unless the [Chair] [Mayor] [Presiding Member] consents to a longer period.

4.19.11 Time Allowed for Questions at Council Meetings

- (a) The time allowed for consideration of questions submitted under Rule 4.19.2 shall not, without the consent of the Council, exceed [*insert number*] minutes.
- (b) At the conclusion of the answer to the question under consideration at the expiry of [*insert number*] minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the [Chair] [Mayor] [Presiding Member] shall conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

4.20 Motions on Notice

4.20.1 Notice

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion, must be delivered to the [Head of Legal and Democratic Services] [other] not later than [insert time] on the [state number] working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the [Chair] [Mayor] [Presiding Member].

4.20.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the wellbeing of the administrative area of the Council.

4.20.4 Motion to Remove the Leader

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least two political groups. See Section 6.3.2.
- (b) In order for such a motion to be carried it must have the support of at least two thirds of those Members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

4.20.5 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the [Chair] [Mayor] [Presiding Member].

4.20.6 Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed [insert number] minutes. At the conclusion of the speech being delivered at the expiry of [insert number] minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the [Chair] [Mayor] [Presiding Member] shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- (a) if the speech to be concluded is a speech proposing a motion, the [Chair] [Mayor] [Presiding Member] shall allow the motion to be formally seconded (without comment);

- (b) if the speech to be concluded is a speech moving an amendment, the [Chair] [Mayor] [Presiding Member] shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- (c) otherwise, the [Chair] [Mayor] [Presiding Member] shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

4.21 **Motions without Notice**

The following motions may be moved without notice:

- 4.21.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.21.2 in relation to the accuracy of the minutes;
- 4.21.3 to change the order of business in the agenda;
- 4.21.4 to refer something to an appropriate body or individual;
- 4.21.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 4.21.6 to receive reports or adoption of recommendations of committees or Officers and any resolutions following from them;
- 4.21.7 to withdraw a motion;
- 4.21.8 to amend a motion;
- 4.21.9 to proceed to the next business;
- 4.21.10 that the question be now put;
- 4.21.11 to adjourn a debate;
- 4.21.12 to adjourn a meeting;
- 4.21.13 to suspend a particular Council Procedure Rule;
- 4.21.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 4.21.15 to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4; and
- 4.21.16 to give the consent of the Council where its consent is required by this Constitution.

4.22 Rules of Debate

4.22.1 No Speeches until Motion Seconded

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

4.22.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the [Chair] [Mayor] [Presiding Member] [may require it to be written down and handed to him before it is discussed.

4.22.3 Secunder's Speech

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

4.22.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order no speech may exceed [*insert number*] minutes without the consent of the [Chair] [Mayor] [Presiding Member].

4.22.5 When a Member may Speak Again

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

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

4.22.6 Amendments to Motions

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

(iv) to insert or add words

as long as the effect of 4.22.6(a)(ii) to 4.22.6(a)(iv) is not to negate the motion.

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

4.22.7 Alteration of Motion

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

4.22.8 Withdrawal of Motion

A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

4.22.9 Right of Reply

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

4.22.10 Motions which may be Moved During Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (h) to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4.

4.22.11 Closure Motions

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

4.22.12 Point of Order

A point of order is a request from a Member to the [Chair] [Mayor] [Presiding Member] to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The [Chair] [Mayor] [Presiding Member] will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member

must indicate the rule or law and the way in which he considers it has been broken. The ruling of the [Chair] [Mayor] [Presiding Member] on the matter will be final.

4.22.13 Personal Explanation

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

4.23 **[State of the [County Borough] [other] Debate]**

4.23.1 Calling of Debate

The Leader may call a state of the [County Borough] debate annually on a date and in a form to be agreed with the [Chair] [Mayor] [Presiding Member].

4.23.2 Form of Debate

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

4.23.3 Chairing of Debate

The debate will be Chaired by the [Chair] [Mayor] [Presiding Member] .

4.23.4 Results of Debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council and considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.]

4.24 **Previous Decisions and Motions**

4.24.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least [*insert number*] Members, except in the case of new information becoming available.

4.24.2 Motion Similar to One Previously Rejected

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

4.25 **Voting**

4.25.1 **Majority**

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

4.25.2 **[Chair] [Mayor] [Presiding Member]'s Casting Vote**

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

4.25.3 **Method of Voting**

Unless a recorded vote is demanded under Rule 4.25.4 the [Chair] [Mayor] [Presiding Member] will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

4.25.4 **Recorded Vote**

If [*insert number*] Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

4.25.5 **Right to Require Individual Vote to be Recorded**

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

4.25.6 **Voting on Appointments**

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

4.26 **Minutes**

4.26.1 **Signing the Minutes**

The [Chair] [Mayor] [Presiding Member] will sign the minutes of the proceedings at the next suitable meeting. The [Chair] [Mayor] [Presiding Member] will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

4.26.2 **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local

Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

4.26.3 Form of Minutes

Minutes will contain all motions and amendments in the form and order the [Chair] [Mayor] [Presiding Member] put them.

4.27 **Record of Attendance**

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

4.28 **Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rule 4.30 (Disturbance by Public).

4.29 **Members' Conduct**

4.29.1 Speaking at Meetings

When a Member speaks at Full Council he/she must address the meeting through the [Chair] [Mayor] [Presiding Member]. If more than one Member signifies their intention to speak, the [Chair] [Mayor] [Presiding Member] will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

4.29.2 [Chair] [Mayor] [Presiding Member] Speaking

When the [Chair] [Mayor] [Presiding Member] speaks during a debate, any Member speaking at the time must stop.

4.29.3 Member not to be Heard Further

If a Member persistently disregards the ruling of the [Chair] [Mayor] [Presiding Member] by behaving improperly or offensively or deliberately obstructs business, the [Chair] [Mayor] [Presiding Member] may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

4.29.4 Member to Leave the Meeting

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

4.29.5 General Disturbance

If there is a general disturbance making orderly business impossible, the [Chair] [Mayor] [Presiding Member] may adjourn the meeting for as long as he thinks necessary.

4.30 **Disturbance by Public**

4.30.1 Removal of Member of the Public

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

4.30.2 Clearance of Part of Meeting Room

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

4.31 **Filming and Use of Social Media During Meetings**

Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.]

4.32 **Suspension and Amendment of Council Procedure Rules**

4.32.1 Suspension

All of these Council Rules of Procedure except Rule 4.20.5, 4.25.5 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.

4.32.2 Amendment

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

4.33 **Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the [Cabinet] [Executive]. Only Rules 4.13 to 4.16, 4.19 to 4.22, 4.24 to 4.33 (but not Rule 4.29.1) apply to meetings of committees and sub-committees.

4.34 **Appointment of Substitute Members on Council Bodies**

4.34.1 The substitution rules will not apply to meetings of the [Cabinet] [Executive], the Standards Committee or the Audit Committee.

- 4.34.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.
- 4.34.3 The [Head of Legal and Democratic Services] [other] will allow a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 4.34.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.
- 4.34.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 4.34.6 Substitute Members may attend meetings in that capacity only:
- (a) to take the place of the ordinary Member for whom they are designated substitute;
 - (b) where the ordinary Member will be absent for the whole of the meeting; and
 - (c) where the ordinary Member or that Member's political group has notified the [Head of Legal and Democratic Services] [other] of the intended substitution at least one hour before the start of the relevant meeting.

SECTION 5

5. THE [CABINET] [EXECUTIVE]

5.1 Introduction

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

5.2 Form and Composition of the [Cabinet] [Executive]

The [Cabinet] [Executive] will consist of:

- 5.2.1 the Leader of the Council (the "Leader"); and
- 5.2.2 at least two but not more than nine other Councillors appointed to the [Cabinet] [Executive] by the [Leader] (strong leader) [Council] (weak leader).

5.3 Leader

5.3.1 Election

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

5.3.2 Term of Office

The Leader is appointed [on an annual basis at the annual meeting of the Council] [for a term of [] years].

5.3.3 Role of the Leader

The Leader will Chair meetings of the [Cabinet] [Executive] and determine the portfolios of Members of the [Cabinet] [Executive]. Further information is contained in Section 6.

5.4 Deputy Leader

- 5.4.1 The Leader will appoint a Deputy Leader to act as Leader in the Leader's absence and may also if he/she thinks fit remove the Deputy Leader from Office at any time.
- 5.4.2 The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

5.5 Other [Cabinet] [Executive] Members

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

- 5.5.1 he/she resigns from that office; or
- 5.5.2 he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or

5.5.3 he/she ceases to be a Councillor.

The Leader may at any time appoint an [Cabinet] [Executive] Member to fill any vacancies.

5.6 **Delegation of Functions**

The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

5.6.1 the [Cabinet] [Executive] as a whole;

5.6.2 a Committee of the [Cabinet] [Executive] (comprising executive Members only);

5.6.3 an individual [Cabinet] [Executive] Member;

5.6.4 a joint committee;

5.6.5 Another local authority or the executive of another local authority;

5.6.6 A delegated Officer.

5.7 **[Executive Support Members]**

5.7.1 Other Councillors may, from time to time, be designated by the Leader as Executive Support Members. Such Councillors will not be a Member of the [Cabinet] [Executive] and will not participate in Executive Decision making, but may work closely with an [Cabinet] [Executive] Member. He/she will not be a Member of the [Overview and Scrutiny Committee] [*add other arrangements*] relating to the specific responsibilities of the [Cabinet] [Executive] Member he/she is assisting or any other areas to which they are assigned.

5.7.2 An Executive Support Member may support the [Cabinet] [Executive] Member through the delegation of tasks as agreed for his/her area of responsibility, including attending/chairing meetings; speaking/opening events; reading and commenting on papers; meeting Officers; agreeing press releases./comments and carrying out interview; representative the Council on appropriate groups. An Executive Support Member will not, however, have delegated powers and will not be entitled to speak or vote at [Cabinet] [Executive] Meetings or [Cabinet] [Executive] Committee Meetings nor deputise for the [[Cabinet] [Executive] Member when the [Cabinet] [Executive] Member is called to appear at the [Overview and Scrutiny Committee] [*add other arrangements*].]

5.8 **Rules of Procedure and Debate**

The proceedings of the [Cabinet] [Executive] shall take place in accordance with the Executive Procedure Rules in Section 5.10 below.

5.9 **[Cabinet] [Executive] Procedure Rules**

5.10 How does the [Cabinet] [Executive] Operate?

5.10.1 (Strong leader model) [Delegation by the Leader]

Following the annual meeting of the Council, the [Head of Legal and Democratic Services] [other], at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 13 to this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

- (a) the extent of any authority delegated to [Cabinet] [Executive] Members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such [Cabinet] [Executive] committees as the Leader appoints and the names of [Cabinet] [Executive] Members appointed to them;
- (c) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- (d) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made; and
- (e) *[any other information you want to include.]*

OR

(Weak leader model) [Following the annual meeting the Monitoring Officer, in consultation with the Leader will prepare and submit for approval a [Cabinet] [Executive] Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the [Cabinet] [Executive], and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.]

5.10.2 Sub-Delegation of Executive Functions

- (a) Where the [Cabinet] [Executive], a committee of the [Cabinet] [Executive] or an individual Member of the [Cabinet] [Executive] is responsible for an Executive Function, they may delegate further to joint arrangements or an Officer.
- (b) Unless the Leader directs otherwise, a committee of the [Cabinet] [Executive] to whom functions have been delegated by the Leader may delegate further to an Officer.
- (c) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

5.10.3 The Council's Scheme of Delegation and Executive Functions

- (a) The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the [Head of Legal and Democratic Services] [other] and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The [Head of Legal and Democratic Services] [other] will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the [Cabinet] [Executive], notice will be deemed to be served on that committee when he has served it on its chair.

5.10.4 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.
- (b) If any Member of the [Cabinet] [Executive] has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.
- (c) If the exercise of an Executive Function has been delegated to a committee of the [Cabinet] [Executive], an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Section 17 of this Constitution.

5.10.5 [Cabinet] [Executive] Meetings – When and Where?

The frequency and timing of meetings of the [Cabinet] [Executive] will be determined by the Leader. The [Cabinet] [Executive] will meet at the Council's main offices or another location to be agreed by the Leader.

5.10.6 Public or Private Meetings of the [Cabinet] [Executive]?

The [Cabinet] [Executive] will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in Section 14, for example where confidential or exempt information is being discussed.

5.10.7 Quorum

- (a) The quorum for a meeting of the [Cabinet] [Executive] shall be [*insert number*] including the Leader or Deputy Leader.
- (b) The quorum for a meeting of a committee of the [Cabinet] [Executive] shall be [*insert number*].

5.10.8 [Remote Attendance]

5.10.9 How are Decisions to be Taken by the [Cabinet] [Executive]?

- (a) Executive Decisions made by the [Cabinet] [Executive] as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution.
- (b) Where Executive Decisions are delegated to a committee of the [Cabinet] [Executive], the rules applying to Executive Decisions taken by them shall be the same as those applying to those taken by the [Cabinet] [Executive] as a whole.

5.11 **How are [Cabinet] [Executive] Meeting Conducted?**

5.11.1 Who Presides?

The Leader will preside at any meeting of the [Cabinet] [Executive] or its committees at which he is present. In his absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

5.11.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Section 3 in relation to Member participation in meetings.

5.11.3 What Business?

At each meeting of the [Cabinet] [Executive] the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the [Cabinet] [Executive] (whether by [Overview and Scrutiny Committees] *[add other arrangements]* or by the Council) for reconsideration by the [Cabinet] [Executive] in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and 15 of this Constitution;
- (d) consideration of reports from [Overview and Scrutiny Committees] *[add other arrangements]*;
- (e) consideration of reports from [Cabinet] [Executive] Committees;
- (f) reports from Officers of the Authority.

5.11.4 Consultation

All reports to the [Cabinet] [Executive] from any Member of the [Cabinet] [Executive] or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the [Overview and Scrutiny Committee] [*add other arrangements*] and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

5.11.5 Who can put Items on the [Cabinet] [Executive] Agenda?

- (a) The Leader will decide upon the schedule for meetings of the [Cabinet] [Executive]. He/she may put any matter on the agenda of any [Cabinet] [Executive] meeting whether or not authority has been delegated to the [Cabinet] [Executive], a committee of it or any Member or Officer in respect of that matter.
- (b) Any Member of the [Cabinet] [Executive] may require the [Head of Legal and Democratic Services] [*other*] to make sure that an item is placed on the agenda of the next available meeting of the [Cabinet] [Executive] for consideration.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of [a Cabinet] [an Executive] meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- (d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the [Cabinet] [Executive] needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of [a Cabinet] [an Executive] meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.

5.12 **Disturbance by the Public, Filming and Use of Social Media**

- 5.12.1 The provisions in Council Procedure Rules in Section 4.30 in relation to disturbance by the public apply to meetings of the [Cabinet] [Executive].
- 5.12.2 [The provisions in Council Procedure Rules in Section 4.31 relating to filming and use of social media apply to meetings of the [Cabinet] [Executive]].

SECTION 6

6. THE LEADER

6.1 Election

6.1.1 The Leader will be elected by Full Council.

6.1.2 The Leader will usually be elected [on an annual basis at the Annual Council meeting] [at an annual Council meeting for a term of [] years]. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

6.2 Term of Office

[The Leader is appointed on an annual basis at the annual meeting of the Council.] [The Leader is appointed for a term of [] years.]

6.3 Resignation, Dismissal, Disqualification and Suspension

6.3.1 The Leader may resign the position of Leader by writing to the [Chair] [Mayor] [Presiding Member].

6.3.2 The Leader can be dismissed where the Council passes a resolution removing him/her from office in accordance with the Rules below.

6.3.3 The Leader shall cease to be Leader if he/she is suspended or disqualified as a Councillor, or, for other such reasons, cannot fulfil the role of Leader.

6.3.4 The Leader will cease to be Leader upon death or upon suffering any disability which will, or is likely to, prevent them from undertaking the role of Leader for a period of three months or more.

6.4 [Deputy Leader]

6.4.1 Appointment

The Leader may designate one of the Members of the [Cabinet] [Executive] as Deputy Leader.

6.4.2 Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

6.4.3 Removal from Office

The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.]

6.5 **Functions and Delegated Authority**

6.5.1 **Membership of the [Cabinet] [Executive]**

The Leader appoints and dismisses the Members of the [Cabinet] [Executive] subject only to their being a minimum of two, and a maximum of nine, Members of the [Cabinet] [Executive] (not counting the Leader) at any time (Section [], page []).

6.5.2 **Role of the Leader**

The Leader will chair meetings of the [Cabinet] [Executive] and determine the portfolios of Members of the [Cabinet] [Executive].

6.5.3 **[The [Cabinet] [Executive] Scheme of Delegations**

(weak leader) The Monitoring Officer, in consultation with the Leader, will prepare and submit for approval a [Cabinet] [Executive] Scheme of Delegations setting out the delegations of Executive Functions, including where the principle has been approved as part of the Council's Executive arrangements, the delegated authority of each member of the [Cabinet] [Executive] and thereafter keep this under review and submit updates to the Scheme, as appropriate. In addition, the Leader has powers under section 15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under other delegated powers, any Executive Functions not covered by the Scheme for the time being.]

OR

(strong leader) The Leader will prepare and submit for approval a [Cabinet] [Executive] Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the [Cabinet] [Executive], and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.]

(NB: no Member of the [Cabinet] [Executive] may have a Deputy, other than the Leader. This means that no Member of the [Cabinet] [Executive] can have responsibilities which mean that they will work to, or under, another Member of the [Cabinet] [Executive], except the Leader).

6.5.4 **Meetings of the [Cabinet] [Executive]**

Subject to the requirement to publish notice of each meeting three clear days before it takes place, and other conditions contained in Section [], page [], the Leader can call meetings of the [Cabinet] [Executive] at such times and places as he/she chooses (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the [Cabinet] [Executive] as well).

6.5.5 Chairing [Cabinet] [Executive] Meetings

The Leader shall chair [Cabinet] [Executive] meetings. In the Leader's absence the [Deputy Leader] will chair. If the [Deputy Leader] is not available the [Cabinet] [Executive] will appoint a Member of the [Cabinet] [Executive] to Chair the meeting on their behalf by informing the [*insert name of Officer*] of the person chosen [subject to quorum).

6.5.6 Appointments of Representatives on Outside Bodies

The Leader has authority to appoint representatives of the Council on outside bodies where those outside bodies relate to Executive Functions of the Council.

SECTION 7

7. [OVERVIEW AND SCRUTINY COMMITTEES] [ADD OTHER ARRANGEMENTS]

7.1 Introduction

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

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

7.2 [Overview and Scrutiny Committees] [add other arrangements]

In order to achieve this, the Council have appointed [insert number] [Overview and Scrutiny Committees] [add other arrangements] which between them will:

7.2.1 review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the [Cabinet] [Executive] or another part of the Council;

7.2.2 make reports or recommendations to the Council or the [Cabinet] [Executive] in connection with the discharge of any functions;

7.2.3 consider any matter which affects the Council's area or its inhabitants; and

7.2.4 exercise the right to call in for reconsideration decisions made but not yet implemented by the [Cabinet] [Executive] and Officers.

7.3 Role, Scope and Membership

The role, scope and Membership of the [Overview and Scrutiny Committees] [add other arrangements] are described in the table below:

| Committee and Membership | Role and Scope |
|---------------------------------|-----------------------|
| | |
| | |
| | |
| | |
| | |

7.4 **Specific Functions**

7.4.1 **Policy Development and Review**

The [Overview and Scrutiny Committees] [*add other arrangements*] may:

- (a) assist the Council and the [Cabinet] [Executive] in the development of its Budget and Policy Framework by in depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) question Members of the [Cabinet] [Executive] and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- (d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and
- (e) consider the impact of policies to assess if they have made a difference.

7.4.2 **Scrutiny**

The [Overview and Scrutiny Committees] [*add other arrangements*] may:

- (a) review and scrutinise the decisions by and performance of the [Cabinet] [Executive] and/or Committees and Council Officers in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question Members of the [Cabinet] [Executive] and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- (d) make recommendations to the [Cabinet] [Executive] and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the [Overview and Scrutiny Committees] [*add other arrangements*] and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

7.4.3 **Finance**

[*Add what is relevant for your authority*]

7.4.4 Annual Report

The [Overview and Scrutiny Committees] *[add other arrangements]* must report annually to the Full Council on their workings with recommendations for their future work programme and amended working methods if appropriate.

7.5 Head of Democratic Services

One of the roles of the Head of Democratic Services under section 8 of The Measure is to promote the role of the Council's [Overview and Scrutiny Committees] *[add other arrangements]* and to promote support and guidance to Council Members and Officers generally about the functions of the [Overview and Scrutiny Committees] *[add other arrangements]*.

7.6 Who May Sit on [Overview and Scrutiny Committees] [add other arrangements]?

All Councillors except Members of the [Cabinet] [Executive] [the Executive Support Members] and the [Chair] [Mayor] [Presiding Member] [Civic Chair] of the Council may be Members of the [Overview and Scrutiny Committees] *[add other arrangements]*. However, no Member may be involved in scrutinising on decisions in which he has been directly involved.

7.7 Co-Optees

Each [Overview and Scrutiny Committee] *[add other arrangements]* shall be entitled to recommend to Council the appointment of a maximum of *[insert number]* people as non-voting co-optees. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them.

7.8 Education Representatives

The *[insert name of relevant Education Scrutiny Committee]* *[add other arrangements]* shall include in its Membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the National Assembly of Wales.

7.9 Who Chairs?

The arrangements included in sections 66-75 of the Local Government (Wales) Measure 2011 will be followed for appointing persons to chair [Overview and Scrutiny Committees] *[add other arrangements]*.

7.10 Role of the Chair and the [Overview and Scrutiny Committees] [add other arrangements]

7.10.1 The role of the Chair of the [Overview and Scrutiny Committees] *[add other arrangements]* will be essential in implementing the new method of working. The Chairs will liaise with the [Cabinet] [Executive] and supervise the Work Programme and identify cross cutting themes arising from the various [Overview and Scrutiny Committees] *[add other arrangements]*.

7.10.2 In summary, therefore, the Chair will:

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

- (b) will meet regularly to monitor Work Programmes;
- (c) will liaise with the [Cabinet] [Executive] on issues affecting the Scrutiny Work Programme; and
- (d) [report to the four standing business meetings of the Council on progress in implementing the new methods of working.]

7.11 **Work Programme**

The [Overview and Scrutiny Committees] [*add other arrangements*] will be responsible for setting their own Work Programme and in doing so they should take into account wishes of Members of that [Committee] [*add other arrangements*] who are not Members of the largest political group on the Council. It may also consider urgent and unforeseen matters not included in the Work Programme.

7.12 **Meetings**

7.12.1 The [Overview and Scrutiny Committees] [*add other arrangements*] will have [] meetings a year.

7.12.2 Extraordinary meetings may be called from time to time in order to deal with call-ins (Section 7.25) where the Chair of [an Overview and Scrutiny Committee] [*add other arrangements*] and the Chair of Council agree it is necessary for that [Overview and Scrutiny Committee] [*add other arrangements*] to consider the called in decision before the [Committee's] [*add other arrangements*] next programmed meeting.

7.12.3 The quorum of [an Overview and Scrutiny Committee] [*add other arrangements*] will be [] Members.

7.13 **Joint [Overview and Scrutiny Committees] [*add other arrangements*]**

Under section 58 of The Measure, regulations may be made to permit two or more local authorities to appoint a joint [Overview and Scrutiny Committee] [*add other arrangements*]. This is set out in the Local Authority (Joint Overview and Scrutiny) (Wales) Regulations 2012.

7.14 **Rules of Procedure and Debate**

The Overview and Scrutiny Procedure Rules will apply to meetings of the [Overview and Scrutiny Committees] [*add other arrangements*].

7.15 **What will be the Number and Arrangements for [Overview and Scrutiny Committees] [*add other arrangements*]?**

7.15.1 The Council will have [*insert number*] [Overview and Scrutiny Committees] [*add other arrangements*] set out in the table in Section 7.3 and will appoint to them as it considers appropriate from time to time. The [Committees] [*add other arrangements*] may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

7.15.2 The terms of reference of the various [Overview and Scrutiny Committees] [*add other arrangements*] will be:

(a) [add relevant terms of reference]

7.15.3 Each [Overview and Scrutiny Committee] [add other arrangements] will be Chaired by a Chair appointed from the membership of that [Overview and Scrutiny Committee] [add other arrangements]:

(a) there will be cross party Membership of all [Overview and Scrutiny Committees] [add other arrangements];

(b) the [Overview and Scrutiny Committees] [add other arrangements] shall undertake the following:

(i) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or [Cabinet] [Executive] as appropriate;

(ii) conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships;

(iii) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;

(iv) question [Cabinet] [Executive] Members and Officers about their views and actions on issues and proposals affecting the [County Borough] [other];

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

(vi) question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

7.16 **Meetings of the [Overview and Scrutiny Committees] [add other arrangements]**

The Council may determine a cycle of meetings for the [Overview and Scrutiny Committees] [add other arrangements]. If the Council do not set the cycle, each such [Committee] [add other arrangements] shall determine their own cycle of meetings. The Chair, or in their absence the Vice Chair, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the [Committee's] [add other arrangements] work programme. A meeting of [an Overview and Scrutiny Committee] [add other arrangements] may be called by the Chair (or in his or her absence, the Vice Chair) or by the [Head of Legal and Democratic Services], if he or she considers it necessary or appropriate.

7.17 **Quorum**

The quorum for an [Overview and Scrutiny Committee] [add other arrangements] shall be as set out in the Council Procedure Rules in Section 4 of this Constitution.

7.18 **Agenda Items**

- 7.18.1 Any Member of a particular [Overview and Scrutiny Committee] *[add other arrangements]* shall be entitled to give notice to the [Head of Legal and Democratic Services] that he wishes an item relevant to the functions of the that [Committee] *[add other arrangements]* to be included on the agenda for the next available meeting. [Seven] working days' notice of the item should be given to the [Head of Legal and Democratic Services] together with sufficient information to enable the Officer to advise about the nature and purpose of the item.
- 7.18.2 On receipt of such a request, so long as it is an appropriate matter to be considered, the [Head of Legal and Democratic Services] will ensure that it is included on the next available agenda.
- 7.18.3 [An Overview and Scrutiny Committee] *[add other arrangements]* shall also respond, as soon as their work programme permits, to requests from the Council and/or the [Cabinet] [Executive] to review particular areas of Council activity. Where they do so, the particular [Overview and Scrutiny Committee] *[add other arrangements]* shall report their findings and any recommendations back to the [Cabinet] [Executive] and/or Council. The Council and/or the [Cabinet] [Executive] shall consider the report of the [Overview and Scrutiny Committee] *[add other arrangements]* within one month of receiving it.

7.19 **Policy Review and Development**

- 7.19.1 The role of the [Overview and Scrutiny Committees] *[add other arrangements]* in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Section 15*[add automatic cross reference when added back to main document]*.
- 7.19.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, [an Overview and Scrutiny [Committee] *[add other arrangements]* may make proposals to the [Cabinet] [Executive] for developments in so far as they relate to matters within their terms of reference.
- 7.19.3 [An Overview and Scrutiny Committee] *[add other arrangements]* may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

7.20 **Reports from the [Overview and Scrutiny Committees] [add other arrangements]**

- 7.20.1 All formal reports from the [Overview and Scrutiny Committees] *[add other arrangements]* will be submitted to the [Head of Legal and Democratic Services] for consideration by the [Cabinet] [Executive] (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

- 7.20.2 If [an Overview and Scrutiny Committee] *[add other arrangements]* cannot agree on one single final report to the Council or [Cabinet] [Executive] as appropriate, one minority report may be prepared and submitted for consideration by the Council or [Cabinet] [Executive] with the majority report.
- 7.20.3 The Council or [Cabinet] [Executive] shall consider the report of [an Overview and Scrutiny Committee] *[add other arrangements]* within one month of it being submitted to the [Head of Legal and Democratic Services] *[other]*.
- 7.21 **Making sure that Overview and Scrutiny Reports are considered by the [Cabinet] [Executive]**
- 7.21.1 The agenda for [Cabinet] [Executive] meetings shall include an item entitled “Issues Arising from Overview and Scrutiny”. The reports of the [Overview and Scrutiny Committees] *[add other arrangements]* referred to the [Cabinet] [Executive] shall be included at this point in the agenda (unless they have been considered in the context of the [Executive’s] [Cabinet’s] deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the [Cabinet] [Executive] within two months, the [Cabinet] [Executive] will give an explanation of the reasons to the Chair of the relevant [Overview and Scrutiny Committee] *[add other arrangements]* as soon as practicable.
- 7.21.2 Where the [Cabinet] [Executive] has delegated decision making power to another individual Member of the [Cabinet] [Executive] [an Overview and Scrutiny Committee] *[add other arrangements]* will submit a copy of their report to him or her for consideration. At the time of doing so the [Overview and Scrutiny Committee] *[add other arrangements]* shall serve a copy on the [Head of Legal and Democratic Services]. The Member with delegated decision making power must consider the report and respond in writing to the [Overview and Scrutiny Committee] *[add other arrangements]* within four weeks of receiving it. A copy of his written response to it shall be sent to the [Head of Legal and Democratic Services] and the Leader. The Member will also attend a future meeting of that [Overview and Scrutiny Committee] *[add other arrangements]* to present their response.
- 7.22 **Rights of Members of the [Overview and Scrutiny Committees] *[add other arrangements]* to Documents**
- 7.22.1 In addition to their rights as Councillors, Members of the [Overview and Scrutiny Committees] *[add other arrangements]* have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section 14 of this Constitution.
- 7.22.2 Nothing in this paragraph prevents more detailed liaison between the [Cabinet] [Executive] and the [Overview and Scrutiny Committees] *[add other arrangements]* as appropriate depending on the particular matter under consideration.
- 7.23 **Members and Officers Giving Account**
- 7.23.1 The [Overview and Scrutiny Committees] *[add other arrangements]* may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the [Cabinet]

[Executive], the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance

and it is the duty of those persons to attend if so required.

7.23.2 For this purpose, senior Officer includes any chief Officer, deputy chief Officer and other appropriate senior Officer. Where there are concerns about the appropriateness of the Officer who should attend, the relevant chief Officer shall discuss this with the appropriate Overview and Scrutiny Chair or Vice Chair with a view to achieving consensus.

7.23.3 Where any Member or Officer is required to attend [an Overview and Scrutiny Committee] [*add other arrangements*] under this provision, the Chair of that Committee will inform the [Head of Legal and Democratic Services] [*other*]. The [Head of Legal and Democratic Services] [*other*] shall inform the Member or Officer, if necessary in writing, giving at least [*insert number*] working days' notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.

7.23.4 Where the account to be given to [an Overview and Scrutiny Committee] [*add other arrangements*] will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

7.23.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the [Overview and Scrutiny Committee] [*add other arrangements*] shall in consultation with the Member or Officer arrange an alternative date for attendance.

7.24 **Attendance by Others**

[An Overview and Scrutiny Committee] [*add other arrangements*] may invite people other than those people referred to in paragraph 7.23 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

7.25 **Call-In**

7.25.1 **Rules**

- (a) Where a decision is made by the [Cabinet] [Executive], an individual Member of the [Cabinet] [Executive] or a Committee of the [Cabinet] [Executive] or under joint arrangements, the decision shall be published by the [Head of Legal and Democratic Services] [*other*], including where possible by electronic means, and shall be available at the main offices of the Council normally within [*insert number*] clear working days of it being

made. All Members of the [Overview and Scrutiny Committees] *[add other arrangements]* will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of [five] clear working days after the publication of the decision, unless [an Overview and Scrutiny Committee] *[add other arrangements]* objects to it and calls it in for review.
- (c) During that period the Monitoring Officer shall call-in a decision for scrutiny by [an Overview and Scrutiny Committee] *[add other arrangements]* if so requested in the specified format by *[insert number]* Members of that [Overview and Scrutiny Committee] *[add other arrangements]* and, shall then notify the decision taker of the call-in. He/she shall call a meeting of that [Overview and Scrutiny Committee] *[add other arrangements]* on such a date as he/she may determine, where possible after consultation with the Chair or Vice Chair of that [Overview and Scrutiny Committee] *[add other arrangements]*, and in any case within *[insert number]* clear working days of the decision to call-in (only in exceptional circumstances will the Chair of the [Overview and Scrutiny Committee] *[add other arrangements]* consider extending this time limit).
- (d) If, having considered the decision, the [Overview and Scrutiny Committee] *[add other arrangements]* is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further *[insert number]* clear working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, [an Overview and Scrutiny Committee] *[add other arrangements]* does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the [Overview and Scrutiny Committee] *[add other arrangements]* meeting, or the expiry of that further *[insert number]* working day period, whichever is the earlier.
- (f) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the [Cabinet] [Executive] as a whole, or a Committee of it, a meeting will be convened to reconsider within [five] working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within [five] working days of the Council's request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become

effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
 - (i) [an Overview and Scrutiny Committee] [*add other arrangements*] may only call-in a total of [three] decisions per [three] month period;
 - (ii) [three] Members of [an Overview and Scrutiny Committee] [*add other arrangements*] (from at least two political groups) are needed for a decision to be called in;
 - (iii) once a Member has signed a request for call-in under this paragraph, he/she may not do so again until the period of three months has expired.
 - (iv) No Education Co-opted Members may report a decision be called in.
- (i) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (j) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

7.25.2 Call-In and Urgency

- (a) The call-in procedure set out above shall not apply where the decision being taken by the [Cabinet] [Executive] is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The [Chair] [Mayor] must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the [Chair] [Mayor] and the Deputy [Chair's] [Mayor's] consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

7.26 The Party Whip

If a Member of [an Overview and Scrutiny Committee] [*add other arrangements*] is subject to a party whip in respect of an issue to be considered by it, that Member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

7.27 **Procedure at [Overview and Scrutiny Committee] [add other arrangements] Meetings**

7.27.1 [An Overview and Scrutiny Committee] [add other arrangements] shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to that [Overview and Scrutiny Committee] [add other arrangements] for a decision in relation to call in of a decision;
- (d) responses of the [Cabinet] [Executive] to reports of that [Overview and Scrutiny Committee] [add other arrangements];
- (e) the business otherwise set out on the agenda for the meeting.

The Rules of Procedure at [an Overview and Scrutiny Committee] [add other arrangements] will be the same as the Council procedure Rules except that the Chair of the meeting may allow the rules of debate to be relaxed to enable a full contribution by those attending the meeting whether a Members of [an Overview and Scrutiny Committee] [add other arrangements] or in any other capacity which allows them to contribute to the worth of the meeting.

7.27.2 [An Overview and Scrutiny Committee] [add other arrangements] may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

- (a) that the business be conducted fairly and all Members of the [Overview and Scrutiny Committee] [add other arrangements] be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting by giving evidence be treated with respect and courtesy;
- (c) that the business be conducted as efficiently as possible.

7.27.3 Following any investigation or review, [an Overview and Scrutiny Committee] [add other arrangements] shall prepare a report, for submission to the [Cabinet] [Executive] and/or Council as appropriate and shall make its report and findings public.

7.28 **Matters within the Remit of more than one [Overview and Scrutiny Committee] [add other arrangements]**

Where a matter for consideration by [an Overview and Scrutiny Committee] [add other arrangements] also falls within the remit of one or more other [Committees] [add other arrangements], the decision as to which [Committee] [add other arrangements] will consider it will be resolved by the respective Chairs or, if they fail to agree, [need to insert who will decide].

7.29 **Councillor Call for Action**

- 7.29.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of “last resort”.
- 7.29.2 Any Member may request that an item is placed on the agenda of [an Overview and Scrutiny Committee] [*add other arrangements*] for consideration.
- 7.29.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to these Rules at Appendix 1.

APPENDIX 1 TO SECTION 7

Councillor Call for Action - Guidance for Councillors

1. INTRODUCTION

- 1.1 The Local Government Wales Measure 2011 introduced a number of new provisions aimed at strengthening local democracy. Section 63 of the Measure introduced a provision for “Councillor Calls for Action” (CCfA) which enables Councillors to refer issues of local importance to [Overview and Scrutiny Committees] [*add other arrangements*].
- 1.2 CCfAs are intended to enable local Councillors and their electors to obtain a response from their Council Leadership on issues of local importance. CCfAs should be regarded as one of a series of tools which elected Members have at their disposal to resolve local issues and make a positive difference in their community. Previously in Wales, only local Crime and Disorder issues could be referred by the local Member to the designated Crime and Disorder [Overview and Scrutiny Committee] [*add other arrangements*] for action and it should be noted that these local crime and disorder referrals will remain in place under separate legislation.
- 1.3 As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents and CCfAs provide an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.
- 1.4 CCfAs have been introduced alongside other powers for scrutiny, including powers to scrutinise a wide range of bodies not previously subject to local authority scrutiny. CCfAs are intended to enable any Member for the Council to refer to [an Overview and Scrutiny Committee] [*add other arrangements*], “a local government matter” which falls within the [Committee’s] [*add other arrangements*] remit.

2. HOW SHOULD I NORMALLY ATTEMPT TO RESOLVE A LOCAL ISSUE IN MY AREA?

- 2.1 Local issues can be resolved in a number of ways by councillors on behalf of their residents as listed in the Welsh Government’s Statutory Guidance from the Local Government Measure 2011:
 - 2.1.1 informal discussions with Officers or other councillors;
 - 2.1.2 informal discussions with partner representatives;
 - 2.1.3 referral to other “scrutiny” bodies such as Community Health Councils or internal audit committee;
 - 2.1.4 formal discussions with Officers and councillors;
 - 2.1.5 formal letters to the [Cabinet] [Executive] Members;
 - 2.1.6 asking questions at Full Council;
 - 2.1.7 submitting a motion to Full Council;
 - 2.1.8 organising public meetings;

- 2.1.9 use of petitions;
- 2.1.10 making a complaint;
- 2.1.11 questions at Full Council
- 2.1.12 freedom of information requests;
- 2.1.13 communication with local AMs or MPs;
- 2.1.14 use of social media or email based campaigns.

2.2 This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the appropriate [Overview and Scrutiny Committee] [*add other arrangements*].

3. **WHAT IS A COUNCILLOR CALL FOR ACTION**

- 3.1 In order for the [Committee] [*add other arrangements*] to accept a CCfA as an agenda item for discussion at one of their meetings, the issue must affect either all or part of a councillor's electoral area or it must affect someone who lives or works in that area.
- 3.2 A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that an a CCfA is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

4. **HOW AND WHEN SHOULD I MAKE A CCFA**

- 4.1 A flowchart showing the process is provided at Annex A. A councillor may initiate the process by completing the form at Annex B. Further copies are available from [your Scrutiny Support]. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to [your Scrutiny Support] who will log and acknowledge the referral within five working days, to track its progress and forward a copy of the form to the [Head of Legal and Democratic Services] [*other*] (The Proper Officer).
- 4.2 The Proper Officer will confirm whether or not the referral satisfies the requirements outlined in paragraph [] above to enable it to be placed on the agenda for discussion at a meeting of the [Committee] [*add other arrangements*]. The Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful; and the Councillor will be informed of this outcome as soon as practicable.

5. **CRITERIA TO BE FOLLOWED BY AN [OVERVIEW AND SCRUTINY COMMITTEE] [ADD OTHER ARRANGEMENTS]**

- 5.1 It is up to the Members of [an Overview and Scrutiny Committee] [*add other arrangements*] to decide whether, and in what form, to take the matter further. The [Overview and Scrutiny Committee] [*add other arrangements*] will use the following criteria to decide whether or not the referral is appropriate to be considered by that [Overview and Scrutiny Committee] [*add other arrangements*]:

- 5.1.1 Is that [Overview and Scrutiny Committee] [*add other arrangements*] satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- 5.1.2 Has that [Overview and Scrutiny Committee] [*add other arrangements*] considered a similar issue recently? If so, have the circumstances or evidence changed?
- 5.1.3 Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- 5.1.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
- 5.1.5 Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- 5.1.6 Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- 5.1.7 Is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?
- 5.1.8 Is this an issue currently being looked at by another form of local scrutiny?
- 5.1.9 And, as with all scrutiny, does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the Member's electoral division?

NB: Crime and Disorder referrals should be directed to the designated Crime and Disorder [Overview and Scrutiny Committee] [*add other arrangements*].

- 5.2 If [an Overview and Scrutiny Committee] [*add other arrangements*] decides not to accept the CCfA it must inform the councillor of the decision and the reasons for it.
- 5.3 If [an Overview and Scrutiny Committee] [*add other arrangements*] decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, eg the Councillor will be given adequate notice (a minimum of 10 clear days) of the date of the [Overview and Scrutiny Committee] [*add other arrangements*] meeting. The Councillor will be requested to attend to the [Overview and Scrutiny Committee] [*add other arrangements*] and informed that he/she will have five minutes in which to address the [Overview and Scrutiny Committee] [*add other arrangements*]. The [Overview and Scrutiny Committee] [*add other arrangements*] may then wish to question the Councillor further before deciding how it intends to take the matter forward. This could include:
 - 5.3.1 asking the relevant responsible authorities to respond to the CCfA;
 - 5.3.2 setting up a research or task and finish group to undertake a more in-depth review;

- 5.3.3 asking for further evidence and/or witnesses to be brought to a future meeting. The [Overview and Scrutiny Committee] [*add other arrangements*] has the power to request “designated persons” such as representatives from other public bodies/agencies to attend, where relevant, and to request information. (The Welsh Government have yet to publish a list of “designated persons”.)

6. **POTENTIAL OUTCOMES FROM A CCFA**

- 6.1 [An Overview and Scrutiny Committee] [*add other arrangements*] could:
- 6.1.1 determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
 - 6.1.2 write a response and make recommendations on the CCfA to a relevant responsible authority;
 - 6.1.3 decide that further action is not appropriate giving its reasons.
- 6.2 Once [an Overview and Scrutiny Committee] [*add other arrangements*] has completed its work, the Councillor who made the referral will receive a copy of any response or recommendations made.

7. **TIMESCALES FOR DEALING WITH A CCFA**

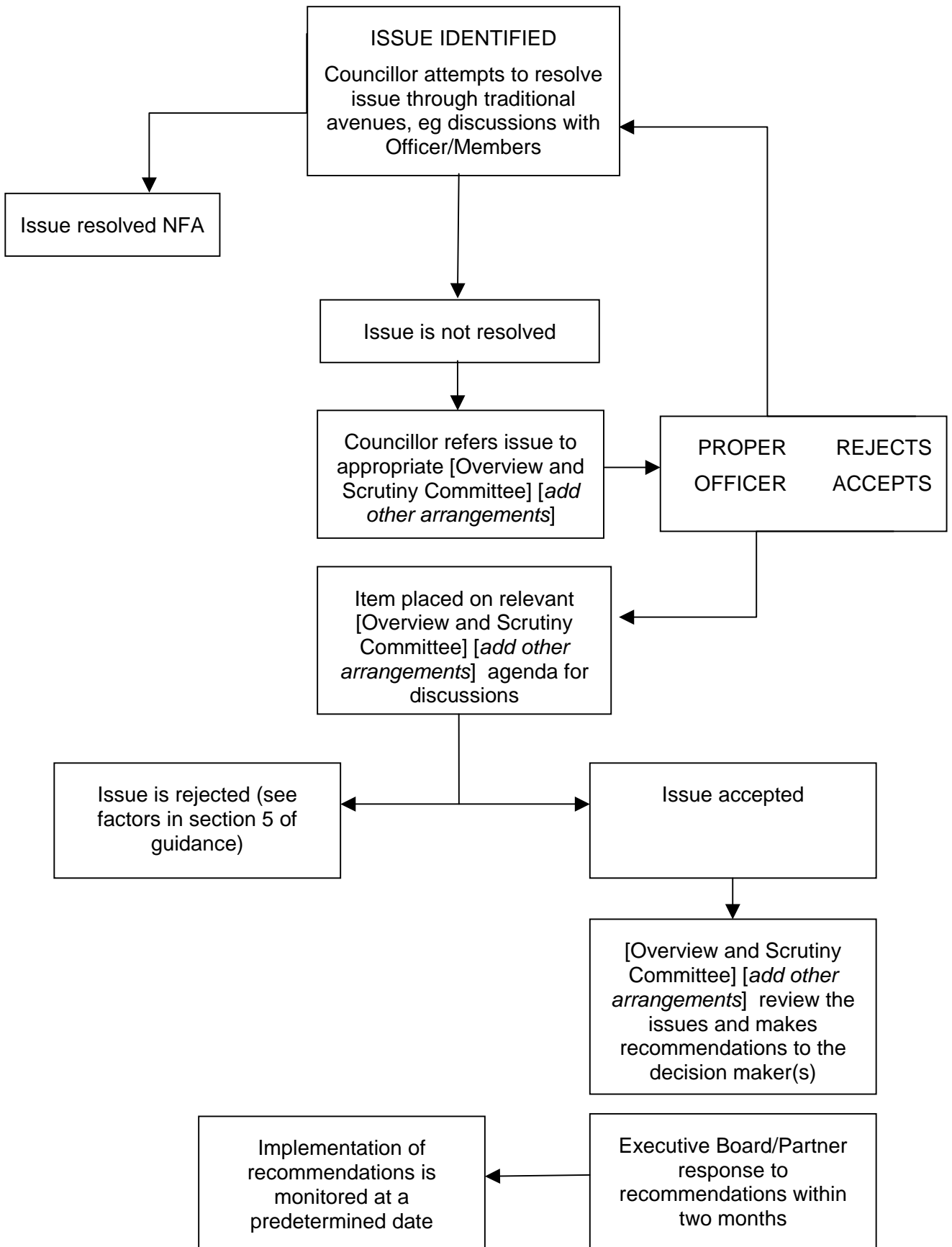
- 7.1 In exceptional circumstances, for example where there are unavoidable time constraints, a special [Committee] [*add other arrangements*] meeting may be convened.
- 7.2 Should a CCfA result in recommendations to the [Cabinet] [Executive] responsible authorities, they will be requested to make a response to the recommendations within 28 days and two months respectively.
- 7.3 [An Overview and Scrutiny Committee] [*add other arrangements*] will monitor implementation of any recommendations as part of its Forward Work Programme.

8. **REVIEW OF THIS GUIDANCE**

This guidance is based on a model prepared and approved by the Association of County Secretaries and Solicitors (ACSeS) in October 2009. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly.

APPENDIX 2 TO SECTION 7

Flow Chart for Councillor Call for Action



APPENDIX 3 TO SECTION 7

Councillor Call for Action Referral

| | |
|--|--|
| For the attention of (name and title of Proper Officer) | |
| From | Councillor |
| Electoral Division | |
| Contact details | |
| Telephone | |
| E-mail | |
| | |
| SUBJECT | |
| Details Please briefly explain what the issue is and how it affects your electoral division. | |
| Action taken to date Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date) or add additional. | <ul style="list-style-type: none"> • Informal discussions with Officers or other councillors • Informal discussions with partner representatives • Referral to other “scrutiny” bodies such as Community Health Councils or internal audit committee • Formal discussions with Officers and councillors • Formal letters to the [Cabinet] [Executive] Members • Asking questions at Full Council • Submitting a motion to Full Council • Organising public meetings • Use of petitions • Making a complaint • Questions at Full Council • Freedom of Information requests • Communication with local AMs or MPs • Use of social media or email based campaigns |
| Expected Outcome Please describe the outcome you hope to gain via this referral. | |
| Papers attached Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received. | |

1. The following criteria will be taken into consideration when [an Overview and Scrutiny Committee] [*add other arrangements*] decide whether to progress with your CCfA:
 - 1.1 Have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
 - 1.2 Has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?
 - 1.3 Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the LCDR should be taken into account.
 - 1.4 Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?
 - 1.5 Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
 - 1.6 Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?
 - 1.7 Is the matter an issue of genuine local concern, which impacts on the local community rather than a personal matter?
 - 1.8 Is this an issue currently being looked at by another form of local scrutiny?
 - 1.9 And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations, which could realistically be implemented and lead to improvements for anyone living or working in your electoral division.
2. Please consider whether your referral might be considered premature by the [Overview and Scrutiny Committee] [*add other arrangements*]. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, he/she will advise you accordingly.

SECTION 8

8. THE STANDARDS COMMITTEE

Composition

8.1 Membership

The Standards Committee is composed of [*insert number*] Members. Its Membership includes:

- 8.1.1 [*insert number*] “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 8.1.2 [*insert number*] Councillors other than the Leader and not more than one Member of the Executive; and
- 8.1.3 [*insert number*] Community Council Member(s).

8.2 Term of Office

- 8.2.1 Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 8.2.2 Members of local authorities who are Members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term.

8.3 Quorum

A meeting of the Standards Committee shall only be quorate when:

- 8.3.1 at least [*insert number*] Members, including the Chairperson, are present; and
- 8.3.2 at least half the Members present (including the Chairperson) are Independent Members.

8.4 Voting

Independent Members and Community Council Members will be entitled to vote at meetings.

8.5 Chairing the Committee

- 8.5.1 Only an Independent Member of the Standards Committee may be the Chair.
- 8.5.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
 - (i) not less than four years or no more than six years; or

- (ii) until the term of office of the Independent Member comes to an end.

8.6 **Role and Function**

The Standards Committee will have the following roles and functions:

- 8.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 8.6.2 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- 8.6.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 8.6.4 monitoring the operation of the Members' Code of Conduct;
- 8.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 8.6.6 [*add other things as appropriate*].

8.7 **Work Programme**

The Committee will prepare a work programme, which will be reviewed and approved at each Committee meeting.

8.8 **Rules of Procedure and Debate**

- 8.8.1 The Council Procedure Rules at Section 4 will apply to the meetings of the Standards Committee Members.
- 8.8.2 When considering the conduct of individual Councillors, the procedures outlined in Appendix 3 to Section 18 will apply.

SECTION 9

9. REGULATORY COMMITTEES

9.1 Regulatory and Other Committees

The Council will appoint the Committees to discharge the functions set out in Section 13 of this Constitution.

9.2 The Audit Committee

9.2.1 The Council will appoint an Audit Committee to discharge the functions described in Section 13 of this Constitution and in accordance with sections 81-87 of The Measure.

9.2.2 The Committee shall comprise of Councillor Members (being at least two thirds of the Membership) and at least one Member who is not a Member of the Council (lay Member) and no more than one Member of the [Cabinet] [Executive] (which [Cabinet] [Executive] Member must not be the Leader).

9.2.3 The Chair of the Audit Committee is appointed by it and they cannot be a Member of the [Cabinet] [Executive] but can be a lay Member and can only be a Member of an executive group if there are no opposition groups.

9.2.4 Members of the Audit Committee may vote on any matter from the Committee.

9.3 The Democratic Services Committee

9.3.1 The Council will appoint a Democratic Services Committee to discharge the functions described in Section 13 of this Constitution.

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

9.3.3 The Chair of the Democratic Services Committee is appointed by Full Council and must not be the [Cabinet] [Executive] Member.

9.4 Other Committees and Sub-Committees

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

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

9.5 Rules of Procedure and Debate

The Council Procedure Rules in Section 4 will apply.

SECTION 10

10. JOINT COMMITTEES

10.1 Introduction

There are a number of circumstances where the Council or the [Cabinet] [Executive] is entitled to carry out certain functions jointly with another local authority.

10.2 Arrangements to Promote Wellbeing

The [Cabinet] [Executive] in order to promote the economic, social, or environmental wellbeing of its area may:

10.2.1 enter into arrangements or agreements with any person or body;

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

10.2.3 exercise on behalf of that person or body any functions of that person or body.

10.3 Joint Arrangements

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

10.3.2 The [Cabinet] [Executive] may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the [Cabinet] [Executive] may only appoint [Cabinet] [Executive] Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.

10.3.3 The [Cabinet] [Executive] may appoint Members to a Joint Committee from outside the [Cabinet] [Executive] where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the [Cabinet] [Executive] may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.

10.4 Access to Information

10.4.1 The Access to Information Procedure Rules in Section 14 apply.

10.4.2 If all the Members of a Joint Committee are Members of the [Cabinet] [Executive] in each of the participating authorities, then its access to information regime is the same as that applied to the [Cabinet] [Executive].

10.4.3 If the Joint Committee contains Members who are not on the [Cabinet] [Executive] of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

10.5 **Delegation to and from Other Local Authorities**

10.5.1 The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.

10.5.2 The [Cabinet] [Executive] can delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.

10.5.3 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

10.6 **Contracting Out**

The Council (in respect of Non-Executive Functions) and the [Cabinet] [Executive] (in respect of Executive Functions) may contract out to another body or organisation functions:

10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or

10.6.2 under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

SECTION 11

11. OFFICERS

11.1 Management Structure

11.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

11.1.2 Chief Officers

The Full Council will engage persons for the following posts, who will be designated Chief Officers, which designation includes persons acting temporarily in such capacity:

| Post | Functions and Areas of Responsibility |
|--|--|
| Chief Executive (and Head of Paid Service) | <ul style="list-style-type: none"> • Overall corporate management and operational responsibility including overall management responsibility for all Officers. • Principal adviser to the Council on general policy. • The provision of professional and impartial advice to all parties in the decision making process to the [Cabinet] [Executive], to [Overview and Scrutiny Committee] [<i>add other arrangements</i>], the Full Council and other Committees). • Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise). • Representing the Authority on partnership and external bodies (as required by statute or the Council). • Service to the whole Council, on a politically neutral basis. |
| [Director, Corporate Services | <ul style="list-style-type: none"> • Central Support Services, Finance, Administration and Legal Governance Support, to act as Chief Executive in his/her absence.] |
| [Director, Environmental Services | <ul style="list-style-type: none"> • Highways, Transportation and Fleet Management, Waste and other Technical functions including Environmental Health and Trading Standards, Leisure and Cultural Services.] |
| [Director, Children and Adult Services | <ul style="list-style-type: none"> • Social Services Community Care functions, Housing functions. • Children's Services including child protection, looked after children and children in need. |

| Post | Functions and Areas of Responsibility |
|--|--|
| | <ul style="list-style-type: none"> Education Services including schools and continuing education.] |
| [Director of Legal and Democratic Services | <ul style="list-style-type: none"> [Legal and Democratic Services], Member Support Services, Democratic Services, Electoral Registration and Land Charges.] |
| [Director of Human Resources | <ul style="list-style-type: none"> Employee Relations, Organisation and Employee Development, Health and Safety, Equal Opportunities.] |

11.1.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

| Post | Designation |
|---|-----------------------------|
| Chief Executive | Head of Paid Service |
| [Head of Legal and Democratic Services] | Monitoring Officer |
| [Director of Corporate Services] | Chief Finance Officer |
| [add post] | Head of Democratic Services |

Such posts will have the functions described in Sections 11.2 to 11.5.

11.2 Functions of the Head of Paid Service

11.2.1 Discharge of Functions by the Council

Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Head of Paid Service. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.

11.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

11.3 Functions of the Monitoring Officer

These are set out in section 5 of the Local Government and Housing Act 1989 as amended.

11.3.1 Maintaining the Constitution

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

11.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the [Cabinet] [Executive] in relation to any Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

11.3.3 Supporting the Standards Committee

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

11.3.4 Receiving Reports

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

11.3.5 Conducting Investigations

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

11.3.6 Proper Officer for Access to Information

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

11.3.7 Advising whether decisions of the [Cabinet] [Executive] are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the [Cabinet] [Executive] – are in accordance with the Budget and Policy Framework.

11.3.8 Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to the Councillors.

11.3.9 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer, the Head of Paid Service or the Head of Democratic Services.

11.4 **Functions of the Chief Finance Officer**

These are set out in section 6 of the Local Government and Housing Act 1989.

11.4.1 **Ensuring Lawfulness and Financial Prudence of Decision Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the [Cabinet] [Executive] in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

11.4.2 **Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

11.4.3 **Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

11.4.4 **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

11.4.5 **Give Financial Information**

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

11.4.6 **Advising whether Decisions of the [Cabinet] [Executive] are within the Budget and Policy Framework**

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the [Cabinet] [Executive] are in accordance with the Budget and Policy Framework.

11.4.7 **Restrictions on Posts**

The Chief Finance Officer cannot be the monitoring officer or the Head of Democratic Services.

11.5 **Functions of the Head of Democratic Services**

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

- 11.5.1 to provide support and advice to the authority in relation to its meetings, subject paragraph 11.5.10;

- 11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.10;
- 11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 11.5.10;
- 11.5.4 to promote the role of the authority's [Overview and Scrutiny Committee] [*add other arrangements*];
- 11.5.5 to provide support and advice to:
- (a) the authority's [Overview and Scrutiny Committee] [*add other arrangements*] and the members of that [committee] or those [committees] [*add other arrangements*]; and
 - (b) the authority's Democratic Services Committee and the members of that committee;
 - (c) to provide support and advice in relation to the functions of the authority's [Overview and Scrutiny Committee] [*add other arrangements*] to each of the following:
 - (i) members of the authority;
 - (ii) members of the executive of the authority;
 - (iii) officers of the authority;
- 11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.11;
- 11.5.7 to make reports and recommendations in respect of any of the following:
- (a) the number and grades of staff required to discharge democratic services functions;
 - (b) the appointment of staff to discharge democratic services functions;
 - (c) the organisation and proper management of staff discharging democratic services functions;
- 11.5.8 such other functions as may be prescribed by law.
- 11.5.9 Restrictions on Posts
- The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- 11.5.10 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the [Overview and Scrutiny Committee] [*add other arrangements*] and Democratic Services Committee.

11.5.11 Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of an [Overview and Scrutiny Committee] [*add other arrangements*] or Democratic Services Committee.

11.6 **Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

The Council will provide the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.7 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 20 and 21 of this Constitution.

11.8 **Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

11.9 **Officer Employment Procedure Rules**

11.9.1 **Recruitment and Appointment**

(a) *Declarations*

- (i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council.
- (ii) No candidate so related to a Councillor or a senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.

(b) *Seeking Support for Appointment*

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

11.9.2 **Recruitment of Chief Officers**

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:

- (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the procedures mentioned in paragraph (a) to be sent to any person on request.

11.9.3 Appointment of [Head of Paid Service] [Chief Executive]

- (a) The Full Council will approve the appointment of the [Head of Paid Service] [Chief Executive], following the recommendation of such appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the [Cabinet] [Executive].
- (b) The Full Council may only make or approve the appointment of the [Head of Paid Service] [Chief Executive] where no well-founded objection has been made by any Member of the [Cabinet] [Executive].

11.9.4 Appointments and Dismissals of Chief Officers

- (a) In this paragraph:

“the Committee” means the [] Committee; and

“the Proper Officer” means the [Head of Legal and Democratic Services] [other].

- (b) The appointment and dismissal of the [Chief Executive] [Head of Paid Service] and Chief Officers is the responsibility of the Committee.
- (c) At least one Member of the [Cabinet] [Executive] must be a Member of the Committee and not more than half the Members of that Committee should be Members of the [Cabinet] [Executive] (Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006).
- (d) Where the Committee is proposing to appoint or dismiss the [Chief Executive] [Head of Paid Service], the Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- (e) The Committee shall not make an offer of appointment in relation to any of the Officers named in (b) above until it has complied with Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006:
 - (i) the Committee has notified the Proper Officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
 - (ii) the Proper Officer has notified every Member of the [Cabinet] [Executive] of:

- (A) the name of the person to whom the Committee wishes to make the offer (or, in the case of the [Chief Executive] [Head of Paid Service], subject to approval of the Council);
 - (B) any other particulars relevant to the appointment which the Committee has notified to the Proper Officer; and
 - (C) the period within which any objection to the making of the offer is to be made by the [Leader] on behalf of the [Cabinet] [Executive] to the Proper Officer; and
- (iii) either:
- (A) the [Leader] has, within the period specified, notified the Committee that neither he nor any other Member of the [Cabinet] [Executive] has any objection to the making of the offer;
 - (B) the Proper Officer has notified the Committee that no objection was received by him within that period from the [Leader]; or
 - (C) the Committee (or, in the case of the appointment of the [Chief Executive] [Head of Paid Service], the Full Council) is satisfied that any objection received from the [Leader] within that period is not material or is not well-founded.
- (iv) notice of the dismissal of an Officer named in (b) above must not be given by the Committee until the authority has complied with Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006:
- (A) the Committee has notified the Proper Officer of the name of the person who the Committee wishes to dismiss (in the case of the [Chief Executive] [Head of Paid Service], the Monitoring Officer or the Chief Financial Officer, subject to the approval of the Council) and any other particulars which the Committee considers are relevant to the dismissal;
 - (B) the Proper Officer has notified every Member of the [Cabinet] [Executive] of:
 - 1 the name of the person who the Committee wishes to dismiss;
 - 2 any other particulars relevant to the dismissal which the Committee has notified to the Proper Officer; and
 - 3 the period within which any objection to the dismissal is to be made by the [Leader] [Cabinet] on behalf of the [Cabinet] [Executive] to the Proper Officer; and
- (v) either:

- (A) the [Leader] has, within the period specified, notified the Committee that neither he nor any other Member of the [Cabinet] [Executive] has any objection to the dismissal;
 - (B) the Proper Officer has notified the Committee that no objection was received by him within that period from the [Leader]; or
 - (C) the Committee (or, in the case of the proposed dismissal of the [Chief Executive] [Head of Paid Service], the Full Council) is satisfied that any objection received from the [Leader] within that period is not material or is not well-founded;
- (vi) where a Member of the [Cabinet] [Executive] attends the Committee set up to deal with a particular appointment or dismissal then such attendance shall constitute notice of and compliance with the requirements of [(iv)] and [(v)] above.

11.9.5 Other Officers

- (a) Appointment and dismissal of Officers below Chief Officer is the responsibility of the [Chief Executive] [Head of Paid Service] or his nominee, and may not be undertaken by councillors.
- (b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

11.9.6 Disciplinary Action

- (a) In this paragraph "disciplinary action" includes proposed dismissal for any reason other than redundancy, permanent ill health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.
- (b) *Written Procedures*
 - (i) Disciplinary action against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer will be taken in accordance with the Council's Chief Officer Procedures.
 - (ii) Disciplinary action against all other Officers will be taken in accordance with the [*insert title of procedure*].
- (c) *Independent Person*

No disciplinary action may be taken under paragraph (b)(i) above except in accordance with a recommendation in a report made by a designated independent person.

(d) *Suspension*

An Officer named in 11.9.4(b) above and the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay.

11.9.7 Appeals

None of the above shall prevent a Councillor serving as a Member of an appeals committee or body established to consider an appeal by:

- (a) any person against any decision relating to the appointment of that person as a Member of staff of the authority; or
- (b) a Member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the Member of staff has less than six months' notice. In these instances the appeal shall be conducted by a senior Officer.

SECTION 12

12. FINANCE CONTRACTS AND LEGAL MATTERS

12.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Section 16 of this Constitution.

12.2 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Section 17 of this Constitution.

12.3 Legal Proceedings

12.3.1 The [title] is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the [title] considers that such action is necessary to protect the Council's interests.

12.3.2 The [title] has delegated powers to authorise Officers to appear in court on the Council's behalf.

12.4 Authentication of Documents

12.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the [Head of Legal and Democratic Services] or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

12.4.2 Any contract with a value exceeding [insert amount], entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two Officers of the Council or made under common seal of the Council attested by at least one Officer if they exceed [insert figure] in value.

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

- (a) the [Chief Executive];
- (b) the [Head of Legal and Democratic Services];
- (c) any Chief Officer of the Council concerned with the matter to which the document relates; or,
- (d) any Officer authorised in writing by such Chief Officer.

12.5 Common Seal of the Council

12.5.1 Common Seal

- (a) The Common Seal of the Council shall be kept in a safe place in the custody of the [Head of Legal and Democratic Services] [*other*].
- (b) A decision of the Council, including decisions under delegated powers, will be sufficient authority for sealing any document necessary to give effect to the decision.

12.5.2 Sealing and Execution of Documents

- (a) The [Chief Executive] and the [*add relevant Officer*] shall have authority to jointly affix the Common Seal and execute under Seal any deed or document subject to at least [] of the above named Officers of the Council being present and being signatories.
- (b) The Officers of the Council referred to above shall have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.
- (c) This function can be delegated further by the named persons.

12.5.3 Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the [Chief Executive] and the [Head of Legal and Democratic Services] [*other*] and consecutively numbered in a book to be provided for the purpose.

SECTION 13

DRAFTING NOTE

The Responsibility for Functions is always bespoke for the Council concerned. You can treat this as a template for Section 13.

13. **RESPONSIBILITY FOR FUNCTIONS - SUMMARY**

The purpose of this Section of the Constitution is to set out who is responsible for making the various decisions in the Council.

13.1 **Who can be Decision Makers?**

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

- 13.1.1 Full Council;
- 13.1.2 a Committee or Sub-Committee of the Council;
- 13.1.3 the Executive Leader;
- 13.1.4 the [Cabinet] [Executive];
- 13.1.5 a Committee of [Cabinet] [Executive];
- 13.1.6 an individual [Cabinet] [Executive] Member;
- 13.1.7 a Joint Committee;
- 13.1.8 an Officer.

The Council will issue and keep up to date a record of which individual has responsibility for particular types of decisions. This record is set out in Section 13 of this Constitution.

13.2 **Principles of Decision Making**

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

- 13.2.1 proportionately (ie the action must be proportionate to the desired outcome);
- 13.2.2 due consideration and the taking of professional advice from Officers;
- 13.2.3 respect for human rights;
- 13.2.4 a presumption in favour of openness;
- 13.2.5 clarity of aims and desired outcomes;
- 13.2.6 consideration of any alternative options; and
- 13.2.7 the giving and recording of reasons for the decision and the proper recording of these reasons.

13.3 Functions fall into the following categories:

13.3.1 Functions of the Full Council

The Council is the supreme decision making body and may, with some exceptions, exercise any of the functions vested in the Council by Law. It may also delegate many of those functions to a Committee, Sub-Committee or Officer. The functions of the Full Council are set out in Section 4.

13.3.2 Non-Executive Functions

These are functions which, by law, may not be the responsibility of the [Cabinet] [Executive]. In some cases, only the Full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an Officer.

13.3.3 “Local Choice” Functions

There are some functions which the Council may treat as being the responsibility of the [Cabinet] [Executive] (in whole or in part) or as being non-executive, at its discretion.

13.3.4 Executive Functions

All other functions are Executive Functions.

13.4 **Other Bodies**

13.4.1 Advisory Bodies

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

13.4.2 [Overview and Scrutiny Committees] [add other arrangements]

[Overview and Scrutiny Committees] [add other arrangements] are responsible for the overview and scrutiny function. They cannot exercise other functions and make decisions.

13.4.3 Officer Delegations

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

13.5 **Who Decides – Non-Executive Functions?**

13.5.1 The Council may decide whether to delegate Non-Executive Functions to a committee, sub-committee, delegated Officer or joint committee.

13.5.2 Where a non-Executive Function has been delegated to a committee, the committee may further delegate to a sub-committee or delegated Officer.

13.5.3 Where a non-Executive Function has been delegated to a sub-committee, the sub-committee may further delegate to a delegated Officer.

13.6 **Who Decides – Executive Functions?**

[The Leader may decide whether to delegate Executive Functions to a committee of the [Cabinet] [Executive], an individual [Cabinet] [Executive] Member, a delegated Officer or a joint committee.] (strong leader model)

[*add other arrangements*] (weak leader model) [**check with Paul**]

13.7 **Removal of Delegation**

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

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

13.8 **Who May Exercise Officer Delegations?**

Where a function has been delegated to an Officer(s) (“delegated Officer(s)”), the decision may be taken in the name of (but not necessarily personally by) such delegated Officer(s) (“authorised Officer(s)”) in accordance with arrangements made from time to time by such delegated Officer(s) for this purpose. The Officer with delegated powers can only delegate to a third party if that Officer is given delegated powers to “delegate on” that decision making.

APPENDIX 2 TO SECTION 13

Responsibility for Executive Functions

The Leader is responsible for discharge of Executive Functions and may delegate those functions as set out in Section 5 of this Constitution.

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

| Name | Portfolio | Main Functional Areas |
|------|-----------|-----------------------|
| | | |

APPENDIX 3 TO SECTION 13

Officer Scheme of Delegations

The purpose of this Section of the Constitution is to bring together delegations to Officers and roles and responsibilities of Officers.

SECTION 14

14. ACCESS TO INFORMATION PROCEDURE RULES

14.1 Scope

These rules apply to all meetings of the Council, the [Cabinet] [Executive], [Overview and Scrutiny Committee] [*add other arrangements*], the Standards Committee, and Regulatory Committees.

14.2 Additional Rights to Information

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

14.3 Rights to Attend Meetings

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

14.4 Notices of Meeting

Unless a meeting is convened at short notice, the Council will give at least [*insert number*] clear days' notice of any meeting by posting details of the meeting at [*enter address*] and on its website.

14.5 Access to Agenda and Reports Before the Meeting

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

14.6 Supply of Copies

The Council will supply copies of:

- 14.6.1 any agenda and reports which are open to public inspection;
- 14.6.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 14.6.3 if the [Head of Legal and Democratic Services] [*other*] thinks fit, copies of any other documents supplied to Councillors in connection with an item

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

14.7 Access to Minutes etc after the Meeting

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

- 14.7.1 the minutes of the meeting or record of decisions taken by the [Cabinet] [Executive], excluding any part of the minutes of proceedings when the meeting was not open to the public because exempt or confidential information was being considered;
- 14.7.2 a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 14.7.3 the agenda for the meeting; and
- 14.7.4 reports relating to items when the meeting was open to the public.

14.8 **Background Papers**

14.8.1 List of Background Papers

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

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

but does not include published works or those which disclose exempt or confidential information as defined in Rule 14.10.

14.8.2 Public Inspection of Background Papers

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

14.9 **Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at, and made available to the public at [*enter address*].

14.10 **Exclusion of Access by the Public to Meetings**

14.10.1 Confidential Information – Requirement to Exclude Public

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

14.10.2 Exempt Information – Discretion to Exclude Public

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, article 6 of the Human Rights Act 1998

establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in article 6.

14.10.3 Meaning of Confidential Information

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

14.10.4 Meaning of Exempt Information

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

NOTE: Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

| No. | Category of Exempt Information | Condition |
|-----|--|---|
| 1. | Information relating to any individual. | Public interest test applies (see below). |
| 2. | Information which is likely to reveal the identity of an individual. | Public interest test applies (see below). |
| 3. | Information relating to the financial or business affairs of any particular person (including the authority holding that information). | Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"> • The Companies Act 1985; • The Friendly Societies Act 1974; • The Friendly Societies Act 1992; • The Industrial and Provident Societies Acts 1965 to 1978; • The Building Societies Act 1986; or • The Charities Act 1993. Public interest test applies (see below). |
| 4. | Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising | Public interest test applies (see below). |

| No. | Category of Exempt Information | Condition |
|-----|--|---|
| | between the authority or a Minister of the Crown and employees of, or office holders under, the authority. | |
| 5. | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | |
| 6. | <p>Information which reveals that the authority proposes:</p> <ul style="list-style-type: none"> • to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or • to make an order or direction under any enactment. | Public interest test applies (see below). |
| 7. | <p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Public interest test applies (see below).</p> <p><i>(In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>7A Information which is subject to any obligations of confidentiality.</p> <p>7B Information which relates in any way to matters concerning national security.</p> <p>7C The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p> | Public interest test applies (see below). |

14.11 **Public Interest Test**

14.11.1 Information which:

- (a) falls within any of paragraphs 1 to 4, 6 and 7 above; and
- (b) is not prevented from being exempt by virtue of the “qualifications” above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

14.11.2 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

14.11.3 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:

- (a) There is a distinction between public interest and what merely interests the public.
- (b) Does it further the understanding of and participation in the public debate of issues of the day?
- (c) Does it promote accessibility and transparency by public authorities for decisions taken by them or in the spending of public money?
- (d) Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- (e) Does it bring to light information affecting public health and public safety?

14.12 **Exclusion of Access by the Public to Reports**

If the [Head of Legal and Democratic Services] [*other*] thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 14.10, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

14.13 **The Forward Work Programme**

14.13.1 Period of Forward Work Programme

The Forward Work Programme will be prepared by the [Head of Legal and Democratic Services] [*other*] to cover a period of [*insert number*] months. It will be updated at the end of this period.

14.13.2 Contents of Forward Work Programme

- (a) The Forward Work Programme will contain matters which the [Cabinet] [Executive], [Overview and Scrutiny Committee] [*add other arrangements*] and Full Council are likely to consider. It will contain information on:

- (i) the timetable for considering the budget and any plans forming part of the Policy Framework and requiring Council approval, and which body is to consider them;
 - (ii) the timetable for considering any plans which are the responsibility of the [Cabinet] [Executive];
 - (iii) any individual matters on which the [Cabinet] [Executive] intends to consult in advance of taking a decision, and the timetable for consultation and decision;
 - (iv) the work programme of the [Overview and Scrutiny Committee] [*add other arrangements*].
- (b) The Forward Work Programme will be published at least 14 days before the start of the period covered. The [Head of Legal and Democratic Services] [*other*] will publish a notice in at least one newspaper circulating in the area, stating that the Forward Work Programme has been published and giving details of where it may be consulted or obtained.

14.14 **Consultation on Proposals to be Considered by the [Cabinet] [Executive]**

- 14.14.1 At least four weeks should be permitted in the Forward Work Programme for consultation with the [Overview and Scrutiny Committee] [*add other arrangements*] and Electoral Division Members where a matter is to be considered by the [Cabinet] [Executive] and is not urgent (as defined below) or confidential or exempt (as defined in paragraph 14.10).
- 14.14.2 A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last Forward Work Programme was produced and a decision is required within four weeks.
- 14.14.3 A decision can only be treated as urgent if the decision taker (if an individual) or the Chair of the body making the decision obtains the agreement of the Chair of the relevant [Overview and Scrutiny Committee] [*add other arrangements*] that the taking of the decision cannot be reasonably deferred. If there is no Chair of the relevant [Overview and Scrutiny Committee] [*add other arrangements*], or if the Chair of the [Overview and Scrutiny Committee] [*add other arrangements*] is unable to act, then the agreement of the [Chair of the Council] [Mayor] [Presiding Member] or, in his/her absence, the [Vice Chair] [Deputy Mayor] [Deputy Presiding Member] will suffice. Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record.

14.15 **Record of Decisions of the [Cabinet] [Executive]**

14.15.1 The Decision Record

- (a) A written record will be made of every Executive Decision made by the [Cabinet] [Executive] and its Committees (if any) and by individual [Cabinet] [Executive] Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.
- (b) This decision record will include a statement, for each decision, of:

- (i) the decision made;
- (ii) the date the decision was made;
- (iii) the reasons for that decision;
- (iv) any personal interest declared;
- (v) any dispensation to speak granted by the Authority's Standards Committee;
- (vi) any consultation undertaken prior to the decision.

14.15.2 Preparing the Decision Record

- (a) The [Head of Legal and Democratic Services] [*other*] or his or her representative shall attend any meeting of the [Cabinet] [Executive], a Committee of the [Cabinet] [Executive] or a Joint Committee or joint Sub-Committee where all its Members are Members of a local authority executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.
- (b) Where an individual [Cabinet] [Executive] Member has made any Executive Decision:
 - (i) that Member shall as soon as reasonably practicable instruct the Chief Executive to produce a decision record; and
 - (ii) the decision shall not be implemented until that decision record has been produced, subject to paragraph (c) below.
- (c) Where the date by which an Executive Decision made by an individual [Cabinet] [Executive] Member must be implemented makes compliance with (b)(b)(ii) above impracticable, the decision may be implemented if the decision maker has the agreement of
 - (i) the Chair of the relevant [Overview and Scrutiny Committee] [*add other arrangements*]; or
 - (ii) if there is no such person or that person is unable to act, the [Chair] [Mayor] [Presiding Member]; or
 - (iii) if there is none of the above then the [Vice Chair] [Deputy Mayor] [Deputy Presiding Member],

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

14.16 Decisions by An Individual Member of the [Cabinet] [Executive]

14.16.1 Reports Must Be Taken Into Account

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

14.16.2 Provision of Copies of Reports to [Overview and Scrutiny Committee] [add other arrangements]

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant [Overview and Scrutiny Committee] [add other arrangements] as soon as reasonably practicable, and make it publicly available at the same time.

14.16.3 Record of Individual Decision

The decision recording rules in paragraph 14.15 will apply.

14.17 [Overview and Scrutiny Committee] [add other arrangements] and Members' Access to Documents

14.17.1 Rights of Access

Subject to paragraph 14.17.2 below, [Overview and Scrutiny Committees] [add other arrangements] will be entitled to access to any document which is in the possession or control of the [Cabinet] [Executive] or its Committees and which contains material relating to:

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

14.17.2 Limit on Rights

[Overview and Scrutiny Committees] [add other arrangements] will not be entitled to any part of a document that contains:

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

unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of the [Committees] [add other arrangements].

14.18 Additional Rights of Access for Members of [Overview and Scrutiny Committees] [add other arrangements]

14.18.1 Rights of Access

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

14.18.2 Limitation on Rights

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

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

14.18.3 Nature of Rights

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

SECTION 15

15. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

15.1 The Framework for Executive Decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Section 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the [Cabinet] [Executive] to implement it.

15.2 Process for Developing the Framework

15.2.1 The [Cabinet] [Executive], following detailed reports from respective Chief Officers, (following appropriate consultation with stakeholders) will present to Council, proposed plans, policies and the associated annual budgets. This will be done allowing adequate time for Council to deal with the matter and, if needed, refer the matter back to the [Cabinet] [Executive] for further consideration.

15.2.2 The Council will consider the proposals of the [Cabinet] [Executive] and may adopt them, amend them, refer them back to the [Cabinet] [Executive] for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the [Cabinet's] [Executive's] proposals and any related report from [an Overview and Scrutiny Committee] [*add other arrangements*].

15.2.3 Any amendments to the proposals of the [Cabinet] [Executive] to be proposed by Members at Council may not be considered by Council unless notice of the proposed amendment has been given to the [Proper Officer] in writing and signed by the proposer and seconder not later than [*insert time*] at least [*insert number*] clear days before the date of the Council meeting.

15.2.4 The Council's decision will be publicised and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the [Cabinet's] [Executive's] proposals without amendment) or (if the [Cabinet's] [Executive's] proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of [*insert number*] working days after the publication of the notice of decision, unless the Leader objects to it in that period.

15.2.5 If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect, prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

15.2.6 The Council meeting must take place within [*insert number*] working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

15.2.7 The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Section [] and shall be implemented immediately.

15.2.8 All policy and budget reports presented to Council for decision shall subsequently be presented to the next calendar relevant [Overview and Scrutiny Committee] [*add other arrangements*].

15.3 **Process for Developing the Budget**

15.3.1 The [Cabinet] [Executive] will follow the process set out in the Financial Procedure Rules in Section 16 of the Constitution. In addition the following process shall apply to the development of the Budget:

(a) The [Cabinet] [Executive] will publicise a timetable for making proposals to the Council for the adoption of the Budget, and its arrangements for consultation after publication of the initial proposals. The Chair of the [Overview and Scrutiny Committee] [*add other arrangements*] [] will also be notified.

(b) At the end of the consultation period, the [Cabinet] [Executive] will draw up firm proposals having regard to the responses to the consultation. If the [Overview and Scrutiny Committee] [*add other arrangements*] wishes to respond to the [Cabinet] [Executive] in that consultation process then it may do so. The [Overview and Scrutiny Committee] [*add other arrangements*] shall report to the [Cabinet] [Executive] on the outcome of its deliberations.

15.3.2 The [Cabinet] [Executive] will take any response from the relevant [Overview and Scrutiny Committee] [*add other arrangements*] into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the [Cabinet's] [Executive's] response.

15.3.3 Once the [Cabinet] [Executive] has approved the firm proposals, it will refer them at the earliest opportunity to the Council.

15.4 **Decisions Outside the Budget or Policy Framework**

15.4.1 Subject to the provisions of paragraph 15.6 (Virement) the [Cabinet] [Executive], committees of the [Cabinet] [Executive], individual Members of the [Cabinet] [Executive] or any Officers or joint arrangements discharging Executive Functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to paragraph 15.5 below.

15.4.2 If the [Cabinet] [Executive], committees of the executive, individual Members of the [Cabinet] [Executive] or any Officers or joint arrangements discharging Executive Functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget.

15.4.3 If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be

referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 15.5 (urgent decisions outside the Budget and Policy Framework) shall apply.

15.5 **Urgent Decisions Outside the Budget or Policy Framework**

15.5.1 The [Cabinet] [Executive], a committee of the [Cabinet] [Executive], an individual Member of the [Cabinet] [Executive] or Officers or joint arrangements discharging Executive Functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (a) if it is not practical to convene a quorate meeting of the Full Council; and
- (b) if the Chair of the relevant [Overview and Scrutiny Committee] [*add other arrangements*] agrees that the decision is a matter of urgency.

15.5.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant [Overview and Scrutiny Committee's] [*add other arrangements*] consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant [Overview and Scrutiny Committee] [*add other arrangements*] the consent of the [Chair of the Council] [Mayor] [Presiding Member] and in the absence of both the [Vice Chair] [Deputy Mayor] [Deputy Presiding Member] of the Council will be sufficient.

15.5.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

15.6 **Virement**

Steps taken by the [Cabinet] [Executive], a committee of the [Cabinet] [Executive], individual Members of the [Cabinet] [Executive] or Officers or joint arrangements discharging Executive Functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules in Section 16 of this Constitution.

15.7 **In-Year Changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the [Cabinet] [Executive], a committee of the [Cabinet] [Executive], an individual Member of the [Cabinet] [Executive] or Officers or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy or strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- 15.7.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- 15.7.2 necessary to ensure compliance with the law, ministerial direction or government guidance;

- 15.7.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- 15.7.4 which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change; or
- 15.7.5 for which provision is made within the relevant budget or policy.

15.8 **Call-In of Decisions Outside the Budget or Policy Framework**

- 15.8.1 Where the relevant [Overview and Scrutiny Committee] [*add other arrangements*] is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 15.8.2 In respect of functions which are the responsibility of the [Cabinet] [Executive], the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the [Cabinet] [Executive] with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the [Cabinet] [Executive] must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the chief finance Officer conclude that the decision was a departure, and to the relevant [Overview and Scrutiny Committee] [*add other arrangements*] if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 15.8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant [Overview and Scrutiny Committee] [*add other arrangements*] may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within [*insert number*] working days of the request by the [Overview and Scrutiny Committee] [*add other arrangements*]. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - (a) endorse a decision or proposal of the Executive Decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (b) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive Function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it,

require the [Cabinet] [Executive] to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

SECTION 16

16. FINANCIAL PROCEDURE RULES

DRAFTING NOTE

What follows is an illustrative framework. You will have bespoke arrangements for your Council. You can treat this as a template.

16.1 Introduction

16.1.1 What are Financial Procedure Rules?

- (a) Financial Procedures provide the framework for managing the Council's financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented. These are listed in Appendix 1.
- (b) The procedures identify the financial responsibilities of the Full Council, the [Cabinet] [Executive] and Officers.
- (c) To avoid the need for regular amendment due to changes in post titles generic terms are included for Officers as follows:
 - (i) The term, "Chief Finance Officer," refers to the Section 151 Officer who is currently the [Director of Corporate Services].
 - (ii) The term, "Chief Officers", refers to the Council's Chief Executive, the Corporate Directors and the Assistant Chief Executive.
 - (iii) The term, "Monitoring Officer", is currently the [Head of Legal and Democratic Services] [other].
 - (iv) The term, "Chief Internal Auditor", refers to the [Manager of Internal Audit and Risk Management].

16.1.2 Why are they important?

- (a) To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.
- (b) Good, sound financial management is a key element of the Council's Corporate Governance framework which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- (c) Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

- (d) Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.
- (e) Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

16.1.3 Who do Financial Procedures apply to?

- (a) Financial Procedures apply to every Member and Officer of the Council and anyone acting on its behalf. Members and Officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.
- (b) Separate financial procedures have been incorporated into the Council's Scheme for Financing of Schools and relate to those matters where decisions have been delegated to school governing bodies.
- (c) These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- (d) Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

16.1.4 Who is responsible for ensuring that they are applied?

- (a) Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- (b) The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the [Cabinet] [Executive] Members.
- (c) The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- (d) Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the Chief Finance Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

16.2 **Financial Management - General Roles and Responsibilities**

16.2.1 The Role of the Full Council

The Council has a duty towards its Council Tax payers with regard to financial decisions and their consequences. The Full Council is responsible for approving the Budget and Policy Framework within which the [Cabinet] [Executive] operates having regard to the Chief Financial Officer's comments in his Local Government Act 2003 section 25 report. The budget setting process includes the approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The role of the Council is set out in this Constitution.

16.2.2 The Role of the [Cabinet] [Executive]

The [Cabinet] [Executive] is responsible for proposing the Budget and Policy Framework to Full Council, and for discharging Executive Functions in accordance with the Budget and Policy Framework. The role of the [Cabinet] [Executive] is set out in Section 4 of this Constitution.

16.2.3 The Role of the Chief Finance Officer

- (a) The Chief Finance Officer is accountable to the [Chief Executive] [Head of Paid Services] and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:
- (i) section 151 of the Local Government Act 1972;
 - (ii) The Local Government Finance Act 1988;
 - (iii) The Local Government and Housing Act 1989;
 - (iv) The Accounts and Audit Regulations 2003 (as amended) 2006.
- (b) The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:
- (i) the proper administration of the Council's financial affairs;
 - (ii) maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the Full Council for approval;
 - (iii) annually reviewing and updating, and monitoring compliance with financial management standards;
 - (iv) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
 - (v) providing financial information and advice to the Corporate Management Team, the [Cabinet] [Executive] and the Council on all

- aspects of its activity including the presentation of appropriate financial options as necessary;
- (vi) providing training for Members and Officers on Financial Procedures and Financial Management Standards;
 - (vii) determining accounting policies and ensuring that they are applied consistently;
 - (viii) determining accounting procedures and records of the Council;
 - (ix) reporting, where appropriate, breaches of the Financial Procedures to the Council and/or [Cabinet] [Executive];
 - (x) preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan;
 - (xi) ensuring the provision of an effective Internal Audit Function;
 - (xii) ensuring the provision of an effective Treasury Management Function;
 - (xiii) advising on risk management;
 - (xiv) ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities;
 - (xv) ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates;
 - (xvi) ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term;
 - (xvii) ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice (SORP);
 - (xviii) ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators;
 - (xix) ensuring that proper professional practices, standards and ethics are adhered to;
 - (xx) acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located;
 - (xxi) the appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment;

- (c) Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council and to the External Auditors if the Council or one of its Officers:
 - (i) has made, or is about to make a decision which involves incurring expenditure which is unlawful;
 - (ii) has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council;
 - (iii) is about to make an unlawful entry in the Council's accounts.
- (d) Section 114 of the 1988 Act also requires:
 - (i) the Chief Finance Officer to nominate a properly qualified Member of staff to deputise should he or she be unable to perform the duties under section 114 personally;
 - (ii) the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.
- (e) The Chief Finance Officer:
 - (i) is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity;
 - (ii) shall be given access to any information as is necessary to comply with his/her statutory duties and with the requirements and instructions of the Council;
 - (iii) shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish and to the Corporate Management Team;
 - (iv) shall be sent prior notice of all meetings of the [Cabinet] [Executive] and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if he/she so desires.

16.2.4 The Role of Chief Officers

- (a) Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.
- (b) Chief Officers are responsible for:

- (i) ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Financial Officer;
- (ii) ensuring that [Cabinet] [Executive] Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer;
- (iii) consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred;
- (iv) consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.

16.3 **Financial Planning**

16.3.1 **Strategic Planning**

- (a) The Full Council is responsible for agreeing the Council's Budget and Policy Framework which will be proposed by Cabinet.
- (b) The preparation of the medium term financial plan is part of the strategic Policy Framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, and sustainable and reflect Council priorities.
- (c) The Policy Framework comprises various plans and strategies, as defined in this Constitution. In terms of financial planning, the key elements are:
 - (i) the Council's performance management framework;
 - (ii) the Council Plan
 - (iii) the Overall Budget Strategy;
 - (iv) the Capital Strategy;
 - (v) the Corporate Asset Strategy;
 - (vi) the Workforce Development Plan;
 - (vii) the Sustainable Communities Strategy;
 - (viii) the Local Area Agreement.
- (d) The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or Policy Framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the [Cabinet] [Executive] are in accordance with the Budget and Policy Framework.

- (e) Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas in accordance with the corporate performance framework determined by the Assistant Chief Executive. Service improvement plans should align with Council values and priorities and be consistent with and based upon the budget allocated by the Council to the service.

16.3.2 Budget Preparation

- (a) The [Cabinet] [Executive], in consultation with the Chief Finance Officer is responsible for determining the general budget strategy and issuing annual guidelines to Members and Chief Officers on:
 - (i) preparing a detailed revenue budget for the following year;
 - (ii) preparing the medium term financial plan (three years);
 - (iii) preparing the capital programme;
 - (iv) the timetable for preparing and agreeing the Council's revenue and capital budget.
- (b) The guidelines will take account of:
 - (i) Council priorities as reflected in the Council plan;
 - (ii) spending pressures;
 - (iii) what future funding is available;
 - (iv) what level of reserves are available;
 - (v) the affordability, sustainability and prudence of capital investment plans;
 - (vi) legal requirements;
 - (vii) value for money and other relevant government guidelines;
 - (viii) other internal policy documents;
 - (ix) cross-cutting issues (where relevant).
- (c) The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the Full Council's Policy Framework.
- (d) The Chief Finance Officer is responsible for ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a three yearly basis (medium term financial plan) for consideration by [Cabinet] [Executive] before submission to Full Council.
- (e) The Chief Finance Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by [Cabinet] [Executive] before submission to the Full Council.

- (f) It is the responsibility of the Chief Finance Officer to advise the [Cabinet] [Executive] and/or the Full Council on prudent levels of reserves for the Council.
- (g) Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by [Cabinet] [Executive] and reflect agreed service performance plans.

16.3.3 Budget Approval

- (a) The Full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The Policy Framework comprises of a number of statutory plans and strategies.
- (b) The Council's revenue and capital budget will be proposed by the Cabinet, (on the advice of the Chief Finance Officer), and will be approved by the Full Council.
- (c) The Full Council may amend the proposed budget or ask the [Cabinet] [Executive] to reconsider it before approving it.

16.3.4 Budget Transfers

- (a) During the year [Cabinet] [Executive] and Chief Officers may need to transfer budgets from one service area to another to reflect changed service needs or priorities in order to deliver the budget Policy Framework within the financial limits set by the Council.
- (b) The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or Policy Framework. Decisions should be referred to the Full Council by the Monitoring Officer.
- (c) The Full Council is responsible for setting the level at which [Cabinet] [Executive] may reallocate budget funds from service to another.
- (d) The Full Council is also responsible for agreeing procedures for carrying forward under and overspendings on budget headings at each financial year end.
- (e) The following limits have been approved for the authorisation of budget transfers:
 - (i) *Chief Officers*
 - (A) up to £30,000, between any one budget head to another (Standard groupings) for which they are responsible, during the financial year after notification to the Chief Finance Officer;
 - (B) up to £250,000, between any one budget head to another (Standard groupings) for which they are responsible, during the financial year with written approval of the Chief Finance Officer;

- (C) in total, up to a total of 15% of the directorate budget for which they are responsible in any one financial year;
- (ii) *[Cabinet] [Executive]*
individual transfers between budget heads in excess of £250,000 following a joint report by the Chief Finance Officer and the responsible Chief Officer. The joint report must explain the implications in the current and future financial year;
- (iii) *Full Council*
any transfer which results in an excess of 15% of a directorate budget.
- (f) The Chief Finance Officer will use his delegated authority to authorise the release of funds from contingencies.
- (g) Council approval is required for any budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new Service or the termination of an existing Service.
- (h) A Capital budget cannot be transferred to a revenue budget head.

16.3.5 Budget Monitoring and the Control of Income and Expenditure

- (a) The Chief Finance Officer is responsible for:
 - (i) developing an effective framework of budgetary management and control;
 - (ii) providing appropriate financial information to enable budgets to be monitored effectively;
 - (iii) reporting to *[Cabinet] [Executive]* and relevant *[Overview and Scrutiny Committee] [add other arrangements]* on the overall Council budget monitoring position on a quarterly basis;
 - (iv) all payments to employees, Members and creditors;
 - (v) maintaining the Council's tax records;
 - (vi) advising Chief Officers on all taxation issues that affect the Council;
 - (vii) ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts;
 - (viii) agreeing arrangements for the collection of income due to the Council;
 - (ix) agreeing banking, borrowing and other credit requirements, eg leasing;
 - (x) agreeing the write off of bad debts in accordance with the Council's Debt Recovery Policy.

- (b) The [Cabinet] [Executive] is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer is authorised in this respect under the Scheme of Delegations in this Constitution.
- (c) Separate financial procedures for schools have been incorporated into the Council's Scheme for Financing Schools and relate to those matters where decisions have been delegated to school governing bodies.
- (d) It is the responsibility of Chief Officers to:
 - (i) control income and expenditure within their service area;
 - (ii) monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer;
 - (iii) report on spending variances within their own areas;
 - (iv) take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

16.3.6 Reporting Council Spending at Year End

- (a) The Full Council is responsible for approving the annual un-audited Statement of Accounts.
- (b) The Chief Finance Office is responsible for approving:
 - (i) publishing a timetable for the closure of the accounts annually;
 - (ii) ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority in the United Kingdom: A Statement of Recommended Practice (SORP), CIPFA/LASAAC, the Accounts and Audit Regulations 2006 and any other relevant guidelines.
- (c) It is the responsibility of Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

16.3.7 Use of Council Reserves

- (a) The Chief Finance Officer is responsible for advising the [Cabinet] [Executive] and/or the Full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.
- (b) The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by the [Cabinet] [Executive] and Full Council.

16.4 Risk Management and Control of Resources

16.4.1 Risk Management

- (a) It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and

Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

- (b) The [Cabinet] [Executive] is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.
- (c) The Council has nominated the Chief Finance Officer as the lead Officer Risk Management Champion and the Deputy Leader as the Member risk Champion.
- (d) The Chief Finance Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council and for advising the [Cabinet] [Executive] on proper insurance cover for material risks where appropriate.
- (e) The Corporate Risk Management Group supported by the Corporate Risk Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to the [Cabinet] [Executive].
- (f) It is the responsibility of Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's Corporate Risk Manager and other specialist Officers (eg crime prevention, fire prevention, Health and Safety).

16.4.2 Internal Control

- (a) Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- (b) Effective internal control systems ensure that all income due to the Council is collected whilst securing probity and legitimacy of transactions and preventing and detecting fraud, misuse or irregularity.
- (c) The Chief Internal Auditor is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- (d) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.
- (e) The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2006. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.

16.4.3 Insurance

- (a) Insurance provision is a way of managing risk.
- (b) The Chief Finance Officer is responsible for:
 - (i) effecting insurances falling within the framework approved by the [Cabinet] [Executive] and dealing with all claims in consultation with other Chief Officers where necessary;
 - (ii) operating an internal insurance account(s) for some risks not covered by external insurance policies and is authorised to charge the various Council Service budgets with the cost of contributions to this account;
 - (iii) reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.
- (c) It is the responsibility of Chief Officers to:
 - (i) advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required;
 - (ii) notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the Chief Finance Officer or the Council's insurers;
 - (iii) consult with the [Head of Legal and Democratic Services] [other] on the terms of any indemnity which they are requested to give on behalf of the Council.
 - (iv) ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

16.4.4 Audit Requirements

- (a) The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, and section 112 of the Local Government Finance Act 1988, which require that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2006 (SI 2006/564), require that a, "relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems and review its effectiveness on an annual basis".
- (b) The Chief Finance Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.

- (c) The strategy and terms of reference for Internal Audit are detailed in the Council's Internal Audit Charter which is approved and reviewed by the Audit Committee.
- (d) The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. They are also required to follow the current Audit Code of Practice. The duties include reviewing the work of the internal auditors.
- (e) The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- (f) The Chief Finance Officer is responsible for reporting to Audit Committee and/or [Cabinet] [Executive], where appropriate, the findings of these inspections and taking relevant action to implement recommendations and action required.

16.4.5 Preventing Fraud and Corruption

- (a) The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- (b) The Chief Finance Officer is responsible for the development maintenance and review of an anti-fraud and anti-corruption policy.
- (c) It is the responsibility of Chief Officers to promote the anti-fraud and anti-corruption policy within their Service areas and ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- (d) The Chief Internal Auditor will take whatever steps are considered necessary, on behalf of the Chief Finance Officer, to investigate and report upon the matter in line with the Fraud and Corruption Strategy, and Fraud Response Plan. Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.

16.4.6 Use of and Disposal of Assets

- (a) Council assets include buildings, furniture, vehicles, plant and equipment, computer systems, stocks and stores, money and investments, data and information.
- (b) The Chief Finance Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets.
- (c) Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer.

16.4.7 Confidentiality, Security and Protection of Information

- (a) All employees of the Council have a personal responsibility for the protection and confidentiality of information, whether held in manual or computerised records as specified in the Employees Code of Conduct in Section 11 of this Constitution.
- (b) Specific guidance is given on current IT legislation, risks and security threats in relation to IT use in the Council's Information Security Manual.
- (c) It is the responsibility of Chief Officers to ensure that all computerised systems within their Service areas are operated in accordance with legal requirements and all appropriate Officers are familiar with the guidance provided.
- (d) Financial records, manual and computerised should be retained and disposed of in accordance with the Council's Document Retention Policy.

16.4.8 Treasury Management

- (a) The Council has adopted CIPFA's Treasury Management in the Public Service Code of Practice.
- (b) Accordingly, the Full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.
- (c) The Full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- (d) The Council will receive reports on its Treasury Management policies practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.
- (e) The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management policies and practices to the Cabinet.
- (f) Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have been delegated to the Chief Finance Officer, who will act in accordance with the Council's policy statements and TMPs.
- (g) The Chief Finance Officer is responsible for reporting to the [Cabinet] [Executive] not less than four times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

16.4.9 Banking

- (a) All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the Chief Finance Officer.
- (b) The Chief Finance Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.
- (c) Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Office are observed and to advise him or her of any changes in their Services that may require a change in these arrangements.

16.4.10 Income Collection

- (a) The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.
- (b) The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.
- (c) Accordingly, the [Cabinet] [Executive] is responsible for the approving the Council's Money Laundering Policy.
- (d) Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Chief Finance Officer who is responsible for nominating an Officer (and deputy) to act as the Council's Money Laundering Reporting Officer.
- (e) Chief Officers are responsible for:
 - (i) ensuring all income is held securely;
 - (ii) ensuring for compliance with income and banking arrangements specified by the Chief Finance Officer;
 - (iii) in consultation with the Chief Finance Officer reviewing fees and charges, at least annually.

16.4.11 External Funding

- (a) Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Chief Finance Officer.
- (b) Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.
- (c) The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

16.4.12 Debt Collection

- (a) The [Cabinet] [Executive] is responsible for approving the Council's debt recovery policy.
- (b) The Chief Finance Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.
- (c) Chief Officers are responsible for:
 - (i) ensuring effective systems are in place to allow sums due to the Council to be easily identified;
 - (ii) ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken;
 - (iii) assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Chief Finance Officer;
 - (iv) ensuring that the appropriate approval, as specified in the debt recovery policy, is obtained to write off debts.

16.4.13 Voluntary Funds and Trust Funds

- (a) Chief Officers, in consultation with the Chief Finance Office, must approve any employee's involvement in a voluntary or trust fund.
- (b) Chief Officers and/or Trust/Funds Managers are responsible for ensuring that funds are managed and administered in accordance with any statutory and specific requirement for each fund, and to equivalent standards as those applicable to the Council generally.

16.4.14 Corporate Credit Cards

- (a) All applications for Corporate Credit cards must be approved by the Chief Finance Officer.
- (b) The Chief Finance Officer will issue guidelines regarding the application process and for their controlled use.
- (c) Card holders are personally responsible for the security of cards and for ensuring compliance with guidelines for their use.

16.4.15 Purchase Cards

- (a) All applications for purchase cards must be approved by the Chief Finance Officer.
- (b) The Chief Finance Officer will issue guidelines regarding the application process and for their controlled use.
- (c) Card holders are personally responsible for the security of cards and for ensuring compliance with guidelines for their use.

16.4.16 Employees

- (a) The Full Council is responsible for determining how Officer support for executive and non-executive roles within the Council will be organised.
- (b) The [Chief Executive] [Head of Paid Services] is responsible for providing overall effective management to employees and for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- (c) The Chief Finance Officer is responsible for paying employees securely, accurately and on time and for the payment of travel and subsistence claims.
- (d) Chief Officers are responsible for ensuring the operation of adequate and effective procedures for payroll and personnel matters to allow the Chief Finance Officer to fulfil his responsibilities.
- (e) Chief Officers are responsible for ensuring compliance with Council policies in relation to claims for travel and subsistence, and for arranging the most cost effective means of travel and subsistence.
- (f) Chief Officers are also responsible for controlling employee numbers by:
 - (i) advising the [Cabinet] [Executive] on the annual budget necessary to cover estimated staffing levels;
 - (ii) adjusting the staffing levels to that which can be funded within approved budget provision and varying the provision as necessary within that constraint in order to meet changing operational needs;
 - (iii) the proper use of recruitment and appointment procedures;
 - (iv) monitoring employee costs through monthly budget reports;
 - (v) monitoring vacancies.

16.5 **Financial Systems and Procedures**

16.5.1 General

- (a) Sound systems and procedures are essential to an effective framework of accountability and control.
- (b) The Chief Finance Officer is responsible for:
 - (i) the operation of the Council's accounting and financial systems;
 - (ii) the form of accounts and any supporting financial records;
 - (iii) advising Chief Officers on the establishment and operation of trading accounts and business units.

- (c) Any changes proposed by Chief Officers to the existing financial systems or the establishment of new systems must first be approved by the Chief Finance Officer.
- (d) It is the responsibility of Chief Officers to:
 - (i) ensure the proper operation of financial processes in their own Services and agree with the Chief Finance Officer any changes to these processes to meet their own specific Service needs;
 - (ii) ensure that their employees receive relevant and appropriate financial training that has been approved by the Chief Finance Officer;
 - (iii) ensure that where appropriate, computer and other systems are registered in accordance with Data Protection Legislation;
 - (iv) ensure that their employees are aware of their responsibilities under Freedom of Information and Data Protection Legislation.

16.5.2 Contracts, Agreements and Purchasing

- (a) All contracts, agreements and purchases are subject to the requirements of the Council's Contracts Procedure Rules specified in Section [] of this Constitution, and the procedures and financial limits which they prescribe (as revised from time to time).
- (b) The Head of Asset Management is responsible for developing the Corporate Procurement Strategy and providing advice on procurement issues.
- (c) The [Head of Legal and Democratic Services] [other] is responsible for agreeing the content and format of contracts and agreements and for signing any contract or legal agreement involving a charge upon assets or property.
- (d) The Chief Finance Officer is responsible for issuing guidance notes to Chief Officers on the procedures to be adopted in relation to:
 - (i) placing requisitions for goods, supplies and services;
 - (ii) placing of official orders;
 - (iii) potential financing options, eg buy, rent or lease;
 - (iv) receipt of goods;
 - (v) the authorisation of invoices, interim certificates and final accounts for building or construction contracts;
 - (vi) the system and timescales for the payment of creditors;
 - (vii) records and procedures required in relation to monitoring and control of contracts.

- (e) The Chief Finance Officer is overall responsibility for ensuring safe and efficient arrangements for all payments.
- (f) Chief Officers are responsible for ensuring that:
 - (i) before entering into purchasing commitments, the estimated cost is covered by financial provision in the budget to which it relates;
 - (ii) Contract Procedure Rules, procurement and payments procedures are applied within their service areas;
 - (iii) appropriate records are maintained to substantiate decisions made under delegated powers;
 - (iv) all employees within their Service area are aware of the guidance issued by the Chief Finance Officer and for ensuring that effective internal controls are established to ensure compliance;
 - (v) all employees within their service area aware of the Council's Employee Code of Conduct and how this relates to this area.

16.5.3 Payment of Members' Salaries

- (a) The Chief Finance Officer is responsible for operating secure and reliable systems to process Members' Salaries.
- (b) It is the responsibility of Members to submit properly certified claims in accordance with the format and timescales specified by the Chief Finance Officer.

16.5.4 Taxation

- (a) The Chief Finance Officer is responsible for ensuring that appropriate advice and guidance is available to Chief Officers on all taxation issues that affect the Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation.
- (b) The Chief Finance Officer is responsible for maintaining the Council's tax records, making all payments, receiving tax credits and submitting tax returns by their due date as appropriate and complying with HM Customs and Excise regulations.
- (c) Chief Officers are responsible for compliance with any guidance issued by the Chief Finance Officer.

16.5.5 Collection Fund

- (a) The Chief Finance Officer is responsible for the establishment and maintenance of the Collection Fund and will make suitable arrangements for it to be administered in accordance with the Local Government Finance Acts 1987 and 1988 and any other Enactments relating to the proper administration of public funds.
- (b) The Chief Finance Officer will undertake the day to day management and administration of the Collection Fund including the maintenance of a

Collection Fund Account for administering the raising and recovery of Council Tax and for paying precepts and demands on those funds.

16.5.6 Housing Revenue Account

The Chief Finance Officer is responsible for:

- (a) making arrangements for the preparation of annual Housing Revenue Account Budgets, (revenue and capital) as part of the Council's budget setting process;
- (b) making recommendations to the [Cabinet] [Executive] and Full Council to allow the Council to fulfil its statutory duties in relation to Housing Rent determinations and securing decent homes compliance;
- (c) preparing annual final accounts for the Housing Revenue Account to be incorporated into the Council's Annual Statement of Accounts.

16.6 Partnerships

- 16.6.1 The [Cabinet] [Executive] is the focus for forming partnerships with other local, public, private, voluntary and community sector organisations. The [Cabinet] [Executive] is responsible for approving any delegations of its powers, to address local needs.
- 16.6.2 The Council or the [Cabinet] [Executive] can delegate its functions, including those relating to partnerships to Officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the [Cabinet] [Executive] remains accountable for them to the Full Council.
- 16.6.3 The Chief Executive or the appropriate chief Officer or senior Officer nominated by the chief Officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the [Cabinet] [Executive].
- 16.6.4 The Monitoring Office is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.
- 16.6.5 The Chief Finance Officer is responsible for ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.

APPENDIX 1 TO SECTION 16

Financial Management Standards

| | |
|-------|---|
| FMS01 | Introduction to Financial Management Standards |
| FMS02 | Budget Preparation and Medium Term Financial Planning |
| FMS03 | Budget Monitoring and Reporting |
| FMS04 | Accounting Policies |
| FMS05 | Accounting Records and Returns |
| FMS06 | Preparation and Monitoring of the Capital Programme |
| FMS07 | Annual Statement of Accounts |
| FMS08 | Performance Plans |
| FMS09 | Maintenance of Reserves |
| FMS10 | Risk Management |
| FMS11 | Audit Requirements |
| FMS12 | Internal Control |
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| FMS14 | Insurance |
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| FMS17 | Income Collection |
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| FMS24 | Contracts, Agreements and Purchasing |
| FMS25 | Partnerships |
| FMS26 | External Funding |
| FMS27 | Work for Third Parties |
| FMS28 | Area Action Partnerships |

SECTION 17

17. CONTRACT PROCEDURE RULES

DRAFTING NOTE

What follows is an illustrative framework. You will have bespoke arrangements for your Council. You can treat this as a template.

17.1 Basic Principles

All procurement procedures must:

- 17.1.1 realise value for money by achieving the optimum combination of whole life costs, and quality of outcome;
- 17.1.2 be consistent with the highest standards of integrity;
- 17.1.3 operate in a transparent manner;
- 17.1.4 ensure fairness in allocating public contracts;
- 17.1.5 comply with all legal requirements including European Union (EU) treaty principles;
- 17.1.6 support all relevant Council priorities and policies, including the Medium Term Financial Plan; and
- 17.1.7 comply with the Council's Corporate Strategy for Commissioning and Procurement, and the Sustainable Commissioning and Procurement Policy, and Procurement Code of Practice.

NB These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise.

17.2 Officer Responsibilities

17.2.1 Officers

- (a) Officers will comply with these Contract Procedure Rules (CPRs), the Council's Constitution and with all UK and EU legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.
- (b) Officers will:
 - (i) have regard to the guidance in the Procurement Code of Practice (PCoP);
 - (ii) keep the records required by Rule 17.5 of these CPRs;
 - (iii) take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these CPRs;
 - (iv) prior to letting a contract on behalf of the Council, check whether:

- (A) the Council already has an appropriate contract in place in the Corporate Contracts Register; or
- (B) an appropriate national, regional or other collaborative contract is already in place.
 - 1 Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with Corporate Procurement.
 - 2 Where an appropriate national, regional or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.
- (v) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.
- (c) Failure to comply with any of the provisions of these CPRs the Council's Constitution or UK or EU legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Corporate Director as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

17.2.2 Chief Officers

Chief Officers will:

- (a) ensure their Service Grouping complies fully with the requirements of these CPRs;
- (b) ensure contracts are recorded in the Corporate Contracts Register as held and maintained by Corporate Procurement;
- (c) ensure that their Service Grouping provides the requisite information to allow the Council to maintain the Procurement Work Programme.

17.3 Variations and Exemptions

- 17.3.1 Except where the Public Contracts Regulations 2006 apply, the [Cabinet] [Executive] has the power to waive any requirements within these CPRs for specific projects.
- 17.3.2 Additionally, these Rules may be waived or varied where the circumstances are certified by the Section 151 Officer (advised as appropriate by the Corporate Procurement Manager) as meeting any of the following criteria:
 - (a) for works, supplies or services which are either patented or of such special character that it is not possible to obtain competitive prices;
 - (b) for supplies purchased or sold in a public market or auction;

- (c) for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills;
 - (d) with an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme and has previously been identified as such;
 - (e) with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Council to unacceptable risk;
 - (f) for works, supplies or services which are only available from one organisation;
 - (g) involving such urgency that it is not possible to comply with the CPRs;
 - (h) for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
 - (i) in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this; or
 - (j) where relevant UK or EU legislation not otherwise referred to in these CPRs prevents the usual procurement process from being followed.
- 17.3.3 The appropriate Officer will complete and submit a Variation form, as contained within the PCoP, for approval by the Section 151 Officer.
- 17.3.4 Every Variation form will be recorded on a master register to be maintained by Corporate Procurement.
- 17.3.5 Where a Variation is being applied for by Corporate Procurement, it must also be scrutinised by Internal Audit, to ensure the robustness of the procedure.
- 17.3.6 These CPRs do not apply to contracts:
- (a) for the execution of mandatory works by statutory undertakers;
 - (b) with Ofsted for the inspection of a school;
 - (c) which have been procured on the Council's behalf:
 - (i) through collaboration with other local authorities or other public bodies, where a competitive process which complies with the CPRs of the leading organisation has been carried out;
 - (ii) by a National or Regional contracting authority where the process followed is in line with the Public Contracts Regulations 2006; or
 - (iii) under the terms of a Strategic Partnership arrangement approved by the [Cabinet] [Executive];

- (d) to cover urgent special educational needs, urgent social care contracts or urgent operational needs, if in the opinion of the relevant Corporate Director it is considered to be in the Council's interests or necessary to meet the authority's obligations under relevant legislation. Use of this exemption by the relevant Corporate Director must be followed up with a written report under Rule 17.3.2 using the Variation form, setting out the reason for such urgency, how it complies with relevant legislation and represents value for money.

17.3.7 The use of e-procurement does not negate the requirement to comply with all elements of these CPRs. The circumstances under which an exemption to the use of e-procurement can be requested are detailed in Rule 17.11.

17.4 **Relevant Contracts**

17.4.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies or services. These include arrangements for:

- (a) the supply or disposal of goods;
- (b) the hire, rental or lease of goods or equipment;
- (c) the delivery of services, including (but not limited to) those related to:
 - (i) the recruitment of staff;
 - (ii) land and property transactions;
 - (iii) financial and consultancy services.

17.4.2 Relevant Contracts do not include:

- (a) contracts of employment which make an individual a direct employee of the authority;
- (b) agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply); or
- (c) the payment of grants to third parties.

NB. While grants are not covered by these CPRs, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat a procurement as a grant in order to avoid conducting a competitive process. Officers should follow any guidance contained in the PCoP.

17.5 **Records**

17.5.1 The Public Contracts Regulations 2006 require contracting authorities to maintain the following comprehensive records of procurement activities:

- (a) contract details including value;
- (b) selection decision;

- (c) justification for use of the selected procedure;
- (d) names of bidding organisations, both successful and unsuccessful;
- (e) reasons for selection;
- (f) reasons for abandoning a procedure.

17.5.2 The outcome of any competitive procurement process must be recorded in a Procurement Acceptance Report and submitted to Corporate Procurement. Corporate Procurement will maintain a register of all Procurement Acceptance Reports. Information from Procurement Acceptance Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.

17.5.3 Additional records management advice is contained in the PCoP.

17.6 **Risk Assessment**

17.6.1 All procurements via Invitation to Tender, and Requests for Quotation where appropriate, must be supported by a risk assessment. This risk assessment must be carried out at the start of the procurement process.

17.6.2 The risk assessment process will identify where further specialist advice should be sought.

17.6.3 Full details of the process to be followed, including the approved risk log and matrix, are available in the PCoP.

17.7 **Advertising**

The Procurement Officer will ensure that the minimum advertising requirements, in line with EU treaty principles and as outlined in the PCoP, are met.

17.8 **Approved Lists and Framework Agreements**

17.8.1 Approved Lists

- (a) Approved lists must not be used where they are prohibited under the Public Contracts Regulations 2006.
- (b) Approved lists should only be used in accordance with the guidance contained in the PCoP.

(c) *Framework Agreements*

- (i) Framework Agreements are agreements between the Council and one, or three or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.
- (ii) The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

- (iii) Where Frameworks are awarded to several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:
 - (A) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition; or
 - (B) where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
 - 1 inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids electronically via the Further Competition step on the e-tendering system, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract;
 - 2 awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

17.9 **Competition Requirements / Assets for Disposal**

17.9.1 **Competition Requirements**

- (a) The Procurement Officer must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded.
- (b) Based on this value, quotations or tenders must then be invited in line with the financial thresholds detailed in the PCoP.
- (c) Where the Public Contracts Regulations 2006 apply, the Procurement Officer shall consult Corporate Procurement to determine the procedure for conducting the procurement exercise.

17.9.2 **Assets for Disposal**

Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.

17.10 **Pre-Tender Market Testing and Consultation**

- 17.10.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation.
- 17.10.2 When engaging with potential suppliers, the Council must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, and where this may

prejudice the equal treatment of all potential bidding organisations or distort competition.

17.10.3 In undertaking any market testing activities, the Officer responsible should refer to any guidance contained in the PCoP.

17.11 **Evaluation Criteria and Standards**

17.11.1 **Evaluation Criteria**

(a) In any procurement exercise the successful bid should be the one which either:

- (i) offers the lowest price; or
- (ii) offers the most economically advantageous balance between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

(b) Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of sub-contractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

(c) The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

17.11.2 **Standards**

(a) Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract.

(b) Officers should refer to any further guidance outlined in the PCoP.

17.12 **Invitation to Tender / Request for Quotation**

17.12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these CPRs, with particular attention to Rule 17.7, Rule 17.9 and Rule 17.7.

17.12.2 Above the single quotation threshold outlined in the PCoP, all Invitations to Tender and Requests for Quotation must be issued via the Council's e-tendering system. Procurement documents must be issued via the e-tendering system.

17.12.3 In exceptional cases, where specific circumstances mean that a procurement process cannot be carried out electronically or, for example, where there is a failure of the electronic system, permission to conduct a procurement process by alternative means must be obtained from the Corporate Procurement Manager using the relevant exemption form. This can be found in the PCoP.

17.13 **Shortlisting**

Any shortlisting (ie supplier selection or pre-qualification) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations 2006. Officers should refer to any further guidance contained in the PCoP.

17.14 **Submission, Receipt and Opening of Tenders / Quotations**

17.14.1 **Tenders**

- (a) Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where the Public Contract Regulations 2006 apply, Part 3 of the Regulations lays down specific minimum time periods for tenders.
- (b) The Monitoring Officer may accept late quotations in the following circumstances:
 - (i) [add circumstances]
- (c) As in Rule 17.12 (above) tenders, except those which have been approved as exempt from electronic tendering, must be submitted electronically via the e-tendering system. Tenders submitted by any other means must not be accepted.

17.14.2 **Quotations**

As in Rule 17.12 (above), competitive quotations must be submitted electronically via the e-tendering system, except where specifically exempt under Rule 17.12.3. Quotations submitted by any other means must not be accepted.

17.14.3 **Electronic Arrangements**

- (a) Quotations, Further Competition bids and Pre-Qualification Questionnaires which are received electronically via the e-tendering system will be opened by the Procurement Officer. The system will not allow any quotations to be opened until the allocated return date/time has passed.
- (b) Tenders which are received electronically via the e-tendering system will be opened by a representative from [Legal and Democratic Services] [other].

17.14.4 Hard Copy Arrangements

- (a) In the event that “hard copy” tenders are to be accepted (see Rule 17.12 and Rule 17.14.1(c) of these CPRs for guidance) these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the [Head of Legal and Democratic Services] [other] without any mark revealing the bidding organisation’s identity.
- (b) All hard copy tenders will be held by the [Head of Legal and Democratic Services] [other] until the tender opening date/time has been reached.
- (c) All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative from [Legal and Democratic Services] [other]. A register of tenders received will be kept by [Legal and Democratic Services] [other] and will be initialled on each occasion by the Officers who are present at the opening of the tenders.
- (d) In the event that hard copy quotations are to be accepted (see Rule 17.12 and Rule 17.14.2 of these CPRs for guidance) these must be submitted in a plain envelope marked “Quotation for ...” followed by a description of the goods, works or services being procured.
- (e) Hard copy quotations will be received directly by Service staff. All quotations must be opened together once the official return date/time has been passed.

17.15 Clarification Procedures

17.15.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must not involve changes to the basic features of the bidding organisation’s submission.

17.15.2 When requesting clarification, the Procurement Officer must follow any guidance contained in the PCoP.

17.16 Evaluation, Award of Contract and Debriefing of Organisations

17.16.1 Evaluation

The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance detailed in the PCoP.

17.16.2 Award of Contract

- (a) The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- (b) Where procurement has been subject to the Public Contract Regulations 2006, the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) will need to be included in the

procurement timetable before the contract can be awarded. Full information regarding the Alcatel Standstill is contained within the PCoP.

- (c) Decisions on award of contract must be made in accordance with the scheme of delegations in Section 3 of this Constitution.

17.16.3 Debriefing

The debriefing of organisations must be carried out in line with any guidance detailed in the PCoP.

17.17 Contract Documents

17.17.1 Format of Contract Documents

The Council's harmonised procurement documents or conditions issued by a relevant professional body will be used. Where there is any deviation from these, the documents to be used must be reviewed by [Legal and Democratic Services] [other] before being issued. These are available from Corporate Procurement or Service Area procurement staff detailed in the PCoP.

17.17.2 Contract Signature

- (a) Contract agreement must:
 - (i) where the contract is in the form of a deed, be made under the Council's seal and attested as required by the Constitution; or
 - (ii) where the contract is in the form of an agreement, either:
 - (A) be signed by at least two Officers of the Council authorised as required by the Constitution; or
 - (B) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.
- (b) The Procurement Officer should also follow any guidance on the use of deeds and agreements to form contracts found in the PCoP.

17.17.3 [Legal and Democratic Services] [other] Review of Tenders and Contracts

To ensure the integrity of the procurement process:

- (a) all proposed Invitations to Tender, where they are not in compliance with the County Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by [Legal and Democratic Services] [other];
- (b) any proposed Invitations to Tender which are subject to the Public Contracts Regulations 2006, or which are deemed to be of high risk, must be reviewed by [Legal and Democratic Services] [other];
- (c) any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by [Legal and Democratic Services] [other].

17.18 **Prevention of Corruption**

Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.

17.19 **Declaration of Interests**

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

17.20 **Contract Management / Monitoring**

17.20.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Head of Service must ensure a Contract Manager is designated prior to award.

17.20.2 Contract management, monitoring, evaluation and review must be conducted in line with any guidance detailed in the PCoP.

17.21 **Internal Providers**

Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

17.22 **External Body Grant Funding**

17.22.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, the Procurement Officer must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these CPRs.

17.22.2 Where there is any conflict between these CPRs and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

17.23 **Review and Amendment of CPRS**

These Contract Procedure Rules shall be reviewed and updated on an annual basis as part of the annual review of the Constitution.

SECTION 18

18. CODE OF CONDUCT FOR MEMBERS

DRAFTING NOTE

Set out below is the Model Code of Conduct from the Local Authorities (Model Code of Conduct) (Wales) Order 2008. This can be adapted to suit the needs of individual authorities.

18.1 Interpretation

18.1.1 In this code:

“co-opted Member” (“aelod cyfetholedig”)

in relation to a relevant authority, means a person who is not a Member of the authority but who:

- (a) is a Member of any committee or sub-committee of the authority; or
- (b) is a Member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” (“cyfarfod”)

means any meeting:

- (a) of the relevant authority;
- (b) of any executive or board of the relevant authority;
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority; or
- (d) where Members or Officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),

and includes circumstances in which a Member of an executive or board or an Officer acting alone exercises a function of an authority;

“Member” (“aelod”)

includes, unless the context requires otherwise, a co-opted Member;

| | |
|---|---|
| | a co-opted Member; |
| “relevant authority” (“awdurdod perthnasol”) | means: <ul style="list-style-type: none"> (a) a county council; (b) a county borough council; (c) a community council; (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies; (e) a National Park authority established under section 63 of the Environment Act 1995(3); |
| “you” (“chi”) | means you as a Member or co-opted Member of a relevant authority; and |
| “your authority” (“eich awdurdod”) | means the relevant authority of which you are a Member or co-opted Member. |

18.1.2 In relation to a community council, references to an authority’s Monitoring Officer and an authority’s standards committee are to be read, respectively, as references to the Monitoring Officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

18.2 **General Provisions**

- 18.2.1 Save where paragraph 18.2.3 applies, you must observe this code of conduct:
- (a) whenever you conduct the business, or are present at a meeting, of your authority;
 - (b) whenever you act, claim to act or give the impression you are acting in the role of Member to which you were elected or appointed;
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 18.2.6(a) and 18.2.8.
- 18.2.2 You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.
- 18.2.3 Where you are elected, appointed or nominated by your authority to serve:

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its Members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

18.2.4 You must:

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

18.2.5 You must not:

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

18.2.6 You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another Member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the Public Services Ombudsman for Wales and to your authority's Monitoring Officer any conduct by another Member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, your authority.

18.2.7 You must comply with any request of your authority's Monitoring Officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

18.2.8 You must not:

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority:
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

18.2.9 You must:

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's Officers, in particular by:
 - (i) the authority's head of paid service;
 - (ii) the authority's chief finance Officer;
 - (iii) the authority's Monitoring Officer;
 - (iv) the authority's chief legal Officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

18.2.10 You must:

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a Member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which

might place you, or reasonably appear to place you, under an improper obligation.

18.3 Interests

18.3.1 Personal Interests

- (a) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (b) You must regard yourself as having a personal interest in any business of your authority if:
 - (i) it relates to, or is likely to affect:
 - (A) any employment or business carried on by you;
 - (B) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (C) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a Member;
 - (D) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (E) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director or a body of the description specified in paragraph (D) above;
 - (F) any land in which you have a beneficial interest and which is in the area of your authority;
 - (G) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in paragraph (D) above;
 - (H) any body to which you have been elected, appointed or nominated by your authority;
 - (I) any:
 - 1 public authority or body exercising functions of a public nature;
 - 2 company, industrial and provident society, charity, or body directed to charitable purposes;

3 body whose principal purposes include the influence of public opinion or policy;

4 trade union or professional association; or

5 private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(J) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(K) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or

(ii) a decision upon it might reasonably be regarded as affecting:

(A) your wellbeing or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(B) any employment or business carried on by persons as described in (A);

(C) any person who employs or has appointed such persons described in (A), any firm in which they are a partner, or any company of which they are directors;

(D) any corporate body in which persons as described in (A) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(E) any body listed in paragraphs 18.3.1(b)(i)(l)1 to 18.3.1(b)(i)(l)5 in which persons described in (A) hold a position of general control or management,

to a greater extent than the majority of:

1 in the case of an authority with electoral divisions or wards, other council taxpayers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

2 in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

18.3.2 Disclosure of Personal Interests

(a) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must

disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

- (b) Where you have a personal interest in any business of your authority and you make:
 - (i) written representations (whether by letter, facsimile or some other form of electronic communication) to a Member or Officer of your authority regarding that business, you should include details of that interest in the written communication; or
 - (ii) oral representations (whether in person or some form of electronic communication) to a Member or Officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- (c) Subject to paragraph 18.3.5(a)(ii) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (d) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to paragraph 18.3.2(a), give written notification to your authority in accordance with any requirements identified by your authority's Monitoring Officer from time to time but, as a minimum containing:
 - (i) details of the personal interest;
 - (ii) details of the business to which the personal interest relates; and
 - (iii) your signature.
- (e) Where you have agreement from your Monitoring Officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 18.4.2(a), your obligations under this paragraph 18.3.2 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
- (f) For the purposes of paragraph (d), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a Member of your authority.
- (g) For the purposes of sub-paragraph (c), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

18.3.3 Prejudicial Interests

- (a) Subject to paragraph (b) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (b) Subject to paragraph (c), you will not be regarded as having a prejudicial interest in any business where that business:
 - (i) relates to:
 - (A) another relevant authority of which you are also a Member;
 - (B) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
 - (C) a body to which you have been elected, appointed or nominated by your authority;
 - (D) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
 - (E) your role as a Member of a Local Health Board where you have not been appointed or nominated by your authority;
 - (ii) relates to:
 - (A) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
 - (B) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in fulltime education, unless it relates particularly to the school which that child attends;
 - (C) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
 - (D) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;

- (iii) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.
- (c) The exemptions in paragraph 18.3.3(b)(i) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

18.3.4 Overview and Scrutiny Committees

You also have a prejudicial interest in any business before [an Overview and Scrutiny Committee] [*add other arrangements*] where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a Member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

18.3.5 Participation in Relation to Disclosed Interests

- (a) Subject to paragraphs (b), (c) and (d), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee:
 - (i) withdraw from the room, chamber or place where a meeting considering the business is being held:
 - (A) where paragraph (b) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
 - (B) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
 - (ii) not exercise executive or board functions in relation to that business;
 - (iii) not seek to influence a decision about that business;
 - (iv) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
 - (v) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

- (b) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (c) Paragraph (a) does not prevent you attending and participating in a meeting if:
 - (i) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
 - (ii) you have the benefit of a dispensation provided that you:
 - (A) state at the meeting that you are relying on the dispensation; and
 - (B) before or immediately after the close of the meeting give written notification to your authority containing:
 - 1 details of the prejudicial interest;
 - 2 details of the business to which the prejudicial interest relates;
 - 3 details of, and the date on which, the dispensation was granted; and
 - 4 your signature.
- (d) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

18.4 **The Register of Members' Interests**

18.4.1 **Registration of Financial and Other Interests and Memberships and Management Positions**

- (a) Subject to sub-paragraph (c), you must, within 28 days of:
 - (i) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
 - (ii) your election or appointment to office (if that is later),
 register your financial interests and other interests, where they fall within a category mentioned in paragraph 18.3.1(b)(i) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's Monitoring Officer.
- (b) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (a), register

that new personal interest or change by providing written notification to your authority's Monitoring Officer.

- (c) Paragraphs (a) and (b) do not apply to sensitive information determined in accordance with paragraph 18.4.2(a).
- (d) Paragraph (a) will not apply if you are a Member of a relevant authority which is a community council when you act in your capacity as a Member of such an authority.

18.4.2 Sensitive information

- (a) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 18.4.1.
- (b) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under subparagraph (a) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in your authority's register of Members' interests.
- (c) In this code, "sensitive information" ("gwybodaeth sensitif") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

18.4.3 Registration of Gifts and Hospitality

You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's Monitoring Officer of the existence and nature of that gift, hospitality, material benefit or advantage.

APPENDIX 1 TO SECTION 18

Conduct of Members – The Principles

1. **SELFLESSNESS**

Members must act solely in the public interest. They must never use their position as Members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

2. **HONESTY**

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

3. **INTEGRITY AND PROPRIETY**

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

4. **DUTY TO UPHOLD THE LAW**

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

5. **STEWARDSHIP**

In discharging their duties and responsibilities Members must ensure that their authority's resources are used both lawfully and prudently.

6. **OBJECTIVITY IN DECISION-MAKING**

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

7. **EQUALITY AND RESPECT**

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

8. **OPENNESS**

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

9. **ACCOUNTABILITY**

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

10. **LEADERSHIP**

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

APPENDIX 2 TO SECTION 18

Protocol - Standard of Conduct Expected by Members

This protocol sets out the standards of conduct expected from Members within [*name of Council*] in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Member-Officer Protocol. It adds to these documents and does not detract from them.

Members are expected to:

1. PUBLIC BEHAVIOUR

- 1.1 show respect to each other;
- 1.2 not to make personal abusive comments about each other;
- 1.3 not to publish anything insulting about each other;
- 1.4 not to make malicious allegations against each other;
- 1.5 not to publish or spread any false information about each other;
- 1.6 show respect to diversity and equality;

2. BEHAVIOUR IN MEETINGS

- 2.1 behave with dignity;
- 2.2 show respect to the Chair and obey his/her decisions;
- 2.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

3. CONFIDENTIALITY

- 3.1 keep the confidentiality of exempt papers and any other documents which are not public;
- 3.2 not to release confidential information to the press or the public;
- 3.3 not to use confidential information for purposes other than intended;

4. LOCAL MEMBERS

- 4.1 work with Members of adjoining electoral divisions for the benefit of the locality;
- 4.2 if dealing with any matter relating to another electoral division:
 - 4.2.1 explain to anyone seeking assistance that he/she is not the local Member;
 - 4.2.2 inform the local Member, unless it would lead to a breach of confidentiality.

APPENDIX 3 TO SECTION 18

Procedure for Dealing with Allegations made against Councillors and referred to the Standards Committee

1. INTRODUCTION

This document sets out the procedure that the Council's Standards Committee will follow where it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council's Monitoring Officer under Part III of the Local Government Act 2000 and related regulations. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

2. INTERPRETATION

In this procedure:

- 2.1 the "Act" means the Local Government Act 2000;
- 2.2 the "Council" means [*insert name of Council*];
- 2.3 the "Code of Conduct" means the code of conduct for members adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions;
- 2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;
- 2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;
- 2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;
- 2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;
- 2.8 the "Monitoring Officer" means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989;
- 2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;
- 2.10 the "Regulations" means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;
- 2.11 the "Standards Officer" means the officer for the time being appointed by the Council to support the work of the Standards Committee.

3. SUMMARY OF THE PROCEDURE

- 3.1 Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by Members or Co-Opted Members (or former Members or co-opted Members) of the Council or a community council in the Council's area.

- 3.2 Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, he/she may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Standards Committee.
- 3.3 Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, he/she will produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Standards Committee. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Standards Committee.
- 3.4 The Standards Committee will then make an initial determination either:
- 3.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or
- 3.4.2 that the Member should be given the opportunity to make representations, either orally or in writing.
- 3.5 Where the Member is given an opportunity to make representations, the Standards Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:
- 3.5.1 there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
- 3.5.2 the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
- 3.5.3 the Member has failed to comply with the Code of Conduct and should be censured; or
- 3.5.4 the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted Member of his/her authority for a period not exceeding six months
- and take any such action accordingly.

4. **INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)**

- 4.1 Where the Ombudsman ceases his/her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:
- 4.1.1 conduct and investigation; and
- 4.1.2 report, and if appropriate, make recommendations to the Council's Standards Committee.
- 4.2 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.
- 4.3 After concluding an investigation, the Monitoring Officer must:

- 4.3.1 produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee;
- 4.3.2 send a copy of the report to the Member; and
- 4.3.3 take reasonable steps to send a copy of the report to the Complainant.

4.4 The Standards Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.

5. **INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)**

5.1 Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the Council's Standards Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the Council's Standards Committee.

5.2 The Standards Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.

6. **THE FIRST MEETING OF THE STANDARDS COMMITTEE - INITIAL DETERMINATION**

6.1 After the Monitoring Officer has:

- 6.1.1 produced an investigation report in accordance with paragraph 4.3; or
- 6.1.2 considered the Ombudsman's investigation report in accordance with paragraph 5.1

he/she will arrange for a meeting of the Standards Committee to be convened as soon as possible and for a copy of the investigation report, together with the Monitoring Officer's recommendations (if any), to be sent to each of the members of the Standards Committee.

6.2 Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001.

6.3 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Committee.

6.4 The business of the Standards Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:

- 6.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or
- 6.4.2 that the Member should be given the opportunity to make representations,

either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

7. **AFTER THE FIRST MEETING OF THE STANDARDS COMMITTEE**

- 7.1 Where the Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.
- 7.2 Where the Standards Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

8. **PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS**

- 8.1 The Standards Officer, in consultation with the Chair of the Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and to ask the Member to respond in writing within 14 days to confirm whether he/she:
- 8.1.1 is able to attend the hearing;
 - 8.1.2 wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;
 - 8.1.3 disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements;
 - 8.1.4 wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations;
 - 8.1.5 wants to give evidence to the Standards Committee, either orally or in writing;
 - 8.1.6 wants to call relevant witnesses to give evidence to the Standards Committee;
 - 8.1.7 wants any part of the meeting to be held in private;
 - 8.1.8 wants any part of the investigation report or other relevant documents to be withheld from the public
- 8.2 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.
- 8.3 The Standards Officer will send a copy of the Member's response under paragraph 8.1 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:
- 8.3.1 has any comments on the Member's response;
 - 8.3.2 wants to be represented at the hearing;
 - 8.3.3 wants to call relevant witnesses to give evidence to the Standards Committee;
 - 8.3.4 wants any part of the meeting to be held in private; and

- 8.3.5 wants any part of the investigation report or other relevant documents to be withheld from the public.
- 8.4 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
 - 8.4.1 confirm the date, time and place for the hearing;
 - 8.4.2 summarise the allegation;
 - 8.4.3 outline the main facts of the case that are agreed;
 - 8.4.4 outline the main facts which are not agreed;
 - 8.4.5 note whether the Member or the Investigating Officer will attend or be represented at the hearing;
 - 8.4.6 list those witnesses, if any, who will be asked to give evidence;
 - 8.4.7 enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
 - 8.4.8 outline the proposed procedure for the meeting.

9. **POWERS OF THE STANDARDS COMMITTEE**

- 9.1 The Standards Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. It must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings. The Standards Committee will decide factual evidence on the balance of probabilities.
- 9.2 The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
- 9.3 The Standards Committee may take legal advice from a Council officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.
- 9.4 Where appropriate, and in accordance with the Regulations, the Standards Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

10. **PROCEDURE AT THE HEARING**

- 10.1 The hearing will be held in public unless the Standards Committee is persuaded that there is a good reason to exclude the public.
- 10.2 The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing.

10.3 **Introduction**

The Chair of the Standards Committee will introduce those persons present and will explain the manner and order of proceedings

10.4 **First Stage - Preliminary Procedural Issues**

The Standards Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

10.5 **Second Stage - Making Findings of Fact**

The Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

10.5.1 If there is a disagreement as to the facts:

- (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
- (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
- (c) the Member will then be invited to make representations to support his or her version of the facts;
- (d) the Member may call any necessary witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.

10.5.2 At any time, the Standards Committee may question any of the people involved or any of the witnesses.

10.5.3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigation report;
- (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.

10.5.4 At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.

10.6 **Third Stage - Deciding whether the Member has failed to comply with the Code**

10.6.1 The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.

10.6.2 The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.

10.6.3 The Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, he or she has failed to comply with the Code of Conduct.

10.6.4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.

10.6.5 The Member will be invited to make any final relevant points.

10.6.6 The Standards Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Committee will announce their findings.

10.7 **Fourth Stage - Action to be Taken**

10.7.1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.

10.7.2 If the Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:

(a) whether or not the Committee should apply a sanction; and

(b) what form any sanction should take.

10.7.3 The Standards Committee will retire to deliberate in private on the representations and decide either that:

(a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;

(b) the Member should be censured; or

(c) the Member should be suspended or partially suspended from being a member or Co-Opted Member of his or her authority for a period not exceeding six months,

after which the Chair of the Standards Committee will announce their decision.

- 10.7.4 After making a decision the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.

11. FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING

- 11.1 If the Member fails to make representations, the Standards Committee may:
- 11.1.1 unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
 - 11.1.2 give the Member a further opportunity to make representations.
- 11.2 If a party fails to be present or represented at a hearing, the Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:
- 11.2.1 hear and decide the matter in the party's absence; or
 - 11.2.2 adjourn the hearing.

12. ILLNESS OR INCAPACITY

If the Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

13. SUSPENSION

A period of suspension or partial suspension will commence on the day after:

- 13.1 the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (ie within 21 days of receiving notification of the Standards Committee's determination);
- 13.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- 13.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

14. REFERRAL BY AN APPEALS TRIBUNAL

- 14.1 Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.
- 14.2 An appeals tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.

- 14.3 If:
- 14.3.1 the Standards Committee determines that the Member failed to comply with the Code of Conduct;
 - 14.3.2 the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and
 - 14.3.3 the said tribunal refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

the Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether or not it should uphold its original determination or accept the recommendation.

- 14.4 After making its determination the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the Adjudication Panel for Wales as soon as reasonably practicable.

15. **PUBLICATION OF THE STANDARDS COMMITTEE'S REPORT**

- 15.1 The Standards Committee will cause to be produced within 14 days after:
- 15.1.1 the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
 - 15.1.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
 - 15.1.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant.

- 15.2 Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:
- 15.2.1 for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;
 - 15.2.2 supply a copy of the report to any person on request if he or she pays such charge as the Council may reasonably require, and
 - 15.2.3 not later than seven days after the report is received from the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by paragraphs 15.2.1 and 15.2.2 above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

16. **COSTS**

The Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

SECTION 19

[Drafting Note – The following provisions appear by way of a precedent which can be included or replaced by your own provisions.]

19. CODE OF CONDUCT FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code of Practice sets out principles to guide Members and Officers in determining planning applications and making other decisions within the terms of reference of []. Although of particular relevance to Members of Planning Committee it applies to all Members of the Council who may become involved in planning and development matters.

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

19.1 Introduction

- 19.1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 19.1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 19.1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
- (a) Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
 - (b) Members should not place themselves in situations where their honesty or integrity may be questioned.
 - (c) Members should make decisions on merit.
 - (d) Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
 - (e) Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
 - (f) Members should respect the impartiality and integrity of Officers.

- 19.1.4 The Council is committed to open, fair and transparent decision making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 19.1.5 This Code of Practice sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 19.1.6 Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Members and Officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a Member or Officer should seek the advice of the Council's Monitoring Officer.

19.2 **The Role and Conduct of Members and Officers**

- 19.2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 19.2.2 The role of a Member of the [] is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 19.2.3 Whilst Members have a special duty to their residents in their electoral division, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 19.2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 19.2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 19.2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 19.2.7 Officers in their role of advising Members shall provide:
- (a) impartial and professional advice;
 - (b) consistency of interpretation of planning policy; and
 - (c) complete written reports covering all necessary information for a decision to be made.

- 19.2.8 The Council endorses the statement in the RTPI code that, “RTPI Members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions”, and extends it to apply to all Officers in the authority advising on planning matters.
- 19.2.9 That the Council may not always follow the advice of their professional planning Officers is perfectly proper. The professional Officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is. If the [] is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 19.2.10 The Council shall have a designated head of the planning service, who is qualified for election to Membership of the RTPI and who has direct access to elected Members as their professional adviser on planning matters. A superior Officer shall not have the power to overrule the professional advice of the head of the planning service.
- 19.2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council’s Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under section 82 Local Government Act 2000.
- 19.2.12 Members shall follow the advice in the Member’s Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, Officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

19.3 **Interests of Members**

- 19.3.1 Where Members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 19.3.2 Where the interest is such that members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.
- 19.3.3 These principles apply equally to Members who are not Members of []. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 19.3.4 Members should seek guidance from Officers.

19.3.5 Members of [] and Officers who attend [] regularly should complete the Annual Return required for this purpose.

19.3.6 The Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a Member's ability to take part in the decision making process. However, Members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, Members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:

- (a) from electoral division concerns;
- (b) from Membership of other Committees of the Council;
- (c) from Membership of other public or community bodies;
- (d) from Membership of voluntary associations and trusts (including where appointed by the Council);
- (e) from a connection with a particular policy initiative of the Council;
- (f) from Membership of clubs, societies and groups; and
- (g) from hobbies and other leisure interests.

Such interests may mean that a Member is involved with a planning application before the matter comes before the []. Such involvement need not on its own debar a Member from participating in making the planning decision when the matter is considered by [] providing that the Member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

19.3.7 As a minimum, the integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

19.4 **Development Proposed by the Council or a Council Owned Company**

19.4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.

19.4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

19.4.3 Members of the [] who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.

19.4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

19.5 **Statutory Duties**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

19.5.1 **Equality Act 2010**

Section 149 provides that:

- (a) A council must, in the exercise of its functions, have due regard to the need to:
 - (i) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
 - (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (iii) foster good relations between persons who share a protected characteristic and persons who do not share it.
- (b) The above powers relate to the following protected characteristics:
 - (i) ages;
 - (ii) disability;
 - (iii) gender reassignment;
 - (iv) marriage and civil partnership;
 - (v) pregnancy and maternity;
 - (vi) race (including colour, nationality and ethnic or national origins);
 - (vii) religion or belief;
 - (viii) sex; or
 - (ix) sexual orientation.

19.5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

19.5.3 Best Value

Section 3(1) of the Local Government Act 1999 and Part 1 of the Local Government (Wales) Measure 2009 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

19.5.4 Crime and Order

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

19.6 Lobbying of and by Members

19.6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or Members of a []. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.

19.6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning Officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide Officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

19.6.3 The time for individual Members of the [] to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.

19.6.4 A [] Member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, [] Members should take care about expressing an opinion indicating they have made up their mind before the decision making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to persuasion at the decision making meeting. Members who are lobbied should:

- (a) make clear that they reserve their final decision on a proposal until the committee meeting;
- (b) only give procedural advice;
- (c) consider referring those lobbying to the relevant Officer who can provide further advice; and

(d) not seek to meet an applicant or potential applicant alone.

- 19.6.5 Members of the [] shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the []). Members shall not put improper pressure on Officers for a particular recommendation.
- 19.6.6 The local Member who is not a Member of the [] will be allowed to attend and speak at the decision making meeting (either presenting their own views if they are an affected party or representing the views of their residents of their electoral division) but not vote. The Member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the [], be allowed to attend and speak but not vote. A local Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 19.6.7 If a Member of the [] identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, that Member shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 19.6.8 Members of a [] must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.
- 19.6.9 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

19.7 **Pre and Post Application Discussions and Negotiations**

- 19.7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 19.7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 19.7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning Officers.
- 19.7.4 A written note should be made of all potentially contentious meetings. Two or more Officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 19.7.5 Members need to preserve their role as impartial decision makers and should not take part in pre or post submission discussions and negotiations with

applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning Officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.

- 19.7.6 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the Officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

19.8 **Officer Reports to Committee**

- 19.8.1 The [] will submit written reports to the appropriate [] on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the [] shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The [] in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 19.8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 19.8.3 The [] will have available for inspection by Members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

19.9 **Planning Considerations**

- 19.9.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 19.9.2 Members of [] should attend training sessions which may be organised from time to time. All other Members are encouraged to attend.
- 19.9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 19.9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:
- (a) the Development Plan;

- (b) Government Guidance (contained in such documents as Circulars, Planning Policy Guidance Notes, Mineral Policy Guidance Notes, Planning Policy Statements and Ministerial announcements);
 - (c) Supplementary Planning Documents adopted by any related committee;
 - (d) non-statutory planning policies adopted by the Council;
 - (e) the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
 - (f) the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
 - (g) representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
 - (h) planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.
- 19.9.5 It should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 19.9.6 It is the responsibility of Officers in preparing reports and recommendations to Members to identify the material planning considerations and warn Members about those matters which are immaterial planning decisions.
- 19.9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 19.9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 19.9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 19.9.10 It will be inevitable that all the considerations will not point wither to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

19.10 The Decision Making Process

- 19.10.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 19.10.2 Where an environmental impact assessment is required, the [] shall take the information provided in the report into consideration when determining the application.
- 19.10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 19.10.4 Where the [] decide to adopt the recommendation of the [], the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 19.10.5 Where the [] is minded to approve or to refuse a planning application, contrary to the recommendation of the [], or the Development Plan, agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the [Head of Legal and Democratic Services].
- 19.10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

19.11 Site Visits by the Committee

- 19.11.1 A site visit may be held if the [] in consultation with Chair of the relevant committee considers it will assist Members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Members should try to attend site visits organised by the Council where possible.
- 19.11.2 Site visits will be organised in accordance with the following procedures:
- (a) The [Head of Legal and Democratic Services] [*other*] will invite the local Member to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the relevant [], the local Member for the adjacent division will also be invited.
 - (b) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
 - (c) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
 - (d) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The [], or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any

questions to the [], or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.

- (e) When a site visit is held prior to the meeting of the [] it is desirable that all Members attending the [] should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all Members have the same information.

19.11.3 Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless you feel it is essential for you to visit the site other than through attending the official site visit and you have first spoken to the [] about your intention to do so and why (which will be recorded on file) and you can ensure you will comply with these good practice rules on site visits.

19.12 **Representations on Planning Applications**

19.12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the [] Members will be given the opportunity to inspect all letters received before the decision on the application is made.

19.12.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the []. In such circumstances the following procedure will apply:

- (a) The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. Both the applicant and the objectors will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made. They must register to speak at the meeting by 12.00 noon on the last working day prior to the meeting and if they fail to do so they will not be allowed to speak unless the Chair exercises his discretion to permit them to do so. People wishing to speak at [] cannot hand out documentation to Members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting. Speakers can also use the Council's IT system to make electronic submissions to the Committee provided that the submission is delivered to the Council by 12.00 noon at the latest on the last working day prior to the meeting.
- (b) Each group of speakers (objectors and supporters) will be allowed a maximum of five minutes to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
- (c) At the meeting the [] will present his/her report first.

- (d) The objectors will make their representations, subject to a time limit of five minutes (except at the discretion of the Chair), and may be asked questions by the Committee.
- (e) The applicant will then make his or her representations, subject to a time limit of five minutes (except at the discretion of the Chair), and may be asked questions by the Committee.
- (f) Where the Chair exercises their discretion to extend the time limit for either the objectors or the applicant, then similar provision shall be made for the other parties (should they so wish) to ensure that all parties receive a fair hearing.
- (g) Officers may comment on the representations and the merits of the application
- (h) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.

19.13 Review of Decisions

- 19.13.1 The Audit Commission's Report, "Building in Quality", recommended that elected Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision making and help with reviews of planning policy.
- 19.13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 19.13.3 Attendance at the review site visits shall be restricted to Members of the committee and the local Member.

19.14 Training

- 19.14.1 Members should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 19.14.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

SECTION 20

20. CODE OF CONDUCT FOR EMPLOYEES

EITHER

DRAFTING NOTE

Set out below is the Model Code of Conduct for Qualifying Employees of Relevant Authorities in Wales. This is followed by an alternative model that could be adapted or used to supplement the Model Code.

20.1 General Principles

The public is entitled to expect the highest standards of conduct from all qualifying employees¹ of relevant authorities². The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

20.2 Accountability

Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

20.3 Political Neutrality

Qualifying employees of relevant authorities, whether or not politically restricted³, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

20.4 Relations with Members, the Public and Other Employees

20.4.1 Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.

¹ Employees of relevant authorities in Wales who do not fall within any description of employee specified in the Code of Conduct (Non-Qualifying Local Government Employees) (Wales) Regulations 2001 (SI 2001/(W)) are qualifying employees.

² A relevant authority, in relation to Wales, means a county, county borough or community council, a fire authority constituted by a combination scheme under the Fire Services Act 1947 or a National Park authority established under section 63 of the Environment Act 1995.

³ A qualifying employee who holds a politically restricted post is disqualified from becoming or remaining a member of a relevant authority (see sections 1-3 of the Local Government and Housing Act 1989 (c42) and the Local Government Officers (Political Restrictions) Regulations 1990 (SI 1990/851) as amended by the Local Government Officers (Political Restrictions) (Wales) (Amendment) Regulations 1999 (SI 1999/1665)).

20.4.2 Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

20.5 **Equality**

Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

20.6 **Stewardship**

Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

20.7 **Personal Interests**

Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

20.7.1 any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests;

20.7.2 any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

20.8 **Whistleblowing**

In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

20.9 **Treatment of Information**

Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

20.10 **Appointment of Staff**

Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any

appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

20.11 **Investigations by Monitoring Officers**

Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000⁴ a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

OR [ALTERNATIVE CODE OF CONDUCT FOR EMPLOYEES

The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code of Conduct outlines the existing rules and conditions of service which apply to you as a Council employee and is designed to provide clear guidance to assist you in your day to day work.

The Code sets out the standards which are expected of you and provides a framework which will help to promote best practice. Reference should also be made to Nolan's Seven Principles of Public Life in Section [5.1]. All employees of the Council are required to observe and uphold the standards of the Code and all policies and procedures of the Council. Failure to do so is a serious matter which could result in disciplinary action, including dismissal.

You should therefore read the document carefully, and if you are uncertain about any aspect of its contents, please contact your immediate manager or supervisor.

20.1 **Standards and Attitude**

- 20.1.1 All employees of the Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 20.1.2 Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous.
- 20.1.3 All employees are expected to report, in the first instance, to their manager or supervisor any illegality, impropriety, breach of procedure or policy of the Council.
- 20.1.4 There are a number of mechanisms available to employees to do this including the Council's complaints procedure and also the Confidential Reporting Code.
- 20.1.5 In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

20.2 **Confidentiality and Disclosure of Information**

- 20.2.1 The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public.

⁴ The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (SI 2001/2281 (W171)).

Different rules apply in different situations. If you are in any doubt as to whether you can release any particular information, always check with your manager or supervisor first.

- 20.2.2 The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.
- 20.2.3 You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance with the requirements of the Data Protection Act 1998, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings.
- 20.2.4 Information given in the course of your duties should be accurate and fair and never designed to mislead.
- 20.2.5 Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

20.3 **Political Neutrality**

- 20.3.1 Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.
- 20.3.2 From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.
- 20.3.3 Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work.

20.4 **Relationships**

20.4.1 **Councillors**

Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

20.4.2 **The Local Community and Service Users**

Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

20.4.3 Contractors and Suppliers

- (a) All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on Form CCE 1 at the earliest opportunity.
- (b) Orders and contracts must be awarded in accordance with the Council's Contract Procedure Rules and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

20.5 Appointment and Other Employment Matters

- 20.5.1 It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit [and in accordance with the Council's []].
- 20.5.2 In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant, or have a close personal relationship with him or her.
- 20.5.3 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.
- 20.5.4 Senior Officers (ie Head of Service and above) must disclose to the [Head of Legal and Democratic Services] [*other*] on Form CCE 2 any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.
- 20.5.5 If you apply for promotion or are seeking another job in the Council, you must not approach any councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager or supervisor and not with councillors.

20.6 Outside Commitments

- 20.6.1 Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations or are detrimental to the interests or reputation of the Council.
- 20.6.2 Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete *Form CCE 3* and submit it to your Chief Officer. The Council will not unreasonably stop Officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.

- 20.6.3 Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the Council's interests.
- 20.6.4 If you write a book or article for payment on subjects relating to your work for the Council, you must seek the permission of the Council through your manager or supervisor using *Form CCE 3*. The general presumption would be that any fee or royalty payable would be passed over to the Council.
- 20.6.5 You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your manager or supervisor.
- 20.6.6 Private use of Council facilities and equipment, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Also, you should not arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.

20.7 **Personal Interests**

- 20.7.1 You must declare to your manager or supervisor on *Form CCE 4* any financial or non-financial interests which could bring about conflict with the Council's interests.
- 20.7.2 If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or supervisor so that a decision can be made as to how best to proceed.
- 20.7.3 You must not make, or become involved with any official or professional decisions about matters in which you have a personal interest.
- 20.7.4 Section 117 of the Local Government Act 1972 requires you to make a formal declaration about *contracts or personal contracts* with the Council in which you have a pecuniary interest. Such declarations should be made on *Form CCE 5* and sent to the [Head of Legal and Democratic Services] [*other*]. It is a criminal offence to fail to comply with this provision which is set out in full at [Appendix 1].
- 20.7.5 You must declare to the [Head of Legal and Democratic Services] [*other*] Membership of any organisation not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or Membership or conduct, for example, the freemasons. A definition of such an organisation appears at [Appendix 2]. Such declarations should be made on *Form CCE 6* and sent to the [Head of Legal and Democratic Services] [*other*].

20.8 **Equality**

All Members of the local community, customers and other Council employees have a right to be treated fairly and equally. You should become familiar with and observe all Council policies relating to equality issues, eg the Council's Equal Opportunities Policy, in addition to the requirements of the law.

20.9 **Tendering Procedures**

- 20.9.1 Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 20.9.2 If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your manager or supervisor using *Form CCE 4*.
- 20.9.3 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- 20.9.4 All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

20.10 **Corruption**

- 20.10.1 Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for them to receive or give any gift, loan or reward or advantage in their official capacity “for doing, or not doing, anything”, or “showing favour, or disfavour to any person”. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules appear at [Appendix 3].
- 20.10.2 For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Chief Officer.

20.11 **Possible Inducements**

20.11.1 **Introduction**

A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this Section.

20.11.2 **Gifts Generally**

- (a) Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a Member of your family, by any person or organisation having dealings with the Council.
- (b) Any such offer should be reported to your manager or supervisor (or to the [Head of Legal and Democratic Services] if you are a Chief or deputy Chief Officer) on *Form CCE 7*.

- (c) When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your manager or supervisor or the [Head of Legal and Democratic Services] [other] as appropriate.

20.11.3 Gifts to Employees with a Caring Role

- (a) There are sometimes special problems encountered by employees who have a “caring” role, or provide a direct personal service to vulnerable people.
- (b) It is not unusual for residents of residential care homes, or for people receiving support at home from Council employees, or their relatives to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will.
- (c) It is most important in such situations that employees and the Council are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, therefore, Members of staff and their families are not allowed to accept gifts or legacies from clients.
- (d) If you are made aware that a client is considering making a gift to you or including you in their Will, or has actually done so, then you should immediately report the matter to your Manager who will take it up with the client.
- (e) Similarly, you should never become involved with making Wills for clients nor act as an Executor in a client’s Will.
- (f) For the purposes of this Section of the Code “client” means any current or former client.

20.11.4 Exceptions

- (a) Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices, but only if it bears the company’s name or insignia.
- (b) Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

20.11.5 Hospitality

- (a) Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.
- (b) Hospitality is sometimes offered to representatives of the Council in an official or formal capacity. Normally the only Officers who would attend would be Chief Officers and appropriate heads of service.

- (c) If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the Council.
- (d) You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.
- (e) In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.
- (f) All offers of hospitality should be reported to your Chief Officer, or to the [Head of Legal and Democratic Services] if you are a Chief Officer or deputy Chief Officer, on *Form CCE 8*.

20.11.6 Checklist

The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- (a) Is the donor, or event, significant in the community or area? If so, is the refusal likely to cause offence?
- (b) Are you expected to attend because of your position in the community or area?
- (c) Will the event be attended by others of a similar standing in the community or in other communities?
- (d) What do you think is the motivation behind the invitation?
- (e) Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- (f) Could you justify the decision to the Council, press and public?
- (g) Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?
- (h) Are you likely to be expected to respond to the hospitality, and if so, how?
- (i) Are you comfortable about the decision?

20.12 **Sponsorship - Giving and Receiving**

20.12.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

20.12.2 Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Chief Officer of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

20.13 **Financial Procedure Rules**

20.13.1 All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.

20.13.2 They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO DISCIPLINARY ACTION AND
COULD LEAD TO DISMISSAL]**

[CCE FORMS

PLEASE NOTE THAT SUPPLIES OF CCE FORMS ARE AVAILABLE FROM YOUR SERVICE ADMINISTRATION SECTION. THEY ARE ALSO SET OUT IN APPENDIX 4

- CCE 1 Business or Personal Relationships with External Contractor or Supplier**
- CCE 2 Relationship with a Candidate for Appointment with the Council**
- CCE 3 Application for Approval of Outside Interests or Employment**
- CCE 4 Personal Interests**
- CCE 5 Pecuniary Interests**
- CCE 6 Membership of Secret Societies/Organisations**
- CCE 7 Declaration of Offer of Gifts**
- CPE 8 Declaration of Offer of Hospitality]**

APPENDIX 1 TO SECTION 20

Local Government Act 1972, Section 117

1. If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein. For the purposes of this Section, an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of Section [95] above had he been a Member of the authority.
2. An Officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
3. Any person who contravenes the provisions of paragraphs 1 or 2 above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
4. References in this Section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

[APPENDIX 2 TO SECTION 20

Organisations not open to the Public

(See paragraph [7.5] of the Code)

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:

1. is not open to members of the public who are not Members of that lodge, chapter, society or trust; or
2. includes in the grant of Membership an obligation on the part of the Member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or
3. includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, Membership or conduct of the lodge, chapter, society, trust, gathering or meeting.]

[APPENDIX 3 TO SECTION 20

Bribery Act 2010

The Bribery Act 2010 creates offences making it unlawful to give or receive financial or other advantages in return for the improper performance of a relevant function or activity. The Act applies to functions and activities of a public nature which an individual is expected to perform in good faith, impartially or in a position of trust.]

APPENDIX 4 TO SECTION 20

CCE Forms

[]

CCE.1

Relationship with external contractor or supplier

Employee's Full Name.....

Job TitleGrade

Directorate and Section

As required in paragraph 4.3 of the Council's Code of Conduct*, I give below details of my relationship with an external contractor or supplier

Name and Address of Contractor/Supplier

.....
.....

Nature of Relationship

.....
.....

Signature Date

Please send the completed form to your Chief Officer

(who must copy it to the [Head of Legal and Democratic Services])

Received by Chief Officer Date.....

Copied and sent to [Head of Legal and Democratic Services] on (date)

*Paragraph 4.3 of the Code (Contractors and Suppliers) says that:

“All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on Form CCE 1 at the earliest opportunity. Orders and contracts must be awarded in accordance with the Council's Contract Procedure Rules and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.”

[]

CCE.2

Relationship with candidate for appointment with Council

Employee's Full Name.....

Job TitleGrade

Directorate and Section

As required in paragraph 5.4 of the Council's Code of Conduct*, I give below details of my relationship with a candidate for appointment to a post with the Council

Name and Address of Candidate

.....
.....

Post Applied for

Nature of Relationship

Signature Date

Please send the completed form to the [Head of Legal and Democratic] Services

Received by [Head of Legal and Democratic Services]..... Date.....

*Paragraph 5.4 of the Code (Appointment and other employment matters) says that:

“Senior Officers (ie Head of Service and above) must disclose to the [Head of Legal and Democratic Services] on Form CCE 2 any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council.”

[]

CCE.4

Declaration of Personal Interests

Employee's Full Name

Job TitleGrade.....

Directorate and Section

As required in paragraph 7.1 of the Council's Code of Conduct*, I give below details of my personal interests which may conflict with the Council's interests:

Details of Personal Interests:

.....
.....
.....
.....
.....

The interests are financial/non-financial (Delete as appropriate)

SignedDate

Please send the completed form to your Chief Officer

Received by Chief Officer Date

*Paragraph 7.1 (Personal interests) says that:

"You must declare to your manager or supervisor on Form CCE 4 any financial or non-financial interests which could bring about conflict with the Council's interests."

[]

CCE.6

Membership of Secret Societies of Organisations

Employee's Full Name.....

Job TitleGrade

Directorate and Section

As required in paragraph 7.5 of the Council's Code of Conduct*, I declare that I am a Member of the following society/organisation/s

Name of Society/Organisation/s

.....
.....

Date of Becoming a Member:

Signature Date

Please send the completed form to the [Head of Legal and Democratic Services]

Received by [Head of Legal and Democratic Services].....Date.....

*Paragraph 7.5 (Personal interests) says that:

"You must declare to the [Head of Legal and Democratic Services] Membership of any organisation not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or Membership or conduct, for example, the freemasons. A definition of such an organisation appears at Appendix 2. Such declarations should be made on Form CCE 6 and sent to the [Head of Legal and Democratic Services]."

Offers of Hospitality

Employee's Full Name

Job TitleGrade

Directorate and Section

As required in paragraphs 11.5 of the Council's Code of Conduct* I give details of an offer of a gift, other benefit or hospitality:

Details of Hospitality Offered

.....

Date Offer Made:

Name and Address of Person Making Offer:.....

.....

Reasons for proposing to accept the offer:

.....

Signature Date

Please send the completed form to your Chief Officer(or in the case of the Chief Executive or deputy Chief/Chief Officers, to the [Head of Legal and Democratic Services])

*Chief Officer's/[Head of Legal and Democratic Service]'s Authorisation.....
..... Date.....

- Approval required prior to acceptance for all employees except the Chief Executive or deputy Chief/Chief Officer

Paragraph 11.5 (Hospitality) says that:

“All offers of hospitality should be reported to your Chief Officer (or to the [Head of Legal and Democratic Services] if you are a Chief Officer or deputy Chief Officer) on Form CCE 8.”

SECTION 21

21. PROTOCOL ON MEMBER / OFFICER RELATIONS

21.1 Introduction

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

21.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

21.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

21.4 Roles of Members

Members undertake many different roles. Broadly these are:

21.4.1 Members express political values and support the policies of the party or group to which they belong (if any).

21.4.2 Members represent their electoral division and are advocates for the citizens who live in the area.

21.4.3 Members are involved in active partnerships with other organisations as community leaders.

21.4.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.

21.4.5 Members help develop and review policy and strategy.

21.4.6 Members monitor and review policy implementation and service quality.

21.4.7 Members are involved in quasi-judicial work through their Membership of regulatory committees.

21.5 Roles of Employees

Briefly, Employees have the following main roles:

21.5.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

21.5.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

21.5.3 Initiating policy proposals.

21.5.4 Implementing agreed policy.

21.5.5 Ensuring that the Council always acts in a lawful manner.

21.6 **Respect and Courtesy**

21.6.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

21.6.2 Undue Pressure

- (a) It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- (b) In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- (c) A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- (d) Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)*

21.6.3 Familiarity

- (a) Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- (b) Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- (c) For these reasons close personal familiarity must be avoided.

21.6.4 Breach of Protocol

- (a) If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Director responsible for the employee

concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

- (b) If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

21.7 Provision of Advice and Information to Members

- 21.7.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 21.7.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed ie either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.
- 21.7.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 21.7.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 21.7.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 21.7.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 21.7.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).
- 21.7.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue

could be raised or question asked on the basis of the information provided, then the appropriate [Cabinet] [Executive] Member or Committee Chair concerned should be advised about the information provided.

- 21.7.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.
- 21.7.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the “need to know”. Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s [*insert title*] will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

21.8 **Confidentiality**

- 21.8.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) he/she has the consent of a person authorised to give it;
 - (b) he/she is required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is:
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority.
- 21.8.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council’s or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

- 21.8.3 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 21.8.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 21.8.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 21.8.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

21.9 **Provision of Support Services to Members**

21.9.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

21.9.2 Correspondence

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

21.9.3 Media

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

21.10 **The Council's Role as Employer**

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

21.11 Political Activity

21.11.1 There are a number of constraints that apply to an employee who occupies a post that is designated as “politically restricted” under the terms of the Local Government and Housing Act 1989.

21.11.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a);
- (c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:
 - (i) participate in the general management of the party or branch; or
 - (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;
- (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a);
- (e) speaking to the public with the apparent intent of affecting public support for a political party; and
- (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

21.11.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, eg chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

21.11.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

21.11.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

21.11.6 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

21.12 **Sanctions**

21.12.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

21.12.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the [Head of Legal and Democratic Services] [*other*].

21.13 **Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

APPENDIX TO SECTION 21

Local Member Consultative Charter

1. The Council is committed to providing its Elected Members with accurate, helpful and timely consultation, advice and information in relation to any matters of any significance or sensitivity which relate to their particular Electoral Division and where circumstances render it appropriate to involve a Local Member.
2. Directors and staff will be continually vigilant to identify such matters and ensure that Local Members are informed accordingly. This will also include any matter which could impact upon the neighbouring areas of other Members.
3. Directors will ensure that all correspondence/enquiries from Local Members are dealt with promptly and if necessary Members will be kept advised of progress.
4. Appropriate Directors will ensure that, where the Council's Constitution allows, Local Members will be invited to meetings and receive the necessary documentation.
5. Any matter of significance or sensitivity which relates to a particular Electoral Division or Divisions will be discussed with the Local Member(s) concerned before being submitted for consideration by the [Cabinet] [Executive] or other Council Body. This will provide the opportunity for early awareness and allow a local perspective to be obtained.
6. Directors and staff will regularly brief appropriate [Cabinet] [Executive] Members on service and partnership issues and developments and will use such occasions to help identify any potential local issues.
7. Details of any petitions received which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the [Leader]. Local Members will be kept informed on the progress/outcomes of such petitions.
8. Subject to any restrictions caused by commercial, legal or personal confidentiality, copies of all correspondence with Parish/Town Councils and the Local Government Ombudsman which relate to matters of any significance or sensitivity in a particular Electoral Division will be sent to the Local Member concerned.
9. Copies of all correspondence with MPs and MEPs which relate to matters in a particular Electoral Division will be sent to the Local Member concerned. In addition, copies will also be provided to the [Leader].
10. Directors and staff will ensure that as much local service information as possible is provided to local Members.
11. Services will provide every Member with an Officer contact guide for the services they provide, including where appropriate local contacts.
12. Wherever appropriate, Services will make Local Members aware of and invite them to service events and activities in their area. This will include strict adherence to the arrangements that have been agreed for the official opening/launch of Council projects, schemes, exhibitions etc.
13. In certain instances, both Members and Officers will receive an enquiry which relates to a matter in a particular area. In order to ensure consistency of approach in these circumstances, Officers will agree with the Member(s) concerned a single response to such enquiries.

14. As part of a continual review of the Charter's effectiveness, the co-operation of Members is sought in the responsible use at all times of advice and information that is provided to them, and Members are encouraged to advise Officers of the information requirements and of any local circumstances or sensitivities which might have a bearing on the Council's work.

SECTION 22

22. CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE

22.1 Introduction

- 22.1.1 This is the Council’s Policy intended to encourage and enable employees to raise concerns within the Council without fear of victimisation, subsequent discrimination or embarrassment. It reflects the Council’s commitment to good practices, to valuing staff and setting continuous improvement in service delivery.
- 22.1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 22.1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.
- 22.1.4 This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.
- 22.1.5 The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes. The Council will seek to ensure that as part of its procurement processes, this code is brought to the attention of such external contractors, suppliers and services providers (described in this code as “Contractors”).
- 22.1.6 These procedures are in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.
- 22.1.7 This Code has been discussed with the relevant trade unions and professional organisations and has their support.

22.2 Aims and Scope of the Code

- 22.2.1 This Code aims to:
- (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.

- (b) provide avenues for you to raise those concerns and receive feedback on any action taken.
- (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- (d) reassure you that you will be protected from possible reprisals or victimisation.

22.2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or you consider that you are being harassed due to your race, sex or age, or if you are concerned about health and safety risks. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.

22.2.3 These include:

- (a) conduct which is an offence or a breach of law;
- (b) disclosures related to miscarriages of justice;
- (c) health and safety risks, including risks to the public as well as other employees;
- (d) damage to the environment;
- (e) the unauthorised use of public funds;
- (f) possible fraud and corruption;
- (g) sexual or physical abuse of clients;
- (h) any attempt to prevent disclosure of any of the above;
- (i) other unethical conduct.

22.2.4 Thus, any serious concerns that you have about any aspects of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.

22.2.5 This may be about something that:

- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- (b) is against the Council's Constitution and policies;
- (c) falls below established standards of practice;
- (d) amounts to improper conduct.

22.3 **Safeguards**

22.3.1 The Council is committed to good practice and high standards and wants to be supportive of employees.

- 22.3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 22.3.3 The Council will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.
- 22.3.4 This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.
- 22.3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

22.4 **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness. If you wish to be supported by a representative of your choice, then this would be available to you.

22.5 **Anonymous Allegations**

- 22.5.1 This Code encourages you to put your name to your allegation whenever possible.
- 22.5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 22.5.3 In exercising this discretion, the facts to be taken into account would include:
- (a) the seriousness of the issues raised;
 - (b) the credibility of the concern; and
 - (c) the likelihood of confirming the allegation from attributable sources.

22.6 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

22.7 **How to Raise a Concern**

This procedure applies to Council employees and contractors.

- 22.7.1 As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should

approach the Chief Executive, the [Head of Legal and Democratic Services] [other] [or, the [insert title]].

22.7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

(a) the background and history of the concern, giving relevant dates;

(b) the reason why you are particularly concerned about the situation.

22.7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

22.7.4 Advice/guidance on how to pursue matters of concern may be obtained from:

[insert where]

22.7.5 Alternatively, you may wish to seek advice from a person independent of the Council. In this case you should contact the Council's External Auditors ([insert company name]). You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.

22.7.6 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

22.8 **How the Council will Respond**

22.8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

22.8.2 Where appropriate, the matters raised may:

(a) be investigated by management, internal audit, or through the disciplinary process;

(b) be referred to the police;

(c) be referred to the external auditor (Wales Audit Office);

(d) form the subject of an independent inquiry.

22.8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

22.8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

- 22.8.5 Within 10 working days of a concern being raised, the person with whom you have raised your concerns will write to you:
- (a) acknowledging that the concern has been received;
 - (b) indicating how we propose to deal with the matter;
 - (c) giving an estimate of how long it will take to provide a final response;
 - (d) telling you whether any initial enquiries have been made;
 - (e) supplying you with information on staff support mechanisms; and
 - (f) telling you whether further investigations will take place and if not, why not.
- 22.8.6 The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 22.8.7 However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.
- 22.8.8 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the [Head of Legal and Democratic Services] [other], for a decision to be made as to whether such a course of action is both necessary and proportionate.

Important:

- 22.8.9 Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- 22.8.10 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 22.8.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 22.8.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

22.9 The Responsible Officer

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the [Head of Legal and Democratic Services] [other], and keep that Officer informed of the progress and outcome of the investigation. The [Head of Legal and Democratic Services] [other] has overall responsibility for the maintenance and operation

of the Code. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

22.10 How the Matter Can be Taken Further

22.10.1 This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) the Council’s external auditors (*[insert company name]*);
- (b) your local Citizens’ Advice Bureau;
- (c) relevant professional bodies or regulatory organisations;
- (d) a relevant voluntary organisation;
- (e) the police.

22.10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

22.11 Confidential Reporting Code Form

| | |
|---|--|
| PRIVATE AND CONFIDENTIAL | |
| CONFIDENTIAL REPORTING CODE | |
| To be completed by person to whom the concern is raised | |
| To be forwarded to [Head of Legal and Democratic Services] [other] | |
| Name of person | |
| Post Held | |
| raising concern (may be anonymous) | |
| Brief outline of nature of concern and dates | |
| Names of others involved | |
| Brief description of outcome, with dates | |
| Signature | |
| (of person to whom complaint is raised) | |
| Please Print Name | |
| Date | |

SECTION 23

23. **MEMBER ROLE DESCRIPTIONS**

23.1 **Elected Member Role Description**

23.1.1 Accountabilities

- (a) To Full Council.
- (b) To the electorate of their ward.

23.1.2 Role Purpose and Activity

(a) *Representing and Supporting Communities*

- (i) To represent ward interests.
- (ii) To be an advocate for the Council in the ward and communities they serve.
- (iii) To be a channel of communication to the community on council strategies, policies, services and procedures.
- (iv) To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally.
- (v) To liaise with executive members, other council members, council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported.
- (vi) To promote tolerance and cohesion in local communities.

(b) *Making Decisions and Overseeing Council Performance*

- (i) To participate in Full Council meetings, reaching and making informed and balanced decisions, and overseeing performance.
- (ii) To participate in informed and balanced decision making on committees and panels to which they might be appointed.
- (iii) To adhere to the principles of democracy and collective responsibility in decision making.
- (iv) To promote and ensure efficiency and effectiveness in the provision of council and other public services.

(c) *Representing the Council (Subject to Appointment)*

- (i) To represent the Council on local outside bodies as an appointee of the Council.
- (ii) To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain.

- (iii) To represent and be an advocate for the Council on national bodies and at national events.

(d) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs To provide community leadership and promote active citizenship.
- (ii) To promote and support open and transparent government.
- (iii) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (iv) To adhere to the Member's Code of Conduct, the Member/Officer Protocol and the highest standards of behaviour in public office.

(e) *Personal and Role Development*

To participate in opportunities for development provided for members by the authority.

23.1.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.2 **Leader (and Deputy) Role Description**

23.2.1 Accountabilities

- (a) To Full Council.
- (b) The Public.

23.2.2 Role Purpose and Activity

- (a) *Providing Political Leadership to the Council*
 - (i) To be a political figurehead for the Council; to be the principal political spokesperson for the Council.

- (ii) To provide leadership in building a political consensus around council policies.
 - (iii) To form a vision for the Council and community.
 - (iv) To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery.
- (b) *Appointing the Cabinet*⁵
- (i) To designate the appropriate portfolios.
 - (ii) To appoint appropriate elected members to each portfolio.
 - (iii) To allocate cabinet members to roles with regard to their abilities.
 - (iv) To designate the Deputy Leader.
- (c) *Representing and Acting as Ambassador for the Authority*
- (i) To represent the Authority to a high standard. Provide a strong, competent and eloquent figure to represent the Authority both within the County and at external bodies.
 - (ii) To represent the Authority on the WLGA coordinating committee and the WLGA regional partnership board.
 - (iii) To provide leadership and support local partnerships and organisations.
 - (iv) To represent the Authority in regional and national bodies as appropriate.
- (d) *Providing Leadership within the Portfolio*
- To fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of an executive member.
- (e) *Managing and Leading the Work of the Cabinet and Chairing Meetings*
- (i) To ensure the effective running of the Cabinet by managing the forward work programme and ensuring its continuing development.
 - (ii) To ensure the work of the Cabinet meets national policy objectives.
 - (iii) To advise and mentor other cabinet members in their work.
 - (iv) To chair meetings of the Cabinet in line with the Constitution.
 - (v) In the Leader's absence the Deputy Leader should fulfil this role.

⁵ Under constitutional arrangements for a cabinet model, either the Full Council or the Leader may appoint the Cabinet. In Wales it is common practice for the Leader to appoint the Cabinet under this model. This Role Description has been written accordingly, noting that councils may vary this arrangement. In the case of Fourth Option Authorities, the Board should be selected according to the political balance of the Authority.

- (f) *Participating in the Collective Decision Making of the Cabinet*
 - (i) To work closely with other cabinet members to ensure the development of effective council policies and the budgetary framework for the Council, and the delivery of high quality services to local people.
 - (ii) To accept collective responsibility and support decisions made by the Cabinet once they have been made.
- (g) *Working with Officers to Lead the Organisation*
 - (i) To liaise with the Chief Executive, and other appropriate officers, on a regular basis.
 - (ii) To work with employees of the Council in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues.
- (h) *Leading Partnerships and Community Leadership*
 - (i) To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
 - (ii) To negotiate and broker in cases of differing priorities and disagreement.
 - (iii) To act as a leader of the local community by showing vision and foresight.
- (i) *Internal Governance, Ethical Standards and Relationships*
 - (i) To promote and support good governance of the Council and its affairs.
 - (ii) To provide community leadership and promote active citizenship.
 - (iii) To promote and support open and transparent government.
 - (iv) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
 - (v) To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

23.2.3 Values

To be committed to and demonstrate the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;

- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership;
- (h) consensus building.

23.3 **Deputy Leader**

23.3.1 To fulfil the duties of the Leader in his or her absence.

23.3.2 To assist the Leader in specific duties as required.

23.4 **Cabinet Member Role Description**

23.4.1 Accountabilities

- (a) To the Leader.
- (b) To the Cabinet (through collective responsibility).
- (c) To Full Council.

23.4.2 Role Purpose and Activities

(a) *Providing Portfolio Leadership*

- (i) To give political direction to officers working within the portfolio.
- (ii) To gain the respect of officers within the portfolio; provide support to officers in the implementation of portfolio programmes.
- (iii) To provide leadership in the portfolio.
- (iv) To liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- (v) To be accountable for choices and performance in the portfolio.
- (vi) To have an overview of the performance management, efficiency and effectiveness of the portfolio.
- (vii) To make executive decisions within the Portfolio.⁶

⁶ This only applies under constitutional arrangements where individual cabinet members or combinations of cabinet members are given individual responsibility for making decisions on behalf of the Executive.

(b) *Contributing to the Setting of the Strategic Agenda and Work Programme for the Portfolio*

- (i) To work with officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through the Cabinet.
- (ii) To provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the portfolio's forward work programme is kept up to date and accurate.

(c) *Providing Representation for the Portfolio*

To provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

(d) *Reporting and Accounting*

- (i) To report as appropriate to the Leader, Full Council, Cabinet, appropriate chair of scrutiny, regulatory bodies and the media.
- (ii) To be the principal political spokesperson for the portfolio.
- (iii) To appear before scrutiny committees in respect of matters within the portfolio.

(e) *Taking an Active Part in Cabinet Meetings and Decision Making*

- (i) To show an interest in and support for the portfolios of others.
- (ii) To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

(f) *Leading Partnerships and Community Leadership*

- (i) To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- (ii) To negotiate and broker in cases of differing priorities and disagreement.
- (iii) To act as a leader of the local community by showing vision and foresight.

(g) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs.
- (ii) To provide community leadership and promote active citizenship.
- (iii) To promote and support open and transparent government.

- (iv) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (v) To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

23.4.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership.

23.5 **Chair of the Council Role Description Also suitable for Mayor⁷ and Presiding Member**

23.5.1 Accountabilities

Full Council.

23.5.2 Role Purpose and Activity

- (a) *Acting as a symbol of the Council's democratic authority*
 - (i) As the ceremonial head of the Council, to be non-political and uphold the democratic values of the Council.
 - (ii) To represent the Council at civic and ceremonial functions.
- (b) *Chairing Council Meetings*
 - (i) To preside over meetings of the Council, so that its business can be carried out efficiently.
 - (ii) To ensure the Council conducts its meetings in line with the Council's Standing Orders.

⁷ This Role Description describes the duties of the Chair or Presiding Officer of the Full Council or the Mayor in presiding over Council Meetings. It does not provide the detail of the wider ambassadorial or ceremonial responsibilities required of the Mayor.

(c) *Upholding and Promoting the Council's Constitution*

To ensure the Constitution is adhered to and, if necessary, to rule on the interpretation of the Constitution.

(d) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs.
- (ii) To provide community leadership and promote active citizenship.
- (iii) To promote and support open and transparent government.
- (iv) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (v) To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

(e) *Work Programming*

To prepare and manage an annual work programme for the Council to meet its legal obligations (eg setting the budget and the Council Tax and making appointments).

23.5.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.6 **Vice Chair**

23.6.1 To fulfil the duties of the Chair in his or her absence.

23.6.2 To assist the Chair in specific duties as required.

23.7 **Chair of Democratic Services Committee Role Description**

23.7.1 Accountabilities

To Full Council.

23.7.2 Role Purpose and Activity

(a) *Providing Leadership and Direction*

- (i) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (ii) To lead the committee in its role in:
 - (A) designating the Head of Democratic Services;
 - (B) keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
 - (C) make annual reports to the full council in relation to the above;
 - (D) appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;
 - (E) considering reports prepared by the Head of Democratic Services;
 - (F) developing the Authority's member support and development strategy;
 - (G) ensuring that members have access to a reasonable level of training and development as described in the Authority's member development strategy and the Wales Charter for Member Support and Development;
 - (H) ensuring that the budget for member development is sufficient;
 - (I) ensuring that members have access to personal development planning and annual personal development reviews;
 - (J) work with the member support and development champion where relevant to promote the role of members and necessary support and development.
- (iii) To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.

(b) *Promoting the Role of the Democratic Services Committee*

- (i) To act as an ambassador for the DS committee, facilitating understanding of the role.
- (ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- (iii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings.

(c) *Internal Governance, Ethical Standards and Relationships*

- (i) To develop the standing and integrity of the committee and its decision making.
- (ii) To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.
- (iii) To promote and support good governance by the Council.

23.7.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

23.8 **Member of a Democratic Services Committee Role Description**

23.8.1 Accountabilities

- (a) To Full Council.
- (b) To the Chair of the Democratic Services Committee.

23.8.2 Role Purpose and Activity

(a) *Understanding the Nature of the Audit Committee:*

- (i) To be aware of and effectively undertake the role of the committee in:
 - (A) designating the Head of Democratic Services;
 - (B) keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
 - (C) make annual reports to the full council in relation to the above;
 - (D) appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;

- (E) considering reports prepared by the Head of Democratic Services;
 - (F) developing the Authority's member support and development strategy;
 - (G) ensuring that members have access to a reasonable level of training and development as described in the member development strategy and the Wales Charter for Member Support and Development;
 - (H) ensuring that the budget for member development is sufficient;
 - (I) ensuring that members have access to personal development planning and annual personal development reviews.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (d) *Participating in Meetings and Making Decisions*
- (i) To participate effectively in meetings of the Democratic Services Committee.
 - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (e) *Internal Governance, Ethical Standards and Relationships*
- (i) To ensure the integrity of the committee's decision making and of his/ her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
 - (ii) To promote and support good governance by the Council.
 - (iii) To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.

23.8.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;

- (e) appreciation of cultural difference;
- (f) sustainability.

23.9 **Chair of a Regulatory Committee Role Description**

23.9.1 Accountabilities

- (a) To Full Council.
- (b) To the members of the regulatory committee.

23.9.2 Role Purpose and Activity

(a) *Providing Leadership and Direction*

- (i) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (ii) To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
- (iii) To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- (iv) To delegate actions to sub committees as appropriate

(b) *Promoting the Role of the Regulatory Committee and Quasi-Judicial Decision Making*

- (i) To act as an ambassador for the regulatory committee, facilitating understanding of the role.
- (ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- (iii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in individual cases/applications before formal committee meetings.

(c) *Internal Governance, Ethical Standards and Relationships*

- (i) To develop the standing and integrity of the committee and its decision making.
- (ii) To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.
- (iii) To promote and support good governance by the Council.

23.9.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

23.10 **Member of a Regulatory Committee Role Description**

23.10.1 Accountabilities

- (a) To Full Council.
- (b) To the Chair of the regulatory committee.

23.10.2 Role Purpose and Activity

- (a) *Understanding the Nature of the Regulatory Committee and Quasi-Judicial Decision Making*
 - (i) To be aware of the quasi-judicial nature of regulatory committee decision making.
 - (ii) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
 - (iii) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and individual cases/applications before the committee.
- (b) *Participating in Meetings and Making Decisions*
 - (i) To participate effectively in meetings of the regulatory committee, ensuring that both local considerations and policy recommendations are balanced to contribute to effective decision making.
 - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (c) *Internal Governance, Ethical Standards and Relationships*
 - (i) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.

- (ii) To promote and support good governance by the Council.
- (iii) To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.

23.10.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.11 **Chair of Standards Committee Role Description**

23.11.1 Accountabilities

To Full Council.

23.11.2 Role Purpose and Activity

(a) *Providing Leadership and Direction*

- (i) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- (ii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice on the Code of Conduct.
- (iii) To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- (iv) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (v) To lead the committee in its role in:
 - (A) promoting and maintaining high standards of conduct by Councillors and co-opted members;
 - (B) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;

- (C) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (D) monitoring the operation of the Members' Code of Conduct;
- (E) advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
- (F) granting dispensations to Councillors and co-opted members on dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales;
- (G) the exercise of these functions in relation to community councils and the members of those community councils.

23.11.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

23.12 **Member of a Standards Committee Role Description**

23.12.1 Accountabilities

- (a) To Full Council.
- (b) To the Chair of the Standards Committee.

23.12.2 Role Purpose and Activity

- (a) Understanding the nature of the Standards committee and effectively fulfilling its functions by:
 - (i) promoting and maintaining high standards of conduct by Councillors and co-opted members;
 - (ii) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;

- (iii) advising the Council on the adoption or revision of the Members' Code of Conduct;
 - (iv) monitoring the operation of the Members' Code of Conduct;
 - (v) advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
 - (vi) granting dispensations to Councillors and co-opted members on dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (d) *Participating in Meetings and Making Decisions*
- (i) To participate effectively in meetings of the Standards committee.
 - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (e) *Internal Governance, Ethical Standards and Relationships*
- (i) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
 - (ii) To promote and support good governance by the Council.
 - (iii) To understand the respective roles of members, officers and external parties operating within the Standards committee's area of responsibility.

23.12.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.13 **Chair of Audit Committee Role Description**

23.13.1 Accountabilities

To Full Council.

23.13.2 Role Purpose and Activity

(a) *Providing Leadership and Direction*

- (i) To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- (ii) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (iii) To agree the agendas for Audit Committee meetings .
- (iv) To lead the committee in its role in:
 - (A) reviewing and scrutinising the authority's financial affairs;
 - (B) making reports and recommendations in relation to the authority's financial affairs;
 - (C) reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;
 - (D) making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
 - (E) overseeing the authority's internal and external audit arrangements;
 - (F) reviewing the financial statements prepared by the authority and approving them when powers are delegated;
 - (G) developing relationships with internal and external auditors and the Authority's Monitoring Officer;
 - (H) developing a forward work programme designed to deliver the audit committees functions;
 - (I) reviewing and self-assessing the performance of the Committee and its members.

(b) *Promoting the Role of the Audit Committee*

- (i) To act as an ambassador for the audit committee, facilitating understanding of the role.
- (ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.

- (iii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in the audit process.

(c) *Internal Governance, Ethical Standards and Relationships*

- (i) Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
- (ii) To develop the standing and integrity of the committee and its decision making.
- (iii) To understand the respective roles of members, officers and external parties operating within the audit committee's area of responsibility.
- (iv) To promote and support good governance by the Council.

23.13.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

23.14 **Member of an Audit Committee Role Description**

23.14.1 Accountabilities

- (a) To Full Council.
- (b) To the Chair of the Audit Committee.

23.14.2 Role Purpose and Activity

- (a) Understanding the role of the Audit Committee and undertaking its functions:
 - (i) reviewing and scrutinising the authority's financial affairs;
 - (ii) making reports and recommendations in relation to the authority's financial affairs;

- (iii) reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;
 - (iv) making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
 - (v) overseeing the authority's internal and external audit arrangements;
 - (vi) reviewing the financial statements prepared by the authority.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (d) *Participating in Meetings and Making Decisions*
- (i) To participate effectively in meetings of the audit committee; questioning and seeking clarification on matters falling within the committee's remit.
 - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (e) *Internal Governance, Ethical Standards and Relationships*
- (i) Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
 - (ii) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
 - (iii) To promote and support good governance by the Council.
 - (iv) To understand the respective roles of members, officers and external parties operating within the audit committee's area of responsibility.

23.14.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;

- (e) appreciation of cultural difference;
- (f) sustainability.

23.15 **Overview and Scrutiny Chair Role Description**

23.15.1 Accountabilities

- (a) Full Council.
- (b) The Public.

23.15.2 Role Purpose and Activity

(a) *Providing Leadership and Direction*

- (i) To provide confident and effective management of the member team.
- (ii) To promote the role of overview and scrutiny within and outside the council, liaising effectively both internally within the council and externally with the Council's partners.
- (iii) To demonstrate an objective and evidence based approach to overview and scrutiny.
- (iv) To evaluate the impact and added value of overview and scrutiny activity and identify areas for improvement.

(b) *Managing the Work Programme*

- (i) To develop a balanced work programme of the committee which includes pre decision scrutiny, policy development and review, investigative scrutiny, and holding the executive to account including performance monitoring.
- (ii) To ensure the programme takes account of relevant factors such as: the work programmes of the executive and other committees, strategic priorities and risks, and relevant community issues.
- (iii) To ensure that the work programme is delivered.
- (iv) To report on progress against the work programme to Council, and others as appropriate.
- (v) To liaise with officers, other members and community representatives to resource and deliver the work programme.

(c) *Effective Meeting Management*

- (i) To set agendas containing clear objectives and outcomes for the meeting.

- (ii) To manage the progress of business at meetings, ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to.
 - (iii) To ensure that the necessary preparation is done beforehand To ensure that all participants have an opportunity to make an appropriate contribution.
- (d) *Community Leadership*
- (i) To act as a focus for liaison between the council, community and external bodies in relation to the scrutiny function.
 - (ii) To build understanding and ownership of the overview and scrutiny function within the community.
 - (iii) To identify relevant community based issues for scrutiny.
 - (iv) To promote the full involvement of external stakeholders for example, service users expert witnesses and partners in scrutiny activity.
- (e) *Involvement and Development of Committee Members*
- (i) To encourage effective contributions from all committee members in both committee and task and finish groups.
 - (ii) To assess individual and collective performance within the committee and facilitate appropriate development.
 - (iii) To champion the importance of learning and development.

23.15.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.16 **Overview and Scrutiny Member Role Description**

23.16.1 Accountabilities

- (a) Chair of the appropriate [Overview and Scrutiny Committee] [*add other arrangements*].

- (b) Full Council.
- (c) The public.

23.16.2 Role Purpose and Activity

To participate fully in the activities of the [Overview and Scrutiny Committee] [add other arrangements], the development and delivery of its work programme and any associated task and finish groups.

(a) *Reviewing and Developing Policy*

- (i) To assist in the creation, development, improvement and refinement of council policy.
- (ii) To challenge policies on a sound basis of evidence for example against legislation or local political priority.
- (iii) To assess impact of existing policy.

(b) *Holding the Executive to Account, Monitoring Performance and Service Delivery*

- (i) To monitor the performance of internal and external providers against standards and targets including questioning of executive and senior officers over time.
- (ii) To contribute to the identification and mitigation of risk.
- (iii) To investigate and address the causes of poor performance.
- (iv) To evaluate the validity of executive decisions and challenging decisions through call in where appropriate.

(c) *Promoting the Work of Overview and Scrutiny*

- (i) To promote the role of overview and scrutiny within and outside the council, developing effective internal and external relationships.
- (ii) To demonstrate an objective and evidence based approach to overview and scrutiny.
- (iii) To add value to the decision making and service provision of the authority through effective scrutiny.

(d) *Community Leadership*

- (i) To use scrutiny as a means to address community issues and engage the public.
- (ii) To encourage stakeholders to participate in the work of the authority
To develop locally viable and acceptable policy solutions.
- (iii) To build a dialogue around priorities, objectives and performance, among communities and stakeholders.

(e) *Meeting Participation*

- (i) To make adequate and appropriate preparation for meetings through research and briefings.
- (ii) To participate in a proactive, informed and effective manner taking account of the Code of Conduct, Standing Orders and other constitutional requirements.

23.16.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

23.17 **Leader of the Opposition Role Description**

23.17.1 Accountabilities

To the nominating group within the constitution.

23.17.2 Role Purpose and Activity

(a) *Providing Political Leadership for an Opposition Group*

- (i) To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition.
- (ii) To provide leadership in the constructive challenge of the Council's policies.
- (iii) To constructively challenge the vision for the Council and community where appropriate.
- (iv) To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery.

(b) *Representing the Authority's Opposition*

- (i) To represent the Opposition Group to a high standard; providing a strong, competent and eloquent figure to represent the opposition within the Authority.
- (ii) To represent the Council on external bodies.

(c) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs.
- (ii) To provide community leadership and promote active citizenship.
- (iii) To promote and support open and transparent government.
- (iv) To promote, support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (v) To promote, support and adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

23.17.3 Values

To be committed to and demonstrate the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership;
- (h) consensus building.

23.18 **Role of the Deputy Leader of the Opposition**

23.18.1 To fulfil the duties of the Leader in his or her absence.

23.18.2 To assist the Leader in specific duties as required.

23.19 **Member Champion Purpose and Role**

23.19.1 What are Member Champions?

- (a) Member Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of council business although they may not be the responsibility of any individual or committee.
- (b) Member Champions, (sometimes called lead members) are elected members who in addition to their other council responsibilities make sure that the issue or group that they are championing are taken into account when council policy is being developed and decisions are made. Members

act as champions in areas such as children, homelessness, equalities, older people, young people, scrutiny, member support and development, health improvement and anti-poverty. There is a statutory role for a lead member of children's and young people's services with a responsibility for over-seeing the arrangements made under sections 25 and 26 of the 2004 Children Act.

- (c) Guidance on undertaking the role with regard to the subject knowledge that members need is sometimes available from the outside bodies associated with the issue being championed for example the toolkit for older peoples' champions from the LGA. Otherwise they will be reliant on their authority for guidance in the subject they lead on and also their role as lead member in this area.

23.19.2 What do they do?

Typically, the lead member will:

- (a) make sure that their area of interest is taken into account when developing policy or making decisions;
- (b) ask questions about performance and resourcing for the area;
- (c) raise the profile of the area and make the authority aware of good practice;
- (d) engage with external bodies who work in the area;
- (e) engage with other officers and members in relation to the role;
- (f) engage with community groups with an interest/stake in the area;
- (g) report action to the council.

23.19.3 How does their role fit within the Corporate Structure?

- (a) This will vary according to the area/issue that is being championed and how the authority functions. There is potential for confusion and overlap between the role of the member champion and those of the relevant executive member or overview and scrutiny members. The champion role itself could be undertaken by either the relevant executive member or a non-executive member.
- (b) It is therefore important that members and officers work together to agree roles and action for the area being championed and that there are mechanisms for lead members to report on their activities. It is helpful for the authority to draft a protocol which sets out what powers champions have and do not have, such as whether or not they are able to make decisions on behalf of the authority. Similarly, the appointment of champions varies between authorities, and includes appointments being made by full council meetings or by the leader.

23.19.4 The Role Description

It is difficult to create a role description that fits with the different roles expected of champions and how they operate in the different authorities' structures. The

following is a generic model which will require local adaptation, particularly to reflect the difference that may exist between a statutory role, one undertaken by an executive member and a non-executive lead.

23.20 **Member Champion Role Description**

23.20.1 Accountabilities

To Full Council.

23.20.2 Role Purpose and Activities

(a) *Within the Council*

- (i) To promote the interest being championed within the Council's corporate and service priorities.
- (ii) To promote the needs of the client group represented in the interest to the decision makers within the council.
- (iii) To work with the decision makers in the Council to establish strategies/ policies/work plans connected with the interest.
- (iv) To maintain an awareness of all matters connected with the interest.
- (v) To contribute to good practice and the continuous improvement of services and functions related to the interest.
- (vi) To engage with members in matters related to the interest such as attending Overview and Scrutiny/Cabinet /Full Council meetings etc.
- (vii) Raising awareness of and taking a lead role in the development of all members and officers in relation to the interest.

(b) *In the Community*

- (i) To raise the profile of the interest in the community.
- (ii) To engage with citizens and community groups in matters related to the interest.
- (iii) To lead and support local initiatives related to the interest.

23.20.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;

- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership.

23.21 **Elected Member Person Specification**

To fulfil his or her role as laid out in the role description, an effective member requires the following:

23.21.1 **Representing and Supporting Communities**

- (a) Good advocacy skills.
- (b) Interpersonal skills.
- (c) Integrity and the ability to set aside own views and act impartially.
- (d) The ability to present relevant and well-reasoned arguments.
- (e) Good communication skills.

23.21.2 **Making Decisions and Overseeing Council Performance**

- (a) Knowledge and understanding of meetings law, rules and conventions.
- (b) An understanding of strategic, policy and service contexts for decisions.
- (c) The ability to challenge ideas and contribute positively to policy development.

23.21.3 **Representing the Council (Subject to Appointment)**

- (a) Good public speaking skills.
- (b) Good presentation skills.
- (c) The ability to persuade others and act with integrity.

23.21.4 **Internal Governance, Ethical Standards and Relationships**

- (a) An understanding of the roles of officers, members and different agencies.
- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

23.21.5 **Personal and Role Development**

- (a) An ability to assess personal and role development needs.
- (b) Desire and skills to participate in development.

23.22 Leader Person Specification

To fulfil his or her role as laid out in the role description, an effective leader requires:

23.22.1 Providing Political Leadership to the Council

- (a) Knowledge of community strengths, areas of improvement and key issues.
- (b) An understanding of the relationship between national and local politics.
- (c) Have a good strategic awareness of issues facing the Council.
- (d) An understanding of the Council's strategy, policies and operations.

23.22.2 Appointing the Cabinet*

- (a) An understanding of the rules for the appointment of Cabinet Members.
- (b) An ability to recognise talent amongst members.
- (c) An ability to negotiate the most advantageous appointments within and across political groups.
- (d) To appraise, guide and mentor senior members.

23.22.3 Representing and Acting as Ambassador for the Authority

- (a) High level communication skills to communicate to the media, local community and wider audience.
- (b) Good public speaking skills.

23.22.4 Providing Leadership within the Portfolio

The skills necessary for a cabinet member to fulfil their role.

23.22.5 Managing and Leading the work of the Cabinet and Chairing Meetings of the Cabinet

- (a) An understanding of the Cabinet procedure rules.
- (b) Skills to Chair meetings, including encouraging participation from all members.
- (c) A knowledge and understanding of national policy objectives.
- (d) An overview of the work being carried out by cabinet members.

23.22.6 Participating in the Collective Decision Making of the Cabinet

The ability to constructively challenge decisions and suggest alternatives.

23.22.7 Working with Officers to Lead the Organisation

An understanding of the roles and responsibilities of the Chief Executive and other officers.

23.22.8 Leading Partnerships and Community Leadership

- (a) Adaptive leadership skills.
- (b) Negotiation and brokerage skills.
- (c) Creative and lateral thinking skills; the ability to see ahead and be predictive.

23.22.9 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies.
- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

23.23 **Cabinet Member Person Specification**

To fulfil his or her role as laid out in the role description, an effective Cabinet Member requires:

23.23.1 Portfolio Leadership

- (a) An understanding of the Council's strategy, policies and operations.
- (b) Leadership skills.

23.23.2 Contributing to the setting of the Strategic Agenda and Work Programme for the Portfolio

- (a) The ability to present to others.
- (b) The ability to exercise strategic awareness and judgement.
- (c) Knowledge of relevant issues and who to involve in decision making.
- (d) The ability to persuade others.
- (e) Knowledge of Council and national objectives.

23.23.3 Providing Representation for the Portfolio

- (a) Public speaking skills.
- (b) Good presentation skills.

23.23.4 Reporting as Appropriate

High level communication skills.

23.23.5 Taking an Active Part in Cabinet Meetings and Decisions

- (a) The ability to constructively challenge decisions and suggest alternatives.
- (b) The knowledge, confidence and ability to contribute to discussion and resolution of cross cutting and collective issues.

23.23.6 Leading Partnerships and Community Leadership

- (a) Adaptive leadership skills.
- (b) Negotiation and brokerage skills.
- (c) Creative and lateral thinking skills; the ability to see ahead and be predictive.

23.23.7 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies.
- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

23.24 **Chair of the Council Person Specification**

To fulfil his or her role as laid out in the role description, an effective member requires the following:

23.24.1 Acting as a Symbol of the Council's Democratic Authority

- (a) Good public speaking skills.
- (b) An in-depth understanding of role of Chair.

23.24.2 Chairing Council Meetings

- (a) Skills to chair meetings, to ensure business is carried out effectively and all those attending participate.
- (b) An understanding of the Council's Standing Orders.

23.24.3 Upholding and Promoting the Council's Constitution

- (a) An understanding of the Council's Constitution.
- (b) An understanding of when to seek the advice of the Monitoring Officer on issues relating to the Constitution.

23.24.4 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies.

- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

23.24.5 Work Programming

The ability and discipline to plan and manage work programmes.

23.25 **Chair of Regulatory Committee Person Specification**

To fulfil his or her role as set out in the role description, an effective regulatory committee chair requires:

23.25.1 Providing Leadership and Direction

- (a) Ability to conduct meetings to ensure that applicants feel that they have been dealt with fairly and fully even if their application is refused.
- (b) Understanding of the Council's role and ability to ensuring that stake holders are aware of that role.
- (c) Communication skills Knowledge of local issues.
- (d) Ability to manage the work of the committee.
- (e) Ability to support and develop necessary skills in fellow members of the committee.

23.25.2 Promoting the Role of the Regulatory Committee and Quasi-Judicial Decision Making

- (a) Understanding and appreciation of the regulatory framework.
- (b) Ability to inspire and enthuse committee members for the work of the committee.
- (c) Integrity and the ability to set aside own views and act impartially.
- (d) Knowledge and understanding of the relevant code(s) of conduct and protocols and the ability to champion them.

23.25.3 Internal Governance, Ethical Standards and Relationships

- (a) Knowledge and understanding of the Code of Conduct(s) and protocols.
- (b) Knowledge of and commitment to the values of the Council.

23.26 **Regulatory Committee Member Person Specification**

To fulfil his or her role as laid out in the role/job description, an effective member of a regulatory committee requires the following:

23.26.1 Understanding the Nature of the Regulatory Committee and Quasi-Judicial Decision Making

- (a) Integrity and the ability to set aside own views and act impartially.
- (b) Knowledge of law, policy and procedures for that regulatory/quasi-judicial area.
- (c) Maintenance of knowledge.
- (d) Objectivity and judgement.

23.26.2 Participating in Meetings and Making Decisions

- (a) Ability to listen and to consider and respect the views of other contributors.
- (b) Good public speaking skills.
- (c) Good advocacy skills.

23.26.3 Internal Governance, Ethical Standards and Relationships

- (a) Knowledge and understanding of the Code of Conduct(s) and protocols.
- (b) Knowledge of and a commitment to the values of the Council.

23.27 Scrutiny Chair Person Specification

To fulfil his or her role laid out in the role description an effective Scrutiny Chair requires:

23.27.1 Providing Leadership and Direction

- (a) Understanding of council role and functions.
- (b) Understanding of role of scrutiny, terms of reference for the committee, role of chair, and other aspects of the democratic arrangements.
- (c) Understanding of member support functions Understanding of council priorities and risks Ability to develop work programmes.
- (d) Understanding of community issues.
- (e) Objectivity.
- (f) Negotiation and consensus building.
- (g) Ability to build constructive and 'critical friend' relationships with the Executive.

23.27.2 Managing the Work Programme

- (a) Ability to manage projects and resources.
- (b) Ability to manage people.
- (c) Ability to prioritise.

- (d) Ability to report progress to different groups in different styles.

23.27.3 Effective Meeting Management

- (a) Understanding and application of meeting protocols, code of conduct, standing orders and other constitutional requirements.
- (b) Ability to chair meetings effectively, managing the agenda and progressing business.
- (c) Ability to facilitate effective discussions.
- (d) Ability to listen and question effectively.

23.27.4 Community Leadership

- (a) Understanding of the community leadership role.
- (b) Knowledge of local issues and expectations.
- (c) Ability to work effectively with all members of the community and build understanding and ownership of scrutiny.
- (d) Knowledge of the individuals and organisations in the community especially those traditionally excluded.

23.27.5 Involving and Developing of Committee Members

- (a) Understanding of the role and skills of the scrutiny committee and its individuals.
- (b) Ability to support members and the committee in assessing their performance.
- (c) Ability to identify any training and development needs and Champion and participate in appropriate learning and development.

23.28 **Scrutiny Member Person Specification**

To fulfil his or her role as laid out in the role description, an effective scrutiny member requires:

23.28.1 Participating Fully in the Activities of the Scrutiny Function

- (a) Full understanding of the scrutiny remit and role, and terms of reference for their own committee and others.
- (b) Understanding of member support functions.
- (c) Willingness to work within the guidance of the chair.
- (d) Willingness to undertake training as necessary.

23.28.2 Reviewing and Developing Policy

- (a) Knowledge of and ability to evaluate existing policy.
- (b) Understanding of best practice.
- (c) Understanding of national and local legislative and policy context.

23.28.3 Monitoring Performance and Service Delivery and Holding the Executive to Account

- (a) Understanding of the Wales Programme for Improvement (WPI) and associated risk assessment arrangements.
- (b) Understanding of the principles and practice of performance management.
- (c) Understanding of council's performance management arrangements.
- (d) Ability to analyse data and challenge performance.
- (e) Understanding of arrangements for call in.

23.28.4 Promoting the Work of Scrutiny

- (a) Ability to negotiate and build consensus.
- (b) Ability to act objectively and on the basis of evidence.

23.28.5 Community Leadership

- (a) An understanding of the community leadership role.
- (b) Knowledge of local issues and expectations.
- (c) Ability to work effectively with all members of the community and build understanding and ownership of scrutiny.
- (d) Knowledge of the individuals and organisations in the community especially those traditionally excluded.

23.28.6 Meeting Participation

- (a) Ability to interpret information and data from a range of sources.
- (b) Understanding and application of meeting protocols, code of conduct, standing orders and other constitutional requirements.
- (c) Ability to participate in meetings including effective listening, questioning and speaking.

23.29 **Leader of the Opposition Person Specification**

To fulfil his or her role as laid out in the role description, an effective leader of the opposition requires:

23.29.1 In Providing Political Leadership for the Opposition Group

- (a) Knowledge of community strengths, areas of improvement and key issues.
- (b) An understanding of the relationship between national and local politics.
- (c) Have a good strategic awareness of issues facing the Council.
- (d) An understanding of the Council's strategy, policies and operations.
- (e) An ability to challenge different strategies, policies and operations.

23.29.2 In Representing the Authority's Opposition

- (a) High level communication skills to communicate to the media, local community and wider audience.
- (b) Good public speaking skills.
- (c) Creative and lateral thinking skills; the ability to see ahead and be foresighted.
- (d) Leadership skills.

23.29.3 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies
Respect for, and willingness to work with, different groups and individuals.
- (b) A thorough knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (c) A knowledge of and commitment to the values of the Council.

23.30 **Member Champion Person Specification**

23.30.1 Within the Council

- (a) Understanding of the area of interest being championed in terms of council strategies and policy, good practice, improvement and national agendas and the needs of the client group.
- (b) Ability to engage with a range of members and officers around the area of interest and listening to requirements.
- (c) Ability to advocate on behalf of the area of interest within the council.

23.30.2 In the Community

- (a) Understanding of the needs of the community in relation to the interest
- (b) Ability to engage with citizens and community groups in matters related to the interest.
- (c) Ability to lead and support local initiatives related to the interest.

- (d) Ability to represent the position of the council to the community in relation to the interest.