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Date: 12th November 2014

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Dear Sir/Madam,

A meeting of **Council** will be held in the **Council Chamber, Penallta House, Tredomen, Ystrad Mynach** on **Tuesday, 18th November, 2014** at **5.00 pm** to consider the matters contained in the following agenda.

Yours faithfully,

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

Chris Burns
INTERIM CHIEF EXECUTIVE

AGENDA

- 1 To receive apologies for absence.
- 2 Mayor's Announcements.
- 3 Presentation of Awards.
- 4 Declarations of interest.

A greener place Man gwyrddach



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

To approve and sign the following minutes: -

5 Special Council held on 29th September 2014 (minute nos. 1 - 7)

6 Council held on 7th October 2014 (minute nos. 1 - 15).

To receive and consider the following report from the meeting of Cabinet held on 12th November 2014

7 Draft Whistleblowing Policy - 12th November 2014

To receive and consider the following reports: -

8 Welsh Government Invitation to Local Authorities to Submit Proposals for Voluntary Merger

9 Interim Corporate Management Team and Governance Arrangements.

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

Circulation:

All Members And Appropriate Officers



SPECIAL COUNCIL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON MONDAY, 29TH SEPTEMBER 2014 AT 5.00 P.M.

PRESENT:

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

Councillors:

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

Together with:-

C. Burns (Interim Chief Executive), S. Aspinall (Acting Deputy Chief Executive), N. Scammell (Acting Director of Corporate Services), G. Williams (Interim Head of Legal Services and Monitoring Officer), S. Harris (Acting Head of Corporate Finance), A. Southcombe (Finance Manager (Corporate Finance)), H. Morgan (Senior Committee Services Officer)

1. APOLOGIES

Apologies for absence were received from Councillors M. Adams, A.P. Angel, D. Bolter, N. Dix, C. Durham, Mrs P. Griffiths, A. Rees, D. Rees, Mrs M.E. Sargent, Mrs E. Stenner, Mrs. J. Summers and J. Taylor.

2. INTERIM CHIEF EXECUTIVE

Members took the opportunity to welcome Chris Burns to his first meeting of Council and, in recognising the significant challenge ahead, committed to work with him going forward.

They then took the opportunity to pay tribute to the former Interim Chief Executive, Stuart Rosser, and recognised his valued advice, support, guidance and professionalism during his term of office and formally acknowledged his outstanding contribution over the past year.

3. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

REPORTS OF OFFICERS

Consideration was given to the following reports.

4. REFORMING LOCAL GOVERNMENT - WELSH GOVERNMENT RESPONSE TO "WILLIAMS COMMISSION REPORT" AND THE INVITATION FOR VOLUNTARY MERGERS

Consideration was given to the report which advised of the recently published Welsh Government response to the Williams Commission report (Commission on Public Service Governance and Delivery) and the recently issued invitation to submit expressions of interest for voluntary mergers, and provided an opportunity for Members to consider how the Council wishes to respond.

It was explained that Welsh Government has recently published two separate but parallel documents setting out its response to the Williams Commission report. One of these reports is in the form of a Cabinet white paper specifically relating to local government issues and there is an opportunity for the Council to offer comment on this by 1st October 2014. Alongside this the WLGA has recently published a related discussion paper regarding the possible creation of four combined authorities for Wales to provide regional services. In the past week WG has also published a prospectus inviting authorities to consider applying to undertake voluntary mergers two years ahead of the previously published schedule, so that the new councils would come into being in April 2018.

The Interim Chief Executive referred to the key issues that arise from the documents and in particular the proposal for Caerphilly to merge with Blaenau Gwent and Torfaen Councils. He advised that there is no robust business case for the proposed mergers (including realistic costs, benefits and funding proposals) and there is considerable uncertainty as to what might be the cost of a wholesale reorganisation, and the likely savings which might result. In noting that there is no natural community identity, reference was also made to the major differences in the way the three authorities provide some key services and the extent of the harmonisation which would be required (e.g. differential in Council Tax levels, the living wage, housing stock (Caerphilly being the only one that has retained its housing stock), both of the other authorities have adopted a Trust deliver model for the provision of leisure services, integration of school funding formulas, different IT systems).

With regards to the WLGA Discussion Paper on Combined Authorities, at their meeting on 3rd September, Cabinet Members welcomed the paper as a meaningful contribution to the broader debate on local authority mergers but felt that Council could not offer a meaningful view on the proposal at this time without more information and clarity. The prospect of a combined authority for certain services (e.g. planning and transportation) may be appropriate but the wider scale approach (particularly as an alternative to the white paper proposals) needs considerable thought and debate before a definitive view can be offered.

Reference was then made to the recently published prospectus for authorities to submit proposals for voluntary merger two years ahead of the schedule for reorganisation in 2020. Expressions of Interest have to be lodged with the Welsh Government by the 28th November 2014 and these have to give an outline of the 'vision' for the new authority, setting out ambitions for community leadership and improving services. It has to deal with capacity and accountability issues, any transition issues, opportunities for sharing services, an assessment of what support would be needed to help with the process and evidence of engagement with the public, local communities, community councils and partner organisations. In that the

document has just been released, further discussion will be required as to how this proposal should be taken forward.

During the course of the ensuing discussion, Members expressed their concerns regarding the merger proposals for Caerphilly and, as recommended by Cabinet at its meeting on 3rd September, reiterated their desire that Caerphilly CBC should remain as a stand-alone authority.

In noting the far-reaching and significant implications for the future configuration of local authorities and the way in which services are provided it was moved and seconded that the recommendations contained within the report be approved. By show of hands this was unanimously agreed.

RESOLVED that:-

- (i) for the reasons outlined in the report, the recommendation of Cabinet, as expressed in their meeting of the 3rd September 2014, that Caerphilly County Borough Council does not support the idea of a merged authority covering Caerphilly, Blaenau Gwent and Torfaen be endorsed;
- (ii) the invitation to submit bids for voluntary mergers be noted;
- (iii) the receipt of the WLGA discussion paper on options regarding regionalisation of some services be noted.

5. PROVISIONAL OUTTURN FOR 2013/14

The report, which provided details of the provisional outturn for the 2013/14 financial year prior to the annual audit by the Authority's External Auditors PricewaterhouseCoopers, was considered by Cabinet on 30th July 2014. It also sought approval for the use of General Fund Balances to meet costs of £300k in relation to remedial works arising from the closure of the A469, and £735k in respect of the remaining matched funding requirement for the £52m 21st Century School Programme. In endorsing its content Cabinet recommended its acceptance by Council.

The Acting Director to Corporate Services and Section 151 Officer, responded to a number of issues raised during the course of the debate in relation to the A469 (remedial works which will be undertaken over a two year period), the underspend on the recoupment budget (due to less out of county placements) and the underspend in Trading Standards (which has not affected statutory duties).

Members considered the report in detail and it was proposed and seconded that the recommendations from Cabinet as outlined in the report be endorsed. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons contained in the report the following recommendations from Cabinet be adopted:-

- (i) the provisional 2013/14 outturn position be noted;
- (ii) funding of £1.035m be utilised from the General Fund, to meet the requirements set out in paragraph 4.7 of the report.

6. ADJOURNMENT

At 5.40 p.m. the meeting was adjourned to give Members the opportunity to consider the revised Statement of Accounts and a summary of the changes that have been made to the Statement since it had been sent to Members. These were tabled at the meeting.

At 5.55 p.m. the meeting was reconvened.

7. FINANCIAL ACCOUNTS 2013/14

Consideration was given to the report tabled at the meeting which presented the latest version of the 2013/14 Statement of Accounts, issues that need to be resolved to conclude the audit of the accounts, details of uncorrected misstatements as reported by the Council's External Auditor (PricewaterhouseCoopers (PwC)) in their ISA 260 Report to the Audit Committee on the 10th September 2014 and a summary of the changes that have been made to the Statement since it had been sent to Members.

Mrs Scammell apologised for the lateness of the report and advised of the requirement to have the document signed off by 30th September 2014. It was noted that the delay had been due to outstanding issues and adjustments that were required before the final accounts could be presented. These issues relate to the valuation of fixed assets and are accounting entries to ensure that the fair value of assets are reflected in the accounts. They have no impact on cash balances or the financial standing of the Authority. For ease of reference, a summary of the changes that have been made to the Statement as a consequence of finalising the fixed asset valuations was tabled at the meeting.

Members were referred to the uncorrected misstatements highlighted in PwC's ISA 260 Report, as detailed in Section 4.4 of the Officers report and considered the recommendations in relation to four items raised (the adjustment to the aftercare costs of the Trehir Landfill site (the Authority's provision for both revenue and one-off costs is considered adequate to meet future and ongoing requirements), the share of the assets and liabilities and the financial results in joint operations (arrangements are ongoing - the Authority does not have access to these reserves in the short term), property valuations for all indexation movements in the year (adjustment not considered to be necessary on the grounds of materiality) and provision for non-payment of sundry debtors (adjustment not considered to be necessary on the grounds of materiality).

Members were advised that the Council cannot realistically change anything in the Financial Accounts, as any changes need Audit approval. Therefore the document is basically for information only. She advised that whilst the Auditors still had to agree the Authority's adjustments made to assets, as reported to Audit Committee, these were not cash backed adjustments and there would be no effect on General Fund balances

Following consideration and discussion, it was moved and seconded that the recommendations within the report be approved. By a show of hands (and in noting that there were four abstentions) these were agreed by the majority present.

RESOLVED that: -

- (i) arrangements set out in the report to approve the final audited 2013/14 Statement of Accounts be agreed;
- (ii) the recommendations made by the Acting Director of Corporate Services and Section 151 Officer in relation to the uncorrected misstatements as detailed in paragraph 4.4 of the report be agreed:

- (iii) the final audited 2013/14 Statement of Accounts, which was tabled at the meeting be approved.

Members expressed their appreciation and thanks to the Acting Director of Corporate Services and the Finance Team for all their hard work in the preparation of the Financial Statements 2013/14

The meeting closed at 6.10 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 7th October 2014 they were signed by the Mayor.

MAYOR

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COUNCIL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON TUESDAY, 7TH OCTOBER 2014 AT 5.00PM

PRESENT:

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

Councillors:

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

Together with:-

C. Burns (Interim Chief Executive), S. Aspinall (Acting Deputy Chief Executive), D. Street (Director of Social Services), G. Williams (Interim Head of Legal Services and Monitoring Officer), A. Price (Interim Deputy Monitoring Officer), G. Hardacre (Head of Human Resources and Organisational Development), J. Jones (Democratic Service Manager), R. Kyte (Team Leader Strategic and Development Planning), R. Roberts (Performance Manager) and R. Barrett (Committee Services Officer).

1. APOLOGIES

Apologies for absence were received from Councillors D. Bolter, K. Dawson, N. Dix, D.M. Gray, G.J. Hughes, K. James, Ms P. Leonard, Mrs G. Oliver and D.W.R. Preece.

2. MAYOR'S ANNOUNCEMENTS

The Mayor referred to the many events and visits that he and the Deputy Mayor have undertaken since the last meeting. Reference was made to the Gwent Best Kept Village Competition, the judging criteria of which includes evidence of pupils' enjoyment, understanding of and participation in their environment. The Mayor was pleased to inform Members that Markham Primary School were the winners of the 2014 competition within the Schools Category, with Pengam Primary School and Fleur de Lys Primary School gaining 2nd and 3rd place respectively.

Members extended their congratulations to all three schools on their achievement and hard work.

3. WELSH HERITAGE SCHOOLS INITIATIVE AWARD

Members were advised that Tyn y Wern Primary School have won the Welsh Heritage Schools Initiative award, with a prize of £1000. This initiative aims to encourage young people to take a greater interest in their local history and the contributions made by their families and friends. Pupils in Years 5 and 6, led by History Co-ordinator Caroline ap Hywel, set up the 'Trench Detectives' research project to commemorate the centenary of the outbreak of the First World War. The project was so successful that it is now on public display at the Winding House Museum in New Tredegar, as part of a wider exhibition depicting World War One. Members were informed that this is the fifth consecutive year that Tyn y Wern Primary have won an award for extra-curricular work.

The Headteacher, Mr. S. Noel, Mrs ap Hywel and the winning team of pupils came forward to receive their award from the Mayor, and in recognition of their accomplishment, Members wished to place on record their appreciation to all those involved in achieving the award.

4. DECLARATIONS OF INTEREST

Mr Burns, Interim Chief Executive, advised that with regards to Agenda Item 9 (Workforce Flexibilities), the proposals affect all staff employed within the Authority, including those Officers present at the meeting. As the decision was in relation to the proposed implementation of policies there would be no requirement for individual Officers present to leave the meeting during the discussion of the item – however, the personal interests of Officers should be duly noted in the minutes.

The Interim Chief Executive also made reference to Agenda Item 14 – (Standing Orders) (Wales) (Amendment) Regulations 2014 – Changes to the Council's Constitution. Mr Burns advised that although the Head of Paid Service, Monitoring Officer and Chief Finance Officer are covered by these Regulations, these amendments related to the new legal requirement to also extend statutory legal protections to the Head of Democratic Services and subsequently there was no requirement for these Officers to declare an interest or leave the meeting during consideration of this item.

During the course of the meeting, a declaration of interest was also received from Councillor L. Binding and is detailed with the respective item.

5. LEADER'S ANNOUNCEMENT

The Leader of Council, Councillor K.V. Reynolds, referred to the ongoing legal proceedings involving the Chief Executive, Deputy Chief Executive and Head of Legal Services, who appeared at Bristol Crown Court on Friday 3rd October 2014 for a plea hearing.

Unfortunately the proceedings were adjourned once again, with concerns expressed as to whether the 4-week trial period that was planned to commence on 5th January 2015 would provide sufficient time for the case to be heard. It was felt that a trial period of 5-6 weeks would be more appropriate and therefore the trial would be rescheduled for a later date. The next plea hearing has been scheduled for w/c 5th January 2015.

Councillor Reynolds informed Members that he intended to write to the Crown Prosecution Service to express his serious concerns about the financial impact to the Council caused by the deferral of the trial.

The Leader also made reference to the Council's voluntary referral of concerns to external auditors regarding the buy out of essential car and annual leave allowances. Avon and Somerset Police have confirmed that criminal charges will not be brought in respect of this matter.

6. COUNCIL - 22ND JULY 2014

RESOLVED that the following minutes be approved as a correct record and signed by the Mayor:-

Council held on 22nd July 2014 (minute nos. 1 - 16).

REPORTS REFERRED FROM CABINET

Consideration was given to the following reports referred from Cabinet.

7. ANNUAL PERFORMANCE REPORT 2013/14

Cabinet considered this report on 17th September 2104 and in endorsing its content recommended its acceptance by Council.

The Performance Report is a statutory requirement under the Local Government (Wales) Measure 2009 and an important part of the Council's Performance framework, with the Council required to assess its own performance and provide the public with a balanced picture of that performance. The report must show how the Council performed against the Improvement Objectives it set itself for 2013/2014.

Members were advised that 5 of the 6 Council Improvement Objectives had been delivered successfully and only one Improvement Objective (IO5 - Investment in Council Homes to transform lives and communities) had not delivered the whole of the planned outcome but that there was a reason for this in that it is a much longer-term objective than the others. The main setback had been the deferment of the environment projects until the latter end of the WHQS programme, which impacted on a number of the original planned actions. Whilst pages 20 and 21 of the draft report stated that approximately 65 of the homes had been assessed as fully compliant with WHQS, it had been explained to Cabinet that this figure had now increased to 108, which meant that the target had been exceeded. Arrangements would be made for this data to be updated prior to the final version of the Annual Performance Report 2013/14 being published.

During the course of the ensuing debate. Members made reference to the summary of performance against the National Strategic Indicators and Public Accountability Measures detailed in the report. Of the 44 indicators used to create the national picture, 30 improved upon the 2012/13 results, 3 maintained the maximum performance level of 100% and 11 declined. Sixteen of the indicators are in the "Upper Quarter" in Wales including 7 which are the best (1st) in Wales.

A query was raised in respect of the rate of delayed transfers of care for social care reasons (SCA001) and the Director of Social Services advised that staff were aware of a number of issues that were impacting on this indicator and that Officers are continuing to work with the relevant bodies on the discharge process.

Reference was made to the indicators listed in the "Lower Quarter" and Members sought reassurances in respect of the current financial climate relating to the Authority's Medium Term Financial Plan. The Director of Social Services advised that the final budget settlement for the Authority for 2015-16 would be announced shortly and thus he was unable to comment on the matter at the present time.

Queries were also received in respect of indicators relating to GCSE results performance (EDU017) and external qualifications for 16 year old looked after children (SCC037). The Acting Deputy Chief Executive advised that continual improvement had been demonstrated in these performance areas over the last 6/7 years, and explained that a number of examination papers had recently undergone successful re-marking, which should see a 5% increase in the L2 threshold. Members made reference to performance tables published in the media, and it was explained that such results were derived from a variety of factors, whereas the Authority use validated data to demonstrate performance in these areas.

A query was received in relation to the percentage of municipal waste sent to landfill (WMT004b) and the checks utilised by the Authority in relation to recycling targets. The Cabinet Member for Community and Leisure Services explained that areas of the county borough with lower recycling rates were currently being targeted in order to encourage improvement. A query was raised regarding the labeling of food packaging for recycling purposes and it was advised that this issue was being addressed at a national level.

Following consideration and discussion, it was moved and seconded that the recommendation from Cabinet as outlined in the report be endorsed. By a show of hands this was unanimously agreed.

RESOLVED that subject to the amendment to pages 20 and 21 of the document, for the reasons contained in the report the Annual Performance Report 2013/14 be accepted.

8. CAERPHILLY COUNTY BOROUGH LOCAL DEVELOPMENT PLAN (FIRST REVIEW) UP TO 2031 - POPULATION AND HOUSEHOLD GROWTH OPTIONS

During the course of the debate on this item, Councillor L. Binding declared an interest. In that it was personal (he lives adjacent to a housing development) and not prejudicial, he remained in the meeting and took part in the debate.

The report, which was presented to the Regeneration and Environment Scrutiny Committee on 16th September 2014 and Cabinet on 1st October 2014, detailed key assumptions that determine the future level of population and housing growth to be accommodated in the county borough through the first review of the Caerphilly County Borough Local Development Plan (LDP) up to 2031, in particular the level of births, deaths and net migration.

The report recommended the consideration of a number of Population and Household Growth Scenarios and that Scenario M be used as the preferred option and as a basis for the preparation of the Preferred Strategy, which will be considered by Council in early 2015.

Detailed discussion of the report ensued and Members raised a number of concerns in relation to land allocations, the location of housing developments within the county borough, and the impact of the LDP on planning applications. The Team Leader for Strategic and Development Planning confirmed that individual planning applications worked in partnership with LDP criteria and that there would be occasions where minor deviations from the Plan were anticipated. It was explained that the forthcoming Preferred Strategy would address these issues in greater detail.

Members referred to the land use implications detailed in Scenario M and the Officer confirmed that the examples of developments within the report had been provided in order to visualise the size of the 231 hectares of land required. Queries were raised as to how requirements involving transport and local infrastructure surrounding future housing developments would be met, particularly those anticipated for the long-term future. It was explained that this was a key consideration of the Preferred Strategy, entailing collaborative working with a number of agencies to ensure that such requirements would be fully serviced.

Concerns were also raised regarding the potential need to release greenfield sites detailed in the LDP and the protection of such areas within the county borough. It was advised that contrary to popular belief, greenfield sites did not always have more of an environmental impact than brown field sites and all existing land allocations would be revisited to ensure they were still appropriate to the Caerphilly County Borough Local Development Plan.

A query was raised in regards to the number of planning applications that had departed from the Local Development Plan since 2010. The Officer advised that there was no requirement to monitor such departures but that she would check the figures contained within the LDP Annual Monitoring Report and would advise the Member accordingly.

Members considered the report in detail and it was moved and seconded that the recommendations from Cabinet as outlined in the report be endorsed. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons set out in the Report :-

- (i) Population and Household Growth Scenarios A, B, E, H and M be subject to further consideration by stakeholders as part of the pre-deposit public consultation stage of the review process;
- (ii) Population and Household Growth Scenario M be used as the Preferred Growth Option and as a basis to underpin the Preferred Strategy for the Caerphilly County Borough Local Development Plan (First Review) up to 2031.

9. LOCAL DEVELOPMENT PLAN - ANNUAL MONITORING REPORT 2014

The report, which outlined the contents of the Caerphilly County Borough Local Development Plan 2014 Annual Monitoring Report (AMR) was considered by the Regeneration and Environment Scrutiny Committee on 16th September 2014 and Cabinet on 1st October 2014. The Annual Monitoring Report detailed a number of conclusions and established 3 key recommendations in relation to the Local Development Plan.

Following consideration and discussion, it was moved and seconded that the recommendation from Cabinet be approved. By a show of hands, this was agreed by the majority present.

RESOLVED that for the reasons set out in the report, the 2014 Annual Monitoring Report be submitted to the Welsh Government before the deadline of 31st October 2014.

10. WORKFORCE FLEXIBILITIES DISCRETIONS UNDER THE LOCAL GOVERNMENT PENSION SCHEME 2013 (AS AMENDED)

As part of the Authority's Medium Term Financial Plan, a range of schemes to allow workforce flexibility were recently presented to Members. Proposals for the introduction of an Early Retirement Scheme were considered by the Policy and Resources Scrutiny Committee on 3rd June 2014, with proposals for the introduction of a Flexible Retirement Scheme, Voluntary Severance Scheme and Redundancy Scheme considered on 5th August 2014.

The Policy and Resources Scrutiny Committee endorsed these workforce flexibilities and they were presented to Cabinet for consideration on 1st October 2014. These workforce flexibilities were subsequently approved, subject to a recommendation to Council in respect of pension discretions relating to the Early Retirement Scheme and Flexible Retirement Scheme.

The report requested that Council review their decisions in relation to the pension discretions under the Local Government Pension Scheme 2013 as amended (LGPS), so that the Early and Flexible Retirement schemes could be enacted.

With regards to Flexible Retirement, in June 2014 the Council were asked to make a decision on the 6 pensions discretions that the Council has the freedom to agree under the Local Government Pension Regulations 2013 (as amended). One of these discretions related to whether the Council would allow employees to take advantage of flexible retirement. At the time, the decision on introducing such a scheme has not been finalised, so the Council did not agree to flexible retirement. It was noted at the time that if the Council decided to subsequently adopt the scheme, the discretion would need to be revisited at a later date.

With regards to Early Retirement, the scheme utilises a provision within the LGPS regulations that permits CCBC as the employer to allow a retirement on mutual grounds in the interest of the efficiency of the service. This is a discretion that exists in the Pension regulations, which CCBC has not to date exercised, and requires Council approval.

A query was raised in regards to Added Years benefits and the Head of Workforce and Organisational Development referred to the report recommendations, which explained that there would be no such augmentation of service applied to retirements on the grounds of business efficiency.

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

RESOLVED that for the reasons set out in the Report that :-

- (i) With regards to the Flexible Retirement Scheme, the existing pension discretions adopted by the Council be changed to allow employees to take advantage of flexible retirement in line with the approved scheme;
- (ii) With regards to the Early Retirement Scheme, the discretion to allow mutual retirement on the grounds of business efficiency be endorsed, and there be no augmentation of service applied to such retirements.

REPORTS OF OFFICERS

Consideration was given to the following reports.

11. PROPOSED AMENDMENTS TO THE STANDARD SCRUTINY AGENDA

The report, which outlined proposals to amend scrutiny committee agendas to make them consistent with the new consultation arrangements for scrutiny committee forward work programmes as well as changes to the printing of scrutiny committee information reports, was presented to the Democratic Services Committee on the 17th September 2014.

Discussion of the report ensued and reference was made to recommendation 1.5.1 of the covering report, which proposed the removal of the 'requests for reports' agenda item from the standard scrutiny committee agenda. It was queried whether subsequently there should be a proviso in order to allow urgent items to be brought forward on the forward work programme, and concerns were also raised by Members regarding the proposed removal of this item.

Members also referred to recommendation 1.5.4 of the covering report, which proposed that the provision of only electronic information reports be implemented for a trial period with the transition reviewed at the end of the financial year, and queried whether accessibility to electronic versions could be improved. It was confirmed that the Democratic Services Team would monitor use of the website to ensure efficient accessibility of agenda papers.

Following consideration of the report, it was moved and seconded that the report be referred back to the Democratic Services Committee in order that the above mentioned can be reviewed. By a show of hands (and in noting that there was one abstention) this was agreed by the majority present.

RESOLVED that the report be referred back to the Democratic Services Committee in order for the recommendations in the report to be reviewed.

12. SOCIAL MEDIA PROTOCOL FOR ELECTED MEMBERS

The report, which outlined the Social Media Protocol for Members, was presented to the Democratic Services Committee on the 17th September 2014.

The protocol, which was appended to the report, set out how elected members should interact with social media, both as Councillors and private individuals. The protocol also sought to restrict the use of social media by elected members during meetings as set out in 2.1.5 of the protocol. Social media can involve social networks (such as Facebook), professional networks (such as LinkedIn), content communities sites (such as Flickr and YouTube), blogs sites (such as Wordpress and Blogger) and micro-blogging sites (such as Twitter).

The report explained that whilst it is recognised that social media can play an important part in the operation of a democratic society by offering positive opportunities for engagement between the Council and citizens, the use of social media also presents the Council and elected members with certain risks and challenges and can potentially result in breaches of the Code of Conduct. It is therefore important that elected members recognise the risks associated with social media and ensure it is not used in a way that breaches the Code of Conduct.

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

RESOLVED that for the reasons set out in the Report that the Social Media Protocol as set out in Appendix 1 of the report be adopted.

13. IMPLEMENTATION OF ELECTRONIC VOTING AND WEBCASTING OF FULL COUNCIL MEETINGS

Consideration was given to the report, which sought agreement on the implementation of the electronic voting and webcasting of the Authority's full Council meetings, and which was presented to the Democratic Services Committee on 17th September 2014.

The Wales Audit Office's Report in the Public Interest on 23rd April 2013 recommended that the electronic voting system be used for all council meetings held in the Council Chamber, and that the voting record following full Council be published on the Council's website. The Council's intention to begin webcasting council meetings was welcomed by the WAO, and these recommendations were subsequently approved by full Council. A Welsh Government grant of £40,000 was accepted by the Council in order to facilitate the implementation of webcasting.

Members were advised that unedited audio and visual recordings of Council meetings would be made available via the Council's website to view either live or in an archive format, and these recordings would be available on the website for 18 months. A copy of all recordings would be retained, with those older than 18 months available upon request from the Democratic Services Manager.

The proposed Protocol for the Webcasting of Council Meetings was appended to the report, which outlined guidance for attendees and associated procedures which would be included in the Council's constitution. It was advised that webcasting testing would take place at the next two meetings of full Council, prior to a full launch in early 2015.

With regards to the implementation of electronic voting, full Council approved a report on 11th March 2008 to amend the Council's Constitution to provide for voting to be undertaken electronically. The previous hardware and software to support electronic voting was unreliable and the Audio and Visual equipment was subsequently replaced, with the system now ready for full implementation.

Attention was drawn to Recommendation 11.1(d) of the report, which sought a decision on whether the style of webcast meetings should continue in their existing format or change to record only procedural matters and decisions made. Members referred to the Democratic Services Committee meeting of 17th September 2014, whereby this recommendation was considered and where it was unanimously agreed that minutes of webcast meetings should continue in their current format.

An amendment to Recommendation 11.1(d) was moved and seconded, in that the minutes of webcast meetings should continue to be recorded in their current format. By a show of hands, the amendment was unanimously agreed.

It was moved and seconded that, subject to the above amendment, the recommendations in the report be approved, and by a show of hands, this was unanimously agreed.

RESOLVED that for the reasons set out in the Report that :-

- (i) Webcasting of full Council meetings be tested over the next two months and implemented thereafter;
- (ii) The draft 'Protocol for Webcasting of Council Meetings' be approved, noting in particular the change to the Council agenda, advisory notices to be displayed inside and outside of the Council Chamber and the change to the Mayor's Announcement;
- (iii) Implementation of electronic voting commences at the same time as webcasting, subject to a successful trial over the next few meetings, and that in this interim trial period, Members continue to make decisions by a show of hands;
- (iv) Following the implementation of webcasting, the minutes of webcast meetings continue to be recorded in their current format;
- (v) Consequential amendments to the Council's constitution arising from the implementation of electronic voting and webcasting be approved and this responsibility be delegated to the Monitoring Officer.

14. ANNUAL LETTER FROM THE PUBLIC SERVICES OMBUDSMAN FOR WALES 2013/14 REPORT

The attached report was presented to the Standards Committee on 23rd September 2014. Members were provided with the Annual Letter (2013-2014) from the Public Services Ombudsman for Wales regarding complaints received and investigated by the Ombudsman. The data attached as an appendix to the Annual Letter included a detailed breakdown of complaints received and investigated and response times to requests for information.

Members noted that there has been an increase in the number of complaints received by the Ombudsman compared with 2012/13 whilst the number of complaints investigated have remained at the same level, with both figures below the local authority average.

Members' attention was directed to the graph on Page 8 of the data, which indicates that all responses were received more than four weeks after the requests. This data relates to two complaints investigated by the Ombudsman. Following clarification, it has been ascertained that the information is incorrect – both complaints were responded to within four weeks but the second response was received one day late, and hence is correctly referred to in the data. In the circumstances, the Council has asked the Ombudsman to issue an amended Letter to reflect the correct response time - to date, this has not been received.

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

RESOLVED that the report and the content of the Annual Letter be noted.

15. LOCAL AUTHORITIES (STANDING ORDERS) (WALES) (AMENDMENT) REGULATIONS 2014 – CHANGES TO THE COUNCIL'S CONSTITUTION

Consideration was given to the report, which proposed amendments to the Council's Constitution as shown in the track changes extracts to the report, to reflect the additional requirements of the 2014 Regulations and as a results of a review of current procedures.

Council were asked to note the changes endorsed by the Investigating and Disciplinary Committee at its meeting on 15th September 2014 in relation to the disciplinary procedures forming part of its Terms of Reference as a result of changes introduced by The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 ("the 2014 Regulations"). Approval was sought for the Council's Interim Head of Legal Services and Monitoring Officer to make these required changes to the Constitution

The 2014 Regulations came into force on 1st July 2014 and amended the Local Authorities (Standing Orders) (Wales) Regulations relating to the process for appointing, dismissing and conducting disciplinary investigations of certain officers of authority. They impose new requirements for procedures for determining the level of remuneration to be paid to Chief Officers. In addition the 2014 Regulations introduces an extension to the statutory protection afforded to the Head of Paid Service Monitoring Officer and Chief Finance Officer to the Head of Democratic Services and made provision for certain amendments as a result of changes introduced by the Local Government (Wales) Measure 2011. Members were advised that the Council is legally required to implement the 2014 Regulations

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

RESOLVED that for the reasons set out in the Report:-

- (i) The implementation of the 2014 Regulations be noted and the changes to the Council's Constitution set out in the tracked changed document at Appendix 1 be approved;
- (ii) The Interim Head of Legal Services and the Monitoring Officer be authorised to make the required changes to the Constitution.

The meeting closed at 6.28 pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 18th November 2014 they were signed by the Mayor.

MAYOR



COUNCIL - 18TH NOVEMBER 2014

SUBJECT: DRAFT WHISTLEBLOWING POLICY

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

1.1 The attached report was presented to Cabinet on 12th November 2014.

1.2 The views of Cabinet will be reported to Council.

Author: H, Morgan, Senior Committee Services Officer, Ext. 4267

Appendices:

Appendix 1 Report and Appendix to Policy and Resources Scrutiny Committee on 11th November 2014 and Cabinet 12th November 2014

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CABINET - 12TH NOVEMBER 2014

SUBJECT: DRAFT WHISTLEBLOWING POLICY

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

1.1 The attached report was presented to the Policy and Resources Scrutiny Committee on 11th November 2014.

1.2 The views of the Scrutiny Committee will be reported to the Cabinet meeting.

Author: S. M. Kauczok, Committee Services Officer, Ext. 4243

Appendices:

Appendix 1 Report and appendix to Policy and Resources Scrutiny Committee on 11th November 2014.

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POLICY AND RESOURCES SCRUTINY COMMITTEE - 11TH NOVEMBER 2014

SUBJECT: DRAFT WHISTLEBLOWING POLICY

**REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES & SECTION 151
OFFICER**

1. PURPOSE OF REPORT

- 1.1 To seek approval of a revised Whistleblowing Policy. To inform the Members of Scrutiny on the proposed revision of the Council's Whistle Blowing Policy (attached in Appendix 1), and seek their comments, prior to presenting the Policy to Cabinet and Council for approval.
- 1.2 To inform members of a proposed change to the administrative form (Appendix 4) used to record declarations of interests made by employees. As this form is an appendix to the Code of Conduct which is contained within the Constitution, it will require approval from Council.

2. SUMMARY

- 2.1 The Whistle Blowing Policy is intended to encourage and enable employees to raise concerns with the Council without fear of victimization, subsequent discrimination or embarrassment.

3. LINKS TO STRATEGY

- 3.1 The Authority has an obligation to maintain and monitor the standards of conduct throughout the Council's workforce, and to maintain appropriate arrangements for good governance. This policy is contained within the Council's Constitution as part of the Employee Code of Conduct. In addition this policy supports the Council's anti-fraud and corruption strategy.

4. THE REPORT

- 4.1 Members will be aware that Council agreed at its meeting in June 2013 to undertake a full review of the Council's Constitution. The review was to be based on the new All Wales Framework document that has been produced by external lawyers with the support of the Welsh Local Government Association. It was originally envisaged that this would also include a draft whistleblowing policy that we would subsequently seek to adopt. For various reasons previously reported to members it has not been possible to adopt the All Wales framework Constitution, consequently the existing version of the Constitution has been thoroughly reviewed and updated. In order to strengthen our governance arrangements in line with our response to the Wales Audit Office Corporate Governance Inspection the Improving Governance Programme Board agreed that the revision and updating of the Whistleblowing Policy should be taken forward as a stand-alone issue

- 4.2 The current version of the Council's Whistle Blowing Policy will be found within the Council's Constitution (attached as appendix 3). The Policy was introduced in 2001 and other than a minor review to reflect changes to job titles there has been no significant changes made since that date, other than a minor review.
- 4.3 Members may be aware that a Whistleblowing Commission was set up in February 2013 by the leading Whistleblowing Charity – Public Concern at Work (PCaW). Their remit was to review the effectiveness of whistleblowing in UK workplaces, and to make recommendations for change. The Commission was an independent body made up of industry and academic experts and chaired by the Right Honorable Sir Anthony Hooper (former appeal court judge).
- 4.4 In late November 2013 it published its findings, with the Primary recommendation being for the Secretary of State to adopt a Code of Practice that could be taken into account in whistleblowing cases before courts and tribunals. The Commission has published a draft Code which sets out clear standards for organisations across all sectors to enable them to have clear whistleblowing arrangements. The Code of Practice is designed to help regulators assess and inspect whistleblowing arrangements. The Code of Practice was designed to be adopted by organizations that are looking to achieve the highest standards in ensuring that workers are encouraged to speak up and when they do, that they are listened to. (The draft code is provided as Appendix 2).
- 4.5 Officers have worked with the Charity Public Concern at Work, who were identified as being able to support best practice in this area. As a consequence we have been able to access guidance, resources and support from Public Concern at Work to develop a new Whistleblowing Policy reflective of current guidance and regulations.
- 4.6 Members may also wish to note that there is an ongoing facility provided for employees to access the confidential support helpline provided by Public Concern at Work. This will enable them to make contact in a confidential manner, should they wish to seek independent advice.
- 4.7 In line with the findings of the Commission, the attached draft policy has been written in plain English, to encourage a wide understanding by employees. This draft policy was heavily based around the model policy provided by Public Concern at Work. This draft policy has been developed with the support of the Improving Governance Programme Board.
- 4.8 The new Policy if approved will be publicised on the HR Support Portal and Wellbeing@Work intranet pages. A training programme for managers will be developed to support the introduction of the new policy, and a communication plan devised to increase awareness of the policy across the wider organisation.
- 4.9 The revised form at appendix 4 is an administrative form for recording the declaration of interests made under the Code of Conduct for Officers. This has not been amended since it was introduced with the Officer Code of Conduct in February 2006. This revision is made to ensure improved transparency and accuracy in the recording of declarations.

5. EQUALITIES IMPLICATIONS

- 5.1 The policy supports the Council in achieving its statutory duties under Equalities legislation in that it clearly notes discrimination as a specific category of wrongdoing about which concerns can be raised by staff. The ability for employees to raise any concerns confidentially (which could include equalities issues) also provides additional safeguards for the individual and the authority.

6. FINANCIAL IMPLICATIONS

- 6.1 There is a small annual membership cost (£1600 & Vat) for joining Public Concern at Work, which has been met from existing budgets. There are no direct financial implications of introducing the Policy.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications of introducing the Policy.

8. CONSULTATIONS

- 8.1 The report reflects the views of the Consultees listed at the end of the report. The Improving Governance Programme Board, and the HR Strategy Group have been active participants in this process. The Councils Trades Unions have been consulted and are supportive of this approach. There are no other views other than those reflected in the report.

9. RECOMMENDATIONS

- 9.1 That Scrutiny members consider the contents of the report and the draft Whistleblowing Policy, and make a recommendation to Cabinet and Council for adoption of the Policy, and to authorise the Council's Monitoring Officer to make the necessary amendments to the Council's Constitution along with any observations they may wish to provide.
- 9.2 That Scrutiny members note the changes to the administrative form for the declaration of interests recorded by employees, and make a recommendation to Cabinet and Council for adoption of the declaration form, and to authorise the Council's Monitoring Officer to make the necessary amendments to the Council's Constitution.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To facilitate the implementation of a new Policy.
- 10.2 To improve administration of the declaration of interests recorded by employees.

11. STATUTORY POWER

- 11.1 Local Government Act 2000, Public Interest Disclosure Act 1998, Employment Act 2008

Author: Gareth Hardacre, Head of Workforce & OD
Consultees: Nicole Scammell, Acting Director of Corporate Services & Section 151 Officer
Gail Williams, Monitoring Officer
Colin Jones, Head Of Property & Performance Management
Cllr Christine Forehead, Cabinet Member for HR & Governance
Alessandra Veronese, Project Manager IGPB
Dave Thomas, Senior Policy Officer (Equalities)
Councils Recognised Trades Unions

Appendices:
Appendix 1 Draft Whistleblowing Policy
Appendix 2 Whistleblowing Commission Code of Practice
Appendix 3 Existing Whistleblowing Policy
Appendix 4 Declaration of Interests Form

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WHISTLEBLOWING POLICY

Version:	Version 2 Draft 5
Policy Ratified by:	Human Resources
Date:	October 2014
Area Applicable:	All Caerphilly Employees
Review Year	

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INTRODUCTION

1. Caerphilly County Borough Council is fully committed to running the organisation in the best possible way and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have about malpractice at an early stage and in the right way.
2. All of us, at one time or another, have a concern about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible fraud, danger or malpractice that might affect others or the organisation itself, it can be difficult to know what to do.

SCOPE OF THE SCHEME

3. This policy applies to all Council employees. If you are an agency worker, volunteer or contractor working on Council premises, including builders, drivers, and suppliers you should raise your concern with your Line Manager in the normal way.
4. The effective date of the policy is XXXX and this policy must be read in conjunction with all relevant Council policies and procedures, in particular the Council's Code of Conduct.

GUIDING PRINCIPLES

5. This policy aims to reassure you that it is safe and acceptable to speak up and to enable you to raise serious concerns you have about malpractice at an early stage and in the right way.
6. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of detrimental treatment as a result.
7. The policy is specifically intended for raising concerns about malpractice. If, however, you wish to make a complaint about your employment or how you have been treated, please use the grievance procedure – copies can be obtained from your Manager or the HR Support Portal.
8. The policy provides you with an avenue to raise your concerns and to receive feedback on any action taken. Any feedback will be provided within the confines of the Data Protection Act 1998.

CATEGORIES OF WRONGDOING

9. You are protected under this policy to raise any concerns you may have about the following categories of wrongdoing:-
 - Criminal offences, including conduct which is an offence or a breach of law or sexual or physical abuse of clients;
 - Failure to comply with legal obligations including the unauthorised use of public funds, possible fraud and corruption;
 - Discrimination against the public or colleagues (e.g. racism, homophobia, etc)
 - Miscarriages of justice;
 - Dangers to health or safety including risks to the public as well as other employees;
 - Danger or damage to the environment or
 - Deliberate concealment of any of the above categories.
10. The policy may also be used to report something that:-
 - Makes you feel uncomfortable in terms of the standards you believe the Council subscribes to;
 - Is against the Council's Constitution and policies;
 - Falls below established standards of practice or
 - Amounts to improper conduct.

OUR ASSURANCE TO YOU

11. Caerphilly County Borough Council is committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of detrimental treatment as a result. The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern and we consider it a disciplinary matter to victimise anyone who has raised a genuine concern.
12. With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone confidentially first. If this is the case, please say so at the outset.
13. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

ANONYMOUS ALLEGATIONS

14. The policy encourages you to put your name to your allegation whenever possible. If you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we could provide the assurances we offer in the same way if you report a concern anonymously.
15. If you are unsure about raising a concern you can get independent advice from Public Concern at Work (contact details can be found under Independent Advice).

UNTRUE ALLEGATIONS

16. If you make an allegation in good faith but it is not confirmed by the investigation, no action will be taken against you. Provided you are raising a genuine concern, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.
17. If you make an allegation maliciously or for personal gain, disciplinary action may be taken against you.

RAISING A CONCERN

18. You do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.
19. If you have a concern about malpractice the first step is to raise it with your manager or team leader. This may be done verbally or in writing. We understand that the ability to raise concerns in this way will depend on the nature of the concern and the individuals involved.
20. If you feel unable to raise the matter with your Manager, for whatever reason, please raise the matter with:-

Head of Workforce & Organisational Development
21. If you want to raise the matter confidentially, please say so at the outset so that appropriate arrangements can be made. A discussion will be held with you to discuss what is the most appropriate way to deal with the matter.

- 22 If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact:

Head of Legal and Monitoring Officer

Or

Section 151 Officer

HOW WE WILL HANDLE THE MATTER

- 23 The Council will acknowledge receipt of your concern within **10 working days**. We will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you, how we propose to handle it and provide a timetable for feedback. If we have misunderstood the concern or there is any information missing please let us know.
- 24 When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we ask you to tell us at the outset.
- 25 If we think your concern falls more properly within one of our other policies (i.e. grievance) we will let you know.
- 26 If you are invited to a meeting to discuss your concerns, you can be accompanied by a trade union representative or work colleague not involved in the matter.
- 27 Whenever possible we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. Any feedback will be provided within the confines of the Data Protection Act 1998.
- 28 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy you will help us to achieve this.

INDEPENDENT ADVICE

- 29 If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact the independent charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.org.uk. Their lawyers can talk you through your options and help raise a concern about malpractice at work.
- 30 If you are a member of a trade union you can also contact your union for advice.

EXTERNAL CONTACTS

31. While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator than not at all. Public Concern at Work (or your union) will be able to advise you on such an option if you wish. Details of External Regulators under the Public Interest Disclosure (Prescribed Persons) Order 2014 can be found under Appendix 1. If this Schedule is amended by future legislation then the revised list will apply.
32. If you do take the matter outside the Council, you should ensure that you do not disclose personal or confidential information.

INTERPRETATION OF THE POLICY

33. In the event of a dispute relating to the interpretation of the Policy, the Head of Workforce and Organisational Development or the Head of Legal and Monitoring Officer will make the final decision on interpretation.

REVIEW OF THE POLICY

34. A review of this policy will take place when appropriate. Any amendments will be consulted on with all the relevant parties. However, in the case of amendments relating to legislative requirements, the procedure will be amended and reissued.

OCTOBER 2014

APPENDIX 1

PRESCRIBED PERSONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT

Persons and descriptions of people	Matters Relating To
Accounts Commission for Scotland and auditors appointed by the Commission to audit the accounts of local government bodies.	Proper conduct of public business, value for money, fraud and corruption in local government bodies.
The Audit Commission for Local Authorities and the National Health Service in England.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Audit Scotland.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Auditor General for Wales.	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Auditor General for Scotland and persons appointed by or on his behalf under the Public Finance and Accountability (Scotland) Act 2000 ^[4] to act as auditors or examiners for the purposes of sections 21 to 24 of that Act.	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Auditors appointed by the Audit Commission for Local Authorities and the National Health Service in England to audit the accounts of (a) local government bodies as defined by section 53 of that Act (including police and crime commissioners, the Mayor's Office for Policing and Crime and the Common Council of the City of London, and the Chief Constables for Policy Forces maintained under Section 2 of the Police Act 1996, the Commissioner of Police of the Metropolis and the Commissioner of Police for the City of London Police) (b) health service bodies as defined by section 53 of that Act or (c) any other body whose accounts are subject to audit in accordance with the Audit Commission Act 1997	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Auditors appointed by NHS Foundation trusts to audit the accounts of those trusts.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
The Bank Of England	(a) The functioning of clearing houses (including central – counterparties); inter-bank payment systems and securities settlement systems. (b) The treatment, holding and issuing of banknotes by the authorised banks (and their agents) under Part 6 of the Banking Act 2009.
Care Council for Wales.	The registration of social care workers under the Care Standards Act 2000.
Care Inspectorate	The provision of care services, as defined in the Public Services Reform (Scotland) Act 2010.

Persons and descriptions of people	Matters Relating To
Care Quality Commission	(a) The registration and provision of a regulated activity as defined in section 8 of the Health and Social Care Act 2008 and the carrying out of any reviews and investigations under Part 1 of that Act or (b) any activities not covered by (a) in relation to which the Care Quality Commission exercises its functions.
Certification Officer.	Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations.
Charity Commission for England and Wales.	Proper administration of charities and of funds given or held for charitable purposes.
Chief Executive of the Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Chief Executive of the Scottish Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Children's Commissioner	The rights, welfare and interests of children.
Children's Commissioner for Wales.	Matters relating to the rights, welfare and interests of children.
Commissioner for Children and Young People in Scotland	Promoting and safeguarding the rights of children and young people.
Commissioners of HM Revenue and Customs	The functions of the Commissioners for Revenue and Customs as set out in the Commissioners for Revenue and Customs Act 2005, including:- (a) the administration of the UK's taxes, including income tax, inheritance tax, corporation tax, capital gains tax, VAT and the excise duties. (b) the administration of the national insurance and tax credits systems (c) customs and border-related functions and (d) criminal investigations
Competition and Markets Authority	(a) The sale of goods or the supply of services, which adversely affect the interests of consumers. (b) Competition affecting markets in the UK.
Comptroller and Auditor General	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Director of the Serious Fraud Office.	(a) serious or complex fraud within the meaning of section 1 (3) of the Criminal Justice Act 1987 or (b) civil recovery of the proceeds of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations as set out in Part 5 or 8 or the Proceeds of Crime Act 2002.
Elected local policing bodies	Any report made in accordance with section 114 of the Local Government Finance Act 1988 in relation to:- (a) the Chief Constable for the elected local policing body's area or (b) the Commissioner of Police of the Metropolis, where the elected local policing body is the Mayor's Office for Policing and Crime.
Environment Agency	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout.

Persons and descriptions of people	Matters Relating To
Financial Conduct Authority	<ul style="list-style-type: none"> (a) the carrying on of investment business or of insurance business or of any business related to or constituting a regulated activity as defined in section 22 of the Financial Services and Markets Act 2000 and wholesale money market regimes (b) the conduct of persons authorised for the purposes of section 31 of the Financial Services and Markets Act 2000 including banks, building societies established under the Building Societies Act 1986, consumer credit firms and credit unions within the meaning of the Credit Unions Act 1979 or registered under the Credit Unions (Northern Ireland) Order 1985 or the Industrial and Provident Societies Act (Northern Ireland) 1969, friendly societies within the meaning of the Friendly Societies Act 1974 and the Friendly Societies Act 1992, insurers, the Society of Lloyd's managing agents (c) the conduct of persons who are subject to Part 18 of the Financial Services and Markets Act 2000 (d) the conduct of persons who are electronic money issuers for the purposes of electronic money regulations 2011 (e) the conduct of persons who are payment service providers for the purposes of the payment services regulations 2009 (f) the operation of small UK Alternative Investment Fund Managers registered under regulation 10 of the Alternative Investment Fund Managers Regulations 2013 (g) the operation of societies registered under the Friendly Societies Act 1974 and the Friendly Societies Act 1992, including friendly societies, benevolent societies, working men's clubs, specially authorised societies (h) the operation of 'registered societies' within the meaning of the Co-operative and Community Benefit Societies Act 2014 (i) the conduct of persons subject to rules made under Part 6 of the Financial Services and Markets Act 2000 (j) competition in relation to the provision of financial services and the financial services markets (k) the functioning of financial markets and (l) money laundering, financial crime and other serious financial misconduct, in connection with activities regulated by the Financial Conduct Authority.

Persons and descriptions of people	Matters Relating To
The Financial Reporting Council Limited and its conduct committee	<ul style="list-style-type: none"> (a) the independent oversight of the regulation of the accountancy, auditing and actuarial professions (b) the independent supervision of Auditors General (as defined in section 1226 of the Companies Act 2006) (c) the monitoring of statutory audit functions in respect of major audits (as defined by paragraph 13 (10) of Schedule 10 to that Act), of third country audit functions (as defined in that paragraph), and of major local audits (as defined in that paragraph as applied by paragraph 28 of Schedule 5 to the Local Audit and Accountability Act 2014) (d) the registration and monitoring of third country auditors (as defined in section 1261 of the Companies Act 2006) (e) compliance with the requirements of legislation relating to accounting and reporting and (f) the investigation of the conduct of auditors, accountants and actuaries and the holding of disciplinary hearings in public interest cases (as defined in paragraph 24 of Schedule 10 to that Act and by that paragraph as applied by paragraph 28 of Schedule 5 to the Local Audit and Accountability Act 2014).
Food Standards Agency.	The health of any member of the public in relation to the consumption of food and other matters which concern the protection of the interests of consumers in relation to food.
Gas and Electricity Markets Authority	<ul style="list-style-type: none"> (a) the generation, transmission, distribution and supply of electricity, participation in the operation of an electricity interconnector (as defined in section 4(3E) of the Electricity Act 1989) (b) providing a smart meter communication service (as defined in section 4 (3G) of that Act) and activities ancillary to these matters (c) the transportation, shipping and supply of gas through pipes, participation in the operation of a gas interconnector (as defined in section 5(8) of the Gas Act 1986. (d) providing a smart meter communication service (as defined in section 5 (11) of that Act) and activities ancillary to these matters and (e) the renewable generation of heat (as defined in section 100(3) of the Energy Act 2008) and activities ancillary to that matter.
General Chiropractic Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Dental Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Medical Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.

Persons and descriptions of people	Matters Relating To
General Optical Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Osteopathic Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Pharmaceutical Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Health and Care Professions Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Health and Safety Executive.	The health or safety of any individual at work other than individuals at work wholly or mainly on premises which are, or are on (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013) (b) an authorised defence site (within the meaning given in regulation 2 (1) of the Health and Safety (Enforcing Authority) Regulations 1998) or (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations)
Healthcare Improvement Scotland	(a) furthering the improvement in the quality of health care (within the meaning of section 10A of the National Health Service (Scotland) Act 1978) and (b) any activities not covered by (a) in relation to which Healthcare Improvement Scotland has functions.
Her Majesty's Chief Inspector of Education, Children's Services and Skills (the Chief Inspector)	(a) the regulation and inspection of establishments and agencies under Part 2 of the Care Standards Act 2000 (b) the inspection of the functions of local authorities in England referred to in section 135 (c) to (e) of the Education and Inspections Act 2006 (c) the inspection of Children's Services under section 20 of the Children's Act 2004 (d) the review of Local Safeguarding Children Boards under section 15A of the Children Act 2004 (e) the inspection, under section 87 of the Children Act 1989, of the welfare of children provided with accommodation by boarding schools and further education colleges (f) the inspection of the Children and Family Court Advisory and Support Service under section 143 of the Education and Inspections Act 2006 and any other functions which may be assigned to the Chief Inspector under section 118 (4) of that Act but only in so far as they relate to one of the functions set out in (a) to (f) above.
Homes and Communities Agency	The regulation of registered providers of social housing, in accordance with Part 2 of the Housing and Regeneration Act 2008 (as amended by the Localism Act 2011), delivered through the Regulation Committee of the Homes and Communities Agency.

Persons and descriptions of people	Matters Relating To
Independent Police Complaints Commission	The conduct of a person serving with the police (as defined in section 12 (7) of the Police Reform Act 2002) or any other person in relation to whose conduct the Independent Police Complaints Commission exercises functions in or under any legislation.
Information Commissioner.	Compliance with the requirements of legislation relating to data protection and to freedom of information.
Local authorities which are responsible for the enforcement of food standards in accordance with sections 5 and 6 of the Food Safety Act 1990.	Compliance with the requirements of food safety legislation.
Local authorities which are responsible for the enforcement of health and safety legislation.	Health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Local weights and measures authorities as defined by section 69 of the Weights and Measures Act 1985 which are responsible for the enforcement of consumer protection legislation.	Compliance with the requirements of consumer protection legislation.
Lord Advocate, Scotland.	Serious or complex fraud within the meaning of section 27 of the Criminal Law (Consolidation) (Scotland) Act 1995..
A member of the House of Commons	Any matter specified in this column.
Monitor	(a) the regulation and performance of NHS foundation trusts and (b) any activities not covered by (a) in relation to which Monitor exercises its functions.
National Crime Agency	Corrupt individuals or companies offering or receiving bribes to secure a benefit for themselves or others.
National Health Service Trust Development Authority	The performance of English NHS Trusts, including clinical quality, governance and management of risk.
The National Society for the Prevention of Cruelty to Children (NSPCC) and any of its Officers	Child welfare and protection.
Nursing and Midwifery Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Officer for Nuclear Regulation	The health and safety of any individual at work wholly or mainly on premises which are, or are on (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013) (b) an authorised defence site (within the meaning given in regulation 2 (1) of the Health and Safety (Enforcing Authority) Regulations 1998 or (c) a new nuclear build site (within the meaning given in regulation 2A of those regulations)
Office of Communications	(a) the provision of electronic communications networks and services and the use of the electro-magnetic spectrum (b) broadcasting and the provision of television and radio services (c) media ownership and control and (d) competition in communications markets.

Persons and descriptions of people	Matters Relating To
Office of Qualifications and Examinations Regulation	Issues relating to the Office of Qualifications and Examinations Regulation exercises functions under the Apprenticeships, Skills, Children and Learning Act 2009.
Office of Rail Regulation	(a) the provision and supply of railway services and (b) any activities not covered by (a) in relation to which the Office of Rail Regulation has functions.
Office of the Scottish Charity Regulator	The proper administration of charities and of funds given or held for charitable purposes.
Payment Systems Regulator	Payment systems (within the meaning given by section 41 of the Financial Services (Banking Reform) Act 2013) and the services provided by them.
Pensions Regulator	Occupational pension schemes and other private pension arrangements including matters relating to the Pensions Regulator's objective of maximising compliance with the duties under Chapter 1 of Part 1 (and the safeguards in sections 50 and 54) of the Pensions Act 2008.
Police and Crime Panels	(a) any complaint about the conduct of a relevant office holder, within the meaning of section 31 of the Police Reform and Social Responsibility Act 2011 and (b) any report made in accordance with section 114 of the Local Government Finance Act 1988 or section 4 or 5 of the Local Government and Housing Act 1989 in relation to the elected local policing body for the Police and Crime Panel's area.
Prudential Regulation Authority	(a) the carrying on of deposit taking business or insurance business or investment business or any business related to or constituting a regulated activity as designated pursuant to section 22A of the Financial Services and Markets Act 2000 (b) the safety and soundness of persons authorised for the purposes of section 31 of the Financial Services and Markets Act 2000, including banks, insurers, the Society of Lloyd's incorporated by the Lloyd's Act 1871, Lloyds managing agents, building societies established under the Building Societies Act 1986, designated investment firms, societies registered under the Friendly Societies Act 1974 and the Friendly Societies Act 1992, including friendly societies, benevolent societies, working men's clubs and specially authorised societies, and credit unions within the meaning of the Credit Unions Act 1979 or registered under the Credit Unions (Northern Ireland) Order 1985 or under the Industrial and Provident Societies Act (Northern Ireland) 1969, in connection with matters regulated by the Prudential Regulation Authority.
Public Services Ombudsman for Wales	Breaches by a member or co-opted member of a relevant authority (as defined in section 49 (6) of the Local Government Act 2000) of that authority's code of conduct.
Scottish Environment Protection Agency	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to flood warning systems and pollution.

Persons and descriptions of people	Matters Relating To
Scottish Housing Regulator	Social Landlords' performance of housing activities The registration of Registered Social Landlords in accordance with Part 2 of the Housing (Scotland) Act 2010 and The financial wellbeing and standards of governance of Registered Social Landlords.
Scottish Information Commissioner	Compliance with the requirements of legislation relating to the freedom of information.
Scottish Social Services Council.	Registration of the social services workforce by the Scottish Social Services Council under the Regulation of Care (Scotland) Act 2001..
Secretary of State for Business, Innovation and Skills.	(a) Fraud, and other misconduct, in relation to companies, (b) Consumer safety.
Secretary of State for Transport.	Compliance with the requirements of merchant shipping law, including maritime safety.
Standards Commission for Scotland and the Chief Investigating Officer.	Breaches by a councillor or a member of a devolved public body (as defined in section 28 of the Ethical Standards in Public Life etc. (Scotland) Act 2000[9]) of the code of conduct applicable to that councillor or member under that Act.
Water Services Regulation Authority	The supply of water and the provisions of the sewerage services.
Water Industry Commissioner for Scotland.	The supply of water and the provision of sewerage services.
Welsh Ministers	The provision of Part II services as defined in section 8 of the Care Standards Act 2000 and the Children Act 1989. The inspection and performance assessment of Welsh local authority social services as defined in section 148 of the Health and Social Care (Community Health and Standards Act 2003 The review of, and investigation into, the provision of health care by and for Welsh

arrangements, including:

- a) the number and types of concerns raised;
- b) any relevant litigation; and
- c) staff awareness, trust and confidence in the arrangements.

should also sanction those who subject an individual to detriment. Subjecting a worker to a detriment means subjecting the worker to “any disadvantage” because they blew the whistle. This could include (but is not limited to) any of the following:

- a) failure to promote;
- b) denial of training;
- c) closer monitoring;
- d) ostracism;
- e) blocking access to resources;
- f) unrequested re-assignment or re-location;
- g) demotion;
- h) suspension;
- i) disciplinary sanction;
- j) bullying or harassment;
- k) victimisation;
- l) dismissal;
- m) failure to provide an appropriate reference; or
- n) failing to investigate a subsequent concern.

Part IV of the Employment Rights Act 1996 – The Public Interest Disclosure Act

12. PIDA sets out a framework for a worker to make disclosures about the following categories of wrongdoing, provided that they reasonably believe it to be in the public interest to do so:

- a) criminal offences,
- b) failure to comply with legal obligations,
- c) miscarriages of justice,
- d) dangers to health or safety,
- e) dangers to the environment,
- f) deliberate concealment of any of the above categories.

13. This disclosure will be protected if the workers discloses:

- a) in course of obtaining legal advice;
- b) to the employer;
- c) in certain circumstances, to a Minister of the Crown;
- d) to a ‘prescribed person’, reasonably believing that the information and any allegation contained within it are substantially true. The Secretary of State (in practice the Secretary of State for Business, Innovation and Skills) prescribes by list both the identity of the prescribed person (usually regulatory body) and its remit;
- e) to any person or body

provided that a number of detailed conditions are satisfied. Those conditions include a requirement that the worker does not make the disclosure for purposes of personal gain and a requirement that it is reasonable to make the disclosure in the circumstances. A further section makes provision for a disclosure of an exceptionally serious failure to any person or body.

14. The Act makes it unlawful for an employer to dismiss or subject a worker to a detriment for having made a ‘protected disclosure’ of information. The protection provided by the Act is not subject to any qualifying period of employment and so is referred to as a ‘day one’ right in employment law. By contrast under ordinary unfair dismissal, there is a two year qualifying period.

Settlement agreements

15. In the light of section 43J ERA 1996 (anti-gagging provisions in PIDA) employers drafting settlement agreements should not include a clause which precludes a worker from making a protected disclosure.

Further information

If you want to learn more about the Code of Practice and how Public Concern at Work can help you please contact services@pcaw.org.uk or **020 3117 2520**.

The report of the Whistleblowing Commission can be found here: www.pcaw.org.uk/whistleblowing-commission.

The Whistleblowing Commission

APPENDIX 2

Code of Practice

Anonymity and confidentiality

9. The best way to raise a concern is to do so openly. Openness makes it easier for the employer to assess the issue, work out how to investigate the matter and obtain more information. A worker raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without his or her consent. It is important that there is a clear option for anyone to use when raising a concern.

10. A worker raises a concern anonymously if he or she does not give his or her name at all. If this happens, it is best for the organisation to assess the anonymous information as best it can to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information it is not possible to reassure or protect them.

Examples of Detriment

11. The code at paragraph 5(c) requires an assurance that a worker will not suffer a detriment for having raised a concern. Paragraph 6 of the code states that an employer

The Whistleblowing Commission, established in 2013 by whistleblowing charity

Public Concern at Work, developed a Code of Practice for effective whistleblowing arrangements. The Commission recommended that this is rooted in statute, can be taken into account in court cases and by regulators.

To find out more about the code, contact

Public Concern at Work on 020 3117 2520.

The Code of Practice

Every employer faces the risk that something will go badly wrong in their organisation and ought to welcome the opportunity to address it as early as possible.

Whenever such a situation arises the first people to know of such a risk will usually be “workers”^[1] yet while these are the people best placed to speak up before damage is done, they often fear they have the most to lose if they do (otherwise known as “whistleblowing”).

This Code of Practice provides practical guidance to employers, workers and their representatives and sets out recommendations for raising, handling, training and reviewing whistleblowing in the workplace.

[1] Worker is defined in section 230 of the Employment Relations Act 1996

1. This Code sets out standards for effective whistleblowing arrangements. It is designed to help employers, workers and their representatives deal with whistleblowing.

2. Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others.

3. When developing whistleblowing arrangements employers should consult staff and their representatives.

Written Procedures

4. As part of the whistleblowing arrangements, there should be written procedures covering the raising and handling of concerns. These procedures should be clear, readily available, well-publicised and easily understandable.

5. The written procedures for raising and handling concerns:

a) should identify the types of concerns to which the procedure relates, giving examples relevant to the employer;

b) should include a list of the persons and bodies with whom workers can raise concerns, this list should be sufficiently broad to permit the worker, according to the

circumstances^[2] to raise concerns with:

i. the worker's line manager;

ii. more senior managers;

iii. an identified senior executive and/or board member; and

v. relevant external organisations (such as regulators);

c) should require an assurance to be given to the worker that he/she will not suffer detriment for having raised a concern, unless it is later proved that the information provided by the worker was false to his or her knowledge;

d) should require an assurance to be given to the worker that his or her identity will be kept confidential if the worker so requests unless disclosure is required by law;

e) should require that a worker raising a concern:

i. be told how and by whom the concern will be handled;

ii. be given an estimate of how long the investigation will take;

iii. be told, where appropriate, the outcome of the investigation^[3]

[2] By “according to the circumstances” we mean workers should be able bypass their manager, where they fear that they will suffer a detriment or that their concern will not be listened to.

[3] The Data Protection Act, on-going investigations, or the rights of third parties may impact the ability to provide feedback.

iv. be told that if the worker believes that he/she is suffering a detriment for having raised a concern, he/she should report this; and

v. be told that he/she is entitled to independent advice.

6. The employer should not only comply with these procedures but should also sanction those who subject an individual to detriment because he/she has raised a concern and should inform all workers accordingly.

Training, Review and Oversight

7. In addition to the written procedure for raising and handling concerns, the employer should:

a) identify how and when concerns should be recorded;

b) ensure, through training at all levels, the effective implementation of the whistleblowing arrangements;

c) identify the person with overall responsibility for the effective implementation of the whistleblowing arrangements;

d) conduct periodic audits of the effectiveness of the whistleblowing arrangements, to include at least:

i. a record of the number and types of concerns

raised and the outcomes of investigations;

ii. feedback from individuals who have used the arrangements;

iii. any complaints of victimisation;

iv. any complaints of failures to maintain confidentiality;

v. a review of other existing reporting mechanisms, such as fraud, incident reporting or health and safety reports;

vi. a review of other adverse incidents that could have been identified by staff (e.g. consumer complaints, publicity or wrongdoing identified by third parties);

vii. a review of any relevant litigation; and

viii. a review of staff awareness, trust and confidence in the arrangements.

e) make provision for the independent oversight and review of the whistleblowing arrangements by the Board, the Audit or Risk Committee or equivalent body. This body should set the terms of reference for the periodic audits set out in 7(d) and should review the reports.

8. Where an organisation publishes an annual report, that report should include information about the effectiveness of the whistleblowing

CAERPHILLY COUNTY BOROUGH COUNCIL
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ADDITION TO THE CODE OF CONDUCT - WHISTLEBLOWING

THIS DOCUMENT EXPLAINS WHISTLEBLOWING, WHAT LEGAL PROTECTION IS GIVEN BY LAW, AND HOW CAERPHILLY COUNTY BOROUGH COUNCIL WILL DEAL WITH ISSUES RAISED BY EMPLOYEES.

1.0 INTRODUCTION

- 1.1 Sir Gordon Borrie QC defines whistleblowing as the disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employee or of his fellow employees.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not be prepared to 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 be a suspicion of malpractice.
- 1.3 It is recognised that to come forward and speak up can be difficult and place individuals in an awkward position. This policy recognises that some cases will have to proceed on a confidential basis. In addition, this policy makes it clear that employees can raise matters without fear of reprisals. The whole purpose of the policy is to provide a framework to enable staff to raise serious concerns within the Council rather than ignoring a problem.
- 1.4 The statutory protection for employees appears in the Public Interest Disclosure Act 1998. It protects employees against victimisation or dismissal provided that disclosure is made in accordance with the Act. It is important to stress that an employee can only make public disclosure in certain circumstances - there is no automatic right to "go public". What the Act says is set out in more detail later.

2. THE PUBLIC INTEREST DISCLOSURE ACT 1998

- 2.1 The Act gives protection for workers who make a "protected disclosure"
- a right not to be victimised because a protected disclosure has been made
 - a right not to be dismissed or selected for redundancy because of having made a protected disclosure
- 2.2 What is a protected disclosure? There are two things that have to be satisfied:-
- (a) the disclosure must be of a certain type of information (called a "qualifying disclosure") and
 - (b) the disclosure must be made in a way which is described in the Act.

(a) A qualifying disclosure:

This is a disclosure of information which in the reasonable belief of the worker making the disclosure tends to show one or more of the following:-

- a criminal offence
- that there is a failure to comply with a legal obligation
- miscarriage of justice
- that the health or safety of any individual is endangered
- damage to the environment
- deliberate concealment of any of the above

(b) The manner of disclosure:

The Act says that a disclosure to one of the following persons is protected provided that it is made in good faith.

- to the employer (and a list is set out later in this document about how that can be done)
- if the complaint is about someone else not employed by the Council, to that person's employer
- if it is about an issue where another person or body (not the Council) is responsible for the issue then disclosure can be made to that other person or body
- to anybody else authorised by the Council (the list later in this document sets out who that is)
- for certain specific types of malpractice to an outside regulator. The appendix to this policy sets out that list and the matters which may be referred to them. (Here, you must also reasonably believe that the information you are disclosing is substantially true).

(c) Public disclosure:

The employee is protected in making a public disclosure if these things are satisfied:-

- the disclosure is made in good faith
- the employee believes that the information is substantially true
- the disclosure is not made for the purposes of personal gain
- that the employee believes that he or she will be subjected to victimisation by the employer if a disclosure is made to the employer **or** that evidence relating to the matter being complained about will be concealed or destroyed if a disclosure is made to the employer **or** that a previous disclosure has been made to the employer
- in all the circumstances of the case it is reasonable for the disclosure to be made (the legislation says that regard has to be had to the identify of the person to whom the disclosure is made, the seriousness of the failure, whether the failure is continuing, whether the disclosure is made in breach of a duty of confidentiality owed to a third party, any action which an employer has taken or might reasonably be expected to have taken, or whether the employee complied with any internal procedure for disclosures

3.0 AIMS AND SCOPE OF THIS POLICY

3.1 This policy is applicable to all employees and will:-

- * provide avenues for employees to raise concerns and receive feedback on any action taken;
- * allow employees to take matters further if they are dissatisfied with the Council's response;
- * reassure employees that they will be protected from reprisals or victimisation for whistleblowing in good faith.

3.2 This policy is intended to cover concerns that fall outside the scope of other existing procedures.

3.3 There are a few areas highlighted by the Public Interest Disclosure Act. These include:-

- * criminal offences or breach of any statutory requirement or legal obligation;
- * improper or unauthorised use of public or other funds;
- * abuse of authority;
- * miscarriage of justice;
- * maladministration;
- * action that is against that laid down in the appropriate professional codes of conduct;
- * danger to the health or safety of any individual or the environment.

This list is not exhaustive, but it is indicative of the 'kind' of misconduct or malpractice that would be covered and as regards the Council may include:-

- * is unlawful; or
- * is against the Council's Standing Orders or policies; or
- * falls below established standards or practices; or
- * amounts to improper conduct.

4.0 SAFEGUARDS

4.1 Harassment or Victimisation

4.1.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect employees when matters are raised in good faith. Anyone who victimises an employee as a result of their raising a concern under this policy, will be

dealt with under the Council's disciplinary procedure.

- 4.1.2 If an employee, who raises the concern, is already the subject of disciplinary or redundancy procedures, then that action will be reviewed to see if there is any link between the whistleblowing and the decisions in the disciplinary or redundancy procedures. This review may decide that the action taken should continue because there is no link, or that matters should be put 'on hold' whilst the concerns raised by the employee are investigated.

4.2 Confidentiality

- 4.2.1 The Council will do its utmost to protect the identity of employees when they raise a concern and do not want their name disclosed. If after investigation, the Council considers that the concern is justified, and if it is unable to proceed without the evidence of the employee it will discuss with you how it can best proceed.

4.3 Untrue Allegations

- 4.3.1 If an allegation is made in good faith, but it is not confirmed by the investigation, the matter will be closed and no further action taken. If, however, the investigation shows that untrue allegations were malicious and/or vexatious, then disciplinary action may be taken.

5.0 RAISING A CONCERN

- 5.1 As a first step, an employee should normally raise concerns with the immediate manager, their Supervisor or Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. The earlier that concerns are expressed, the easier it is to take action. Alternately, employees may approach the Human Resources Service Manager (Customer Services) or Human Resources Service Manager (Strategy and Operations), in complete confidence, who will take the appropriate action.

- 5.2 However, if the concerns involve management or the employee chooses to they can approach, the most appropriate of:-

*	Chief Executive	Anthony O'Sullivan	OSULLA @Caerphilly.gov.uk	01443 864410
*	Deputy Chief Executive	Nigel Barnett	BARNEN @Caerphilly.gov.uk	01443 864419
*	Monitoring Officer	Daniel Perkins	PERKID @Caerphilly.gov.uk	01443 863142
*	Head of Corporate Finance (S151 Officer)	Nicole Scammell	SCAMMN @Caerphilly.gov.uk	01443 863022
*	Trade Union Representative			
*	Professional Association			

5.3 This policy encourages employees to put their name to any concerns raised. Concerns are better raised in writing and employees are invited to set out the background and history of the concern, giving names, dates and places where possible and the reasons why there are concerns. However, if an employee feels unable to put concerns in writing, they can telephone or seek an interview with the appropriate officer in the first instance.

5.4 Although an employee is not expected to prove the truth of any allegation, in determining what action to take, the person contacted will assess whether there are sufficient grounds for the Council to act. In doing so, the Council will take into account:-

- * the seriousness of the issues raised;
- * the credibility of the concern; and
- * the likelihood of confirming the allegation from attributable sources.

5.5 Advice and guidance on how matters of concern may be pursued can be obtained from:-

*	Head of Workforce and Organisation Development	Gareth Hardacre	HARDAG@Caerphilly.gov.uk 01443 864309
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* Trade Union representative

*	Public Concern at Work	020 7404 6609
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This is a legal advice centre and independent charity which gives independent and practical advice on how to raise concerns in the most constructive way. The Council makes a contribution to the charity for the provision of this service, but the charity and its advice are entirely independent of the Council and are not influenced in any way by the Council.

6.0 HOW THE COUNCIL WILL RESPOND

6.1 The action taken by the Council will depend on the seriousness of the concern. The matters raised may:-

- * be investigated internally by the appropriate manager;
- * be referred to the Police if there is evidence of a criminal offence;
- * be referred to the External Auditor if there is evidence of financial impropriety;
- * form the subject of an independent external or internal enquiry.

6.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns and allegations which fall within the scope of existing procedures will normally be referred for consideration under those procedures.

- 6.3 Some concerns may be resolved by agreed action without the need for investigation.
- 6.4 Within ten working days of a concern being received, the Council will respond by:-
- * acknowledging that the concern has been received;
 - * indicating how it intends to deal with the matter;
 - * giving an estimate of how long it will take to provide a final response;
 - * telling the employee whether any initial enquiries have been made; and
 - * telling employees whether further investigations will take place and if not, why not.
- 6.5 If necessary, further information will be sought from the employee. Where any meeting **is** arranged, employees have the right to be accompanied by a Trade Union or Professional Association representative or a friend who is not involved in the area of work to which the concern relates.
- 6.6 The Council will take steps to minimise any difficulties which employees may experience as a result of raising a concern. For example, if an employee is required to give evidence in criminal or disciplinary proceedings, the Council will provide support and advice on procedure, etc.
- 6.7 The Council accepts that employees need to be assured that the matter has been properly addressed. Therefore, subject to legal constraints and any necessary confidentiality issues, employees will receive information on the outcome of any investigations.
- 7.0 RESPONSIBLE OFFICER**
- 7.1 The Council's Standards Committee acting through the Monitoring Officer has overall responsibility for the maintenance and operation of this policy. All documentation relating to any concerns that have been raised will be lodged with the Monitoring Officer for safe keeping. That officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) and will report as necessary to the Council's Standards Committee in a confidential format.

July 2001 (revised June 2012)

PREScribed PERSONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT

<i>Persons and descriptions of people</i>	<i>Descriptions of matters</i>
Accounts Commission for Scotland and auditors appointed by the Commission to audit the accounts of local government bodies.	The proper conduct of public business, value for money, fraud and corruption in local government bodies.
Audit Commission for England and Wales and auditors appointed by the Commission to audit the accounts of local government, and health service, bodies.	The proper conduct of public business, value for money, fraud and corruption in local government, and health service, bodies.
Certification Officer.	Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations.
Charity Commissioners for England and Wales.	The proper administration of charities and of funds given or held for charitable purposes.
The Scottish Ministers.	The proper administration of charities and of funds given or held for charitable purposes.
Chief Executive of the Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Chief Executive of the Scottish Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Civil Aviation Authority.	Compliance with the requirements of civil aviation legislation, including aviation safety.
The competent authority under Part IV of the Financial Services and Markets Act 2000. [3]	The listing of securities on a stock exchange; prospectuses on offers of transferable securities to the public.
Commissioners of Customs and Excise.	Value added tax, insurance premium tax, excise duties and landfill tax. The import and export of prohibited or restricted goods.
Commissioners of the Inland Revenue.	Income tax, corporation tax, capital gains tax, petroleum revenue tax, inheritance tax, stamp duties, national insurance contributions, statutory maternity pay, statutory sick pay, tax credits, child benefits, collection of student loans and the enforcement of the national minimum wage.
Comptroller and Auditor General of the National Audit Office.	The proper conduct of public business, value for money, fraud and corruption in relation to the provision of centrally-funded public services.
Auditor General for Wales.	The proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Auditor General for Scotland and persons appointed by or on his behalf under the Public Finance and Accountability (Scotland) Act 2000 [4] to act as auditors or examiners for the purposes of sections 21 to 24 of that Act.	The proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.

<i>Persons and descriptions of people</i>	<i>Descriptions of matters</i>
Audit Scotland.	The proper conduct of public business, value for money, fraud and corruption in public bodies.
Director General of Electricity Supply.	The generation, transmission, distribution and supply of electricity, and activities ancillary to these matters.
Director General of Gas Supply.	The transportation, shipping and supply of gas through pipes, and activities ancillary to these matters.
Director General of Telecommunications.	The provision and use of telecommunications systems, services and apparatus.
Director General of Water Services.	The supply of water and the provision of sewerage services.
Water Industry Commissioner for Scotland.	The supply of water and the provision of sewerage services.
Director of the Serious Fraud Office.	Serious or complex fraud.
Lord Advocate, Scotland.	Serious or complex fraud.
Environment Agency.	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow in rivers, inland fisheries and migratory salmon or trout.
Scottish Environment Protection Agency.	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to flood warning systems and pollution.
Food Standards Agency.	Matters which may affect the health of any member of the public in relation to the consumption of food and other matters concerning the protection of the interests of consumers in relation to food.
Financial Services Authority.	The carrying on of investment business or of insurance business; the operation of banks and building societies, deposit-taking businesses and wholesale money market regimes; the operation of friendly societies, benevolent societies, working men's clubs, specially authorised societies, and industrial and provident societies; the functioning of financial markets, investment exchanges and clearing houses; money laundering, financial crime, and other serious financial misconduct, in connection with activities regulated by the Financial Services Authority.

<i>Persons and descriptions of people</i>	<i>Descriptions of matters</i>
General Social Care Council.	Matters relating to the registration of social care workers under the Care Standards Act 2000[5].
Care Council for Wales.	Matters relating to the registration of social care workers under the Care Standards Act 2000.
Scottish Social Services Council.	Matters relating to the registration of the social services workforce by the Scottish Social Services Council.
Children's Commissioner for Wales.	Matters relating to the rights and welfare of children.
Health and Safety Executive.	Matters which may affect the health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Housing Corporation.	The registration and operation of registered social landlords, including their administration of public and private funds and management of their housing stock.
Local authorities which are responsible for the enforcement of health and safety legislation.	Matters which may affect the health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Information Commissioner.	Compliance with the requirements of legislation relating to data protection and to freedom of information.
Scottish Information Commissioner.	Compliance with the requirements of legislation relating to freedom of information.
National Care Standards Commission.	Matters relating to the provision of regulated care services, as defined in the Care Standards Act 2000.
National Assembly for Wales.	Matters relating to the provision of social care services liable to be registered or inspected under the Care Standards Act 2000 or the Children Act 1989[6]. The registration and operation of registered social landlords, including their administration of public and private funds and management of their housing stock.
Scottish Commission for the Regulation of Care.	Matters relating to the provision of care services, as defined in the Regulation of Care (Scotland) Act 2001[7].
Occupational Pensions Regulatory Authority.	Matters relating to occupational pension schemes and other private pension arrangements.

<i>Persons and descriptions of people</i>	<i>Descriptions of matters</i>
Office of Fair Trading.	Matters concerning the sale of goods or the supply of services, which adversely affect the interests of consumers. Competition affecting markets in the United Kingdom.
Rail Regulator.	The provision and supply of railway services.
Standards Board for England.	Breaches by a member or co-opted member of a relevant authority (as defined in section 49(6) of the Local Government Act 2000 ^[8]) of that authority's code of conduct.
Local Commissioner in Wales.	Breaches by a member or co-opted member of a relevant authority (as defined in section 49(6) of the Local Government Act 2000) of that authority's code of conduct.
Standards Commission for Scotland and the Chief Investigating Officer.	Breaches by a councillor or a member of a devolved public body (as defined in section 28 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ^[9]) of the code of conduct applicable to that councillor or member under that Act.
Treasury.	The carrying on of insurance business.
Secretary of State for Trade and Industry.	Fraud, and other misconduct, in relation to companies, investment business, insurance business, or multi-level marketing schemes (and similar trading schemes); insider dealing. Consumer safety.
Secretary of State for Transport.	Compliance with merchant shipping law, including maritime safety.
Local authorities which are responsible for the enforcement of consumer protection legislation.	Compliance with the requirements of consumer protection legislation.
Local authorities which are responsible for the enforcement of food standards.	Compliance with the requirements of food safety legislation.
A person ("person A") carrying out functions, by virtue of legislation, relating to relevant failures falling within one or more matters within a description of matters in respect of which another person ("person B") is prescribed by this Order, where person B was previously responsible for carrying out the same or substantially similar functions and has ceased to be so responsible.	Matters falling within the description of matters in respect of which person B is prescribed by this Order, to the extent that those matters relate to functions currently carried out by person A.

APPENDIX 4 – DECLARATION OF INTERESTS FORM

Employee's Name:		Employee's Number:	
Job Title:			
Directorate			
Service Area, School or Establishment:			

Type of Declaration	Details		
Relationship: Councillor <input type="checkbox"/> Contractor <input type="checkbox"/> Employee <input type="checkbox"/> Other <input type="checkbox"/>	Name: Post Title: Nature of my relationship to the named person: Details of any potential contact/conflict of interest:		
Personal interest or membership of an organisation, business, professional body or secret society e.g. School Governing Body, voluntary organisation role, involvement in a family business	Description of my interest: Name and location of organisation concerned (if applicable): Effective date: Financial benefit / implication: Details of steps that could be taken to protect the Council's interest:		
Gifts and Hospitality	Was the gift / hospitality to you or to an immediate relative? (if a relative, please give the relative's name and their relationship to you): Description of gift, hospitality or sponsorship: Supplier name / organisation: Date offer made: Approximate value: Accepted / Declined and reason for decision		
Employee's Signature:		Date:	

Completed By Head of Service

Details of any controls/ action taken to protect the Council's interests			
Name of Head of Service:			
Head of Service Signature:		Date:	

Circulation of Completed Form

Original copy retained by Head of Service:	
Date Copy Sent to Employee:	
Date copy emailed to HR Strategy and Development for filing on employees personal file:	
Date Directorate Summary Spreadsheet updated:	

Version: 2
Date Verified: November 2014





COUNCIL – 18TH NOVEMBER 2014

**SUBJECT: WELSH GOVERNMENT INVITATION TO LOCAL AUTHORITIES TO
SUBMIT PROPOSALS FOR VOLUNTARY MERGER**

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise Members of the Welsh Government invitation to local authorities to submit proposals for voluntary merger, and to invite Members to agree whether or not to make such a submission.

2. SUMMARY

- 2.1 On the 18th September the Welsh Government (WG) published an invitation for local authorities to submit a proposal for voluntary merger. This was reported at Council on the 29th September and the Leader advised that a further report would follow. It is principally intended for authorities to submit proposals in accordance with the previously notified recommendations of the Williams Commission. In our case this would be for merger with Blaenau Gwent and Torfaen councils. However, there is scope for alternative proposals involving merger with other authorities to be submitted provided certain criteria and conditions are met.
- 2.2 The benefit of a voluntary merger would be that the new authority would come into being two years earlier than is envisaged for the 'forced' mergers, from 2018, and that any benefits (including any cost savings arising from the merger) would therefore accrue earlier.
- 2.3 Council resolved on the 29th September not to support the merger with Blaenau Gwent and Torfaen. It has been indicated publicly that Blaenau Gwent and Torfaen are considering a merger of those two authorities, but it is not clear if that would be supported by Welsh Government.
- 2.4 This authority has received an enquiry from Rhondda Cynon Taff County Borough Council as to whether there would be any interest in our pursuing a merger with that authority. They have written to all of their adjoining councils, including Merthyr, Cardiff, the Vale of Glamorgan and Bridgend. This letter seems to be intended to establish whether there would be any general interest in that option rather than indicating any express desire or policy by Rhondda Cynon Taff to do so at this stage.
- 2.5 The council has also received an approach from Merthyr Tydfil County Borough Council to open discussions towards a voluntary merger with that authority.
- 2.6 A decision is required as to whether this authority:-
- (i) Wishes to review its position regarding the Williams Review recommendation for merger with Blaenau Gwent and Torfaen and to seek, with those councils, to submit a proposal for voluntary merger;

- (ii) Would prefer to seek to develop a bid with one or more other councils for an alternative proposal;
- (iii) Would wish to pursue discussions with Rhondda Cynon Taff (and potentially others among their neighbouring authorities) for a merger, as per their letter;
- (iv) To agree to open discussions with Merthyr Tydfil County Borough Council regarding their offer to explore options for voluntary merger.
- (v) Reaffirm the policy of preferring to remain as a standalone authority and to not submit any proposal for voluntary merger.

3. LINKS TO STRATEGY

- 3.1 This report sets out the issues raised in the offer issued by Welsh Government. The implications arising from any decision will have significant implications for the future configuration of local authorities and the way in which services are provided.

4. THE REPORT

Background

- 4.1 Members will recall that the Williams Commission report (Commission on Public Service Governance and Delivery) was published in January 2014. It covered a wide range of issues re public services (complexity, scale and capability, governance, leadership and performance management etc.) but the core issue from a local authority perspective was the proposed merger of local authorities. In our context the proposal was for a merger of Caerphilly, Torfaen and Blaenau Gwent Councils.
- 4.2 At Council on 11th March 2014 Members received a presentation that summarised the key issues arising from the Williams Commission report and particularly highlighted some of the key issues/concerns in respect of the proposed merger of local authorities.
- 4.3 On the 29th September Members received a report from Cabinet of their discussions, with a recommendation that the council resolve not to support the merger with Blaenau Gwent and Torfaen and that the residents of Caerphilly would be best served by Caerphilly CBC remaining as a standalone authority. This view was endorsed by Full Council at that meeting.
- 4.4 The main reasons debated at Cabinet and Council which led to this decision were that the business case for mergers was not proven. While some reduced costs were likely, these were likely to be small in relation to the scale of budget reductions being faced. Moreover, these budget savings (of up to £40 million by 2018 in our case) all have to be met before any benefits of merger would arise, and in the early years of such mergers the initial costs would outweigh the savings and make the budget situation even worse. Members were also concerned at the disparity between council tax levels, which might mean that Caerphilly CBC residents would face significant increases.
- 4.5 Finally, members also expressed concern at the lack of a natural 'community' on the proposed boundaries and that services and service delivery methods varied greatly between the authorities. Caerphilly has retained its council housing stock while others have not. Leisure and other services have been transferred to trust or other vehicles for delivery in other areas, but not in Caerphilly and, there was great concern over the disruption and cost of re-running job evaluation for the new combined workforce. Above all, many Members expressed the view that there is no evidence that residents would receive better services as a result of the mergers, and in view of this the upheaval and costs could not be justified.

The Invitation For Voluntary Merger

- 4.6 On the 18th September Welsh Government issued a Prospectus inviting authorities to submit proposals for voluntary merger two years ahead of the schedule for reorganisation in 2020.

- 4.7 The current intention (where there are no voluntary mergers) is that councils will hold their elections as normal in 2017 as presently constituted, and continue in existence until 2020. Elections for the new authorities – in our case for a new council embracing Caerphilly, Blaenau Gwent and Torfaen – will be held in 2019. Following a ‘shadow’ year, the new councils would then formally commence in 2020, and Caerphilly CBC would cease from that date.
- 4.8 However, where councils agree voluntary merger, and if supported by Welsh Government, there would be no election in 2017 and our council term would be extended by 12 months. Elections to the new authority would be held in May 2018, and the new authority would come into being two years ahead of schedule on the 1st April 2018. For one year prior to this the three councils would act jointly in a shadow capacity to effect the required steps to appoint staff, establish budgets, set the council tax, agree service configurations and create the necessary structures to administer the new council.
- 4.9 One of the suggested advantages of voluntary merger is that the savings arising from merger can be realised two years early. However, Members may wish to bear in mind that there are no firm details yet as to what savings would actually accrue.
- 4.10 Any savings which arise are principally expected to result from reduced senior management costs, less ‘democratic process’ costs (i.e. a reduction in the number of councillors) and service realignments and rationalisation. Of course, the costs of merger (such as redundancy costs) would also arise two years earlier than planned. While it is suggested that there will be reduced costs into the long term, in the first year these would most likely be outweighed by the costs of reorganisation. Estimates from the Welsh Local Government Association are that these costs across the whole of Wales would be around £200million. It is assumed that for the new Caerphilly / Blaenau Gwent / Torfaen council these set up and reorganisation costs could therefore be in the region of £15 - 20 million. Much more work will be needed to establish this figure with any accuracy, however. Moreover, other costs – such as the cost of repeating a job evaluation exercise for the new authority – are believed to be in addition to these estimates.
- 4.11 There will be targeted support from Welsh Government for authorities who agree to a voluntary merger. However, it seems that this will be of an advisory / technical nature, rather than financial. The prospectus states that ‘...it is unrealistic to expect the Welsh Government to provide large injections of cash to support a process or mergers. The object must be for Authorities to come forward with proposals to minimise the costs and maximise the early realisation of benefits’. It is to be assumed, therefore, that the reorganisation / merger costs would need to be met by the authorities themselves. Members will appreciate that this council does not have any provision for meeting such costs. Given that the authority has to make budget savings of up to £40 million over the next three years to achieve a balanced budget, meeting this further cost of reorganisation would be very difficult.
- 4.12 The prospectus does open the door to voluntary mergers on boundaries other than those proposed in the Williams Review. Caerphilly CBC could, therefore, seek to reach agreement with one or more neighbouring authorities for an alternative to the proposed merger with Blaenau Gwent and Torfaen. Such proposals could only include the entirety of a local authority area, and not parts thereof. If proposals were put forward which crossed other partner organisation boundaries – such as Local Health Boards or Police force areas – then the authorities who promote such mergers would need to demonstrate the support of these partner bodies. Any alternative proposals should also not jeopardise the availability of European Financial Assistance to the new authority area.
- 4.13 Expressions of Interest have to be lodged with the Welsh Government by the 28th November. These expressions of interest have to give an outline of the ‘vision’ for the new authority, setting out ambitions for community leadership and improving services. The expression has to deal with capacity and accountability issues, any transition issues, opportunities for sharing services, an assessment of what support would be needed to help with the process and evidence of engagement with the public, local communities, community councils and partner

organisations. The expression also needs to give consideration to the name of the new authority. This is obviously a considerable challenge to achieve in a short time, especially where three local authorities are involved.

- 4.14 Welsh Government aim to give a response by the 5th January 2015. If the merger is given the 'go-ahead' to move to the next stage then a full merger proposal would need to be put together for submission by the 30th June 2015.
- 4.15 Subsequently, the council has received two formal approaches for discussions.
- 4.16 Rhondda Cynon Taf council have written to all of their neighbouring authorities to ask whether there would be interest in pursuing voluntary merger discussions. Merger with Rhondda Cynon Taf council would create a very large authority that would be one of the largest in Wales.
- 4.17 It is understood that this is a general enquiry from Rhondda Cynon Taf to identify whether there would be any interest, rather than an expression on their behalf that they necessarily wish to go down this road.
- 4.18 Merthyr Tydfil County Borough Council resolved at a meeting of their Full Council on the 5th November 2014 that a merger with Caerphilly County Borough Council would be their preferred option. They have since written to this authority seeking discussions on that proposal.
- 4.19 This option would require several conditions to be met. Because it would depart from the proposals in the Williams Review it would be an exception to the plans already set out by Welsh Government. It would create a new authority which crossed Health Board and Police boundaries and the two authorities would be expected to consult with and demonstrate the support of those, and other key partners in submitting a proposal for merger. Numerous current organisational and service arrangements would need to be reviewed, including the fact that the two authorities are part of separate sub regional education consortia.
- 4.20 Many of the factors facing Members when considering the initial proposal to merge with Blaenau Gwent and Torfaen equally apply in the case of a merger with Merthyr Tydfil County Borough. Council tax levels are higher in Merthyr; some types of service provision, including retention of the housing stock, have followed very different paths in the two areas; and challenges around harmonisation of pay scales and terms and conditions for staff would present a challenge and, potentially, additional costs.
- 4.21 One benefit of this particular proposal might be that the new authority would be co-terminous in terms of electoral boundaries for the Merthyr and Rhymney Parliamentary and Assembly constituency.

5. EQUALITIES IMPLICATIONS

- 5.1 There are no equality implications arising directly from this report. Equalities issues in relation to reforming local government will be included as part of future wider consultation and based on the Welsh Government's own equalities impact assessment at a national level.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising directly from this report, though the implications of the proposed merger of local authorities would be substantial. The main body of the report draws attention to potential future cost savings arising from mergers as well as to the short-term costs which would be involved.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications arising directly from this report, but the task of merging the workforce across several authorities, harmonising terms and conditions and so on would be a highly complex task.

8. CONSULTATIONS

- 8.1 This matter has previously been discussed at Council. No discussions have been held with neighbouring local authorities or other stakeholders at this stage.

9. RECOMMENDATIONS

- 9.1 It is recommended that members consider whether:-
- (i) To review the council's position regarding the Williams Review recommendation for merger with Blaenau Gwent and Torfaen and to seek, with those councils, to submit a proposal for voluntary merger;
 - (ii) To seek to develop a bid with one or more other councils for an alternative proposal;
 - (iii) To pursue discussions with Rhondda Cynon Taff (and potentially others among their neighbouring authorities) for a merger, as per their letter;
 - (iv) To agree to open discussions with Merthyr Tydfil County Borough Council regarding their offer to explore options for voluntary merger.
 - (v) To reaffirm the policy of preferring to remain as a standalone authority and to not submit any proposal for voluntary merger.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To allow for a response within the deadline given of 28 November 2014.

Author: Chris Burns, Interim Chief Executive
Consultees: Corporate Management Team
Cabinet Members
Monitoring Officer

Background Papers:

WG - Improving Public Services For People In Wales

WG - White Paper – Reforming Local Government

WLGA – An Alternative Approach To The Williams Report (The Creation Of Four Combined Authorities For Wales)

Welsh Government Prospectus On Voluntary Mergers, 18th September 2014

Correspondence Received From Rhondda Cynon Taf County Borough Council dated 17th October 2014

Correspondence Received From Merthyr Tydfil County Borough Council dated 6th November 2014

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COUNCIL – 18TH NOVEMBER 2014

SUBJECT: INTERIM CORPORATE MANAGEMENT TEAM AND GOVERNANCE ARRANGEMENTS

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to seek agreement from Council to the continuation of the existing interim arrangements currently in place for the Corporate Management Team and Head of Legal Services / Monitoring Officer, until 31st August 2015.

2. SUMMARY

- 2.1 Interim arrangements for Corporate Management Team and governance have been since March 2013 and are subject to regular periodic review. This report reflects the latest review.

3. LINKS TO STRATEGY

- 3.1 To achieve the Council's strategic aims, provide services as planned and to fulfil its statutory duties, including the duty to make arrangements to secure continuous improvement.
- 3.2 To implement effective governance across the Council.

4. THE REPORT

Corporate Management Team

- 4.1 At the Special Council on 12th March 2013, Members agreed interim arrangements for the Corporate Management Team (CMT). Whilst the appointment of an Interim Chief Executive has been subject to change, the other decisions of Council remain in place i.e. the acting up arrangements which are: Sandra Aspinall as Acting Deputy Chief Executive (with responsibilities for the Directorate of the Environment) and Nicole Scammell as Acting Director of Corporate Services and S151 Officer.
- 4.2 Council agreed at the meeting held on 10th June 2014 to extend the interim arrangements in relation to the Corporate Management Team for a further six months at which time they would be reviewed.
- 4.3 Council will be aware that the Chief Executive, Deputy Chief Executive and Head of Legal Services appeared at Bristol Crown Court on 3rd October 2014, for a plea hearing, but unfortunately the proceedings were adjourned once again.
- 4.4 The plea hearing has now been arranged for week commencing 5th January 2015 and Council will recall that this is the date that the trial was due to start.

- 4.5 At the plea hearing on 3rd October 2014, concerns were expressed as to whether the 4-week trial period planned for January 2015, would provide sufficient time to for the case to be heard as the judge felt that a trial period of 5-6 weeks would probably be more appropriate. The judge therefore agreed to cancel the January trial date and he has requested that a new later date is found. A new trial date has not been set but it now looks likely to be no earlier than April or May, and possibly as later in 2015.
- 4.6 Having regard to this information, I am proposing that the existing interim arrangements in respect of the Acting Deputy Chief Executive and the Acting Director of Corporate Services and S151 Officer be extended until 31st March 2015, and that members approve that the arrangements are extended further beyond that date should the court proceedings not be resolved, which now seems highly likely. I would not propose to extend beyond the end date of my own appointment to the post of Interim Chief Executive, which is due to end at the end of August 2015, however, and a further report will be presented to Members closer to that time should matters still be unresolved.
- 4.7 Members will be aware that the previous Interim Chief Executive explained in his report to Council on 10th June 2014, that he believed that the interim arrangements for Corporate Management Team had worked very well, but he believed that due to the changing circumstances and protracted nature of the interim arrangements there was a need to strengthen CMT to face the challenges of the immediate future e.g. financial constraints, legislative change and potential local government reorganisation. Having been in post for a short period of time i.e. 1st September 2014, I am still considering this position and will report back to Members if appropriate. In the meantime, some changes to the individual remit and portfolio of Directors may be required and I will inform Members of any such changes as they occur.

Corporate Governance Arrangements

- 4.8 The substantive structure provides for the Head of Legal Services to be the Monitoring Officer. However, because of the circumstances at the time, Council in March 2013, agreed that the position be temporarily split with the role of Monitoring Officer being transferred to the then Deputy Monitoring Officer and separated from Legal Services.
- 4.9 Because of the suspension of the Head of Legal Services this situation was reviewed and Cabinet approved at a meeting held on 2nd April 2014, that the roles were brought back together and an Interim Head of Legal Services/Monitoring Officer be appointed. Following due process, Gail Williams was appointed to this post.
- 4.10 A decision will be needed by April next year on the acting up arrangements for Interim Monitoring Officer and Head of Legal Services (which is currently held by Mrs Gail Williams). Again, I would suggest that Members agree to extend these arrangements beyond April next year, but that a further report will be presented if matters are still not resolved by the end of August 2015.
- 4.11 Should the opportunity arise earlier to review these arrangements, then action can be taken to do so.

5. EQUALITIES IMPLICATIONS

- 5.1 No equality impact assessment has been undertaken on this report as it essentially covers an extension to arrangements already agreed. The Council's review of governance processes across the Authority includes equalities considerations at each stage and is noted within individual reports to Scrutiny, Cabinet and Council.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no additional costs arising from the interim arrangements as these are being met through the existing budgets for the substantive post holders. The cost of the suspensions of the Chief Executive, Deputy Chief Executive Officer and the Head of Legal Services are being funded through reserves to the 31st March 2015, as previously approved by Council. The 2015/16 budget report to be presented to Council in February 2015 will include a proposal to fund the ongoing cost of suspensions from the 1st April 2015.

7. PERSONNEL IMPLICATIONS

- 7.1 The personnel implications are included in the report.

8. CONSULTATIONS

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

9. RECOMMENDATIONS

- 9.1 Council is asked to approve the decision to extend the interim Corporate Management Team arrangements until 31st March 2015, with provision for the Chief Executive to extend further to the 31st August 2015 if necessary.
- 9.2 Council is asked to approve that the Chief Executive extends the appointment of the Interim Head of Legal Services/Monitoring Officer until 31st August 2015.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To ensure the Council has effective Corporate Management and governance arrangements to lead the Council to deliver services to the residents of the County Borough.

11. STATUTORY POWER

- 11.1 Local Government Acts 1972 and 2000
Local Government and Housing Act 1989
Local Authorities (Standing Orders) (Wales) Regulations 2006 and 2014 (as amended)

Author: Chris Burns, Interim Chief Executive
Consultees: Lynne Donovan, HR Service Manager
Angharad Price, Barrister

Background papers:
Council report Interim Governance Arrangements 21st March 2013
Council report Interim CMT and Governance Arrangements 10th June 2014
Council report Interim Management Costs 22nd July 2014

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