

Public Document Pack



Neuadd y Sir / County Hall, Llandrindod, Powys, LD1 5LG

COUNCIL CONSTITUTION

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Guide to the model Welsh Local Authority constitution

Produced pursuant to section 45 of the
Local Government and Elections (Wales) Act 2021

Constitution Version 16 – 18-05-2023

Powys County Council

Introduction

The Constitution

The Council is made up of different individuals and bodies, who work together to deliver the Council's functions. The Council's constitution describes the different people and bodies that make up the Council, their functions, and the procedure rules that govern how those bodies work together to deliver services.

It is intended to: -

- enable the Council to make decisions efficiently and effectively;
- support you to participate in decisions that affect you;
- help Councillors to represent their constituents more effectively; and
- enable you to hold the Council to account.

One of the main aims of the constitution is to set out clearly what you can expect from the Council, and what you can do if your expectations are not met.

This guide

This guide is designed to help you to understand how the Council works to deliver services in your area. It provides an overview of the Council's constitution and explains key sections of the constitution in clear and simple language.

It may also be of use to those organisations that work with the Council to deliver services in the Council's area.

The first part of this guide explains why the constitution is important and how it is reviewed and updated.

It aims to answer questions such as: -

- *Why does the Council have a constitution?* p.5
- *How can I get a copy of the constitution?* p.5
- *Who is responsible for keeping the constitution up to date?* p.5

The second part of this guide explains how the Council is structured. It describes the Council's democratic bodies as well as how decisions are made and by whom.

It explains the functions of the Council, its Cabinet and its committees, and which body of the Council is responsible for particular policies and decisions.

It aims to answer questions such as: -

- *What does my local Councillor do?* p.9

- *What does the Council do?* p.11
- *What happens at Council meetings?* p.12
- *How does the Council make decisions?* p.12
- *How can I find out what the Council decided about an issue that affects me?* p.13
- *What does the Cabinet do?* p.14
- *How does the Cabinet make decisions?* p.14
- *What do the Council's committees do?* p.16
- *Who is responsible for governance, audit and risk management?* p.16
- *Who is responsible for upholding local democracy?* p.16
- *What does the licensing committee do?* p.16
- *What does the planning committee do?* p.17
- *How are decisions scrutinised?* p.18
- *Who is responsible for upholding standards and holding Councillors to account for their conduct?* p.18

The third part of this guide explains the roles and responsibilities of elected members and paid officers of the Council. It describes the jobs they do, and how they work together to deliver the Council's functions and priorities. It also explains the codes of conduct that govern councillors' and officers' conduct and the standards of behaviour that you can expect from them.

It aims to answer questions such as: -

- *What does the Chair do?* p.22
- *What does the Leader do?* p.23
- *What happens if the Leader is unable to perform their duties?* p.23
- *My Councillor is a member of the Cabinet, what does this mean?* p.23
- *How are members of the Cabinet supported?* p.**Error! Bookmark not defined.**
- *What does the Chief Executive do?* p.24

- *What responsibilities does the Monitoring Officer have?* p.24
- *Who is responsible for ensuring that the Council's democratic policies and procedures are complied with?* p.24
- *How should Councillors behave?* p.26
- *How should Officers behave?* p.28
- *Are there any special requirements when Councillors or Officers decide planning applications?* p.27
- *How can I complain about the behaviour of a Councillor?* p.29
- *How do I report concerns about the conduct of a paid Officer of the Council?* p.29

The fourth part of this guide provides a summary of the key policies and procedures that govern how the Council carries out certain functions.

It aims to answer questions such as: -

- *Where can I find the Council's key plans and strategies?* p.30
- *How is the Council's policy framework decided?* p.30
- *How does the Council set its budget?* p.31
- *Can decisions be taken that do not comply with the budget or policy framework?* p.31
- *Can money be moved from one budget head to another once the budget has been adopted?* p.31
- *What other policies and procedures govern how the Council manages its budget?* p.32
- *Are there any restrictions on how the Council buys in goods and services?* p.32
- *How does the Council enter into contracts and agreements?* p.32

The final part of this guide explains how you can engage with, and get involved in, your Council and local democracy. It explains how your councillors are elected, how you can contact your councillor, raise questions and speak at meetings, and how you can use petitions to raise issues that are important to you with the Council.

It aims to answer questions such as: -

- *How can I find out when meetings of the Council and its committees and bodies are taking place?* p.33
- *How can I find out what will be discussed at a particular meeting?* p.33
- *How can I find out when an issue I am concerned about will be decided?* p.33
- *Can I ask a committee or body of the Council to look into a particular issue?* p.33
- *Can I attend meetings of the Full Council?* p.34
- *Can I attend other meetings?* p.34
- *Can I speak at a meeting?* p.35
- *Can I ask a question at a meeting?* p.35
- *How can I find out what the Council decided?* p.35
- *Can I view the Council's accounts to understand how my council tax is spent?* p.36

Signposts to the most relevant sections of the constitution and to additional resources available on the Council's website are provided throughout this guide to enable you to read more on a particular topic if you wish.

There is also a detailed index on the last page of this guide to allow you to quickly look up specific topics and issues of interest to you.

If there is anything in this guide which is unclear, or anything is missing, please let us know so we can improve it.


You can get in touch by contacting the Monitoring Officer by telephone on 01597-826746 or by email on clive.pinney@powys.gov.uk or by post to Clive Pinney, Monitoring Officer, Legal and Democratic Services, County Hall, Llandrindod Wells, Powys LD1 5LG.


Part 1 The Constitution

The Constitution governs the way in which the Council, Councillors and officers working at the Council work together to deliver the Council's functions. It ensures that everyone at the Council acts lawfully, fairly and appropriately and that the Council's functions are performed properly and effectively.

 Section 2.1 of the constitution explains the purpose of the constitution.

You can obtain a copy of the constitution from the Council's offices and view it on the Council's website. An electronic copy of the constitution will be provided to each Councillor when they are elected to the Council.


 You can access the Council's constitution on the Council's website [Council Constitution](#)

 Section 2.11 of the constitution explains where, when and how the constitution must be published.


The Monitoring Officer is responsible for maintaining and reviewing the constitution. The Monitoring Officer is also responsible for deciding how the constitution should be understood and applied. You can read more about the Monitoring Officer's role in Part 4 of this guide.

The Full Council is responsible for agreeing the constitution. Once the constitution has been agreed, it can only be changed by the Full Council. Usually, changes to the constitution are recommended to the Full Council by the Monitoring Officer and / or the Democratic Services Committee.

In some circumstances, the Monitoring Officer may make changes to the constitution. For example, where there is a change in the law that affects the constitution, or where a minor change is needed to clarify a provision in the constitution that is unclear.

 Sections 2.4 to 2.8 of the constitution explain how the constitution is agreed and how it can be changed.

The constitution also governs how meetings of the Council and its committees should be conducted. The person chairing a meeting will be responsible for ensuring that the constitution is followed during that meeting.

 Key words and phrases are defined and explained in section 2.2 of the constitution.

Part 2 The Council's democratic structures

The Council is made up of Councillors who are elected every five years to represent people living in different parts of the Council's area (referred to in the constitution as 'electoral divisions', but commonly known as 'wards').

Councillors are responsible for everyone living in the Council's area, but they have a special duty to people living in their ward.



Section 1.7 to 1.9 of the constitution provides an overview of how individual Councillors work together as the Council.

All Councillors meet together regularly as the Full Council. The Full Council is responsible for setting the Council's budget, policy priorities and overall policy framework.

At the start of every year, the Full Council will elect one Councillor as its Chair. The Chair is responsible for chairing meetings of the Full Council and ensuring that decisions are taken properly and in accordance with the rules.

You can read more about these roles in Part 3 of this guide.

Individual councillors may also be appointed to the Cabinet by the Leader. Members of the Cabinet are responsible for specific policy areas, commonly referred to as portfolios. Where responsibility for a particular work area or function is given to a member of the Cabinet, it is described in the constitution as being delegated to that person.

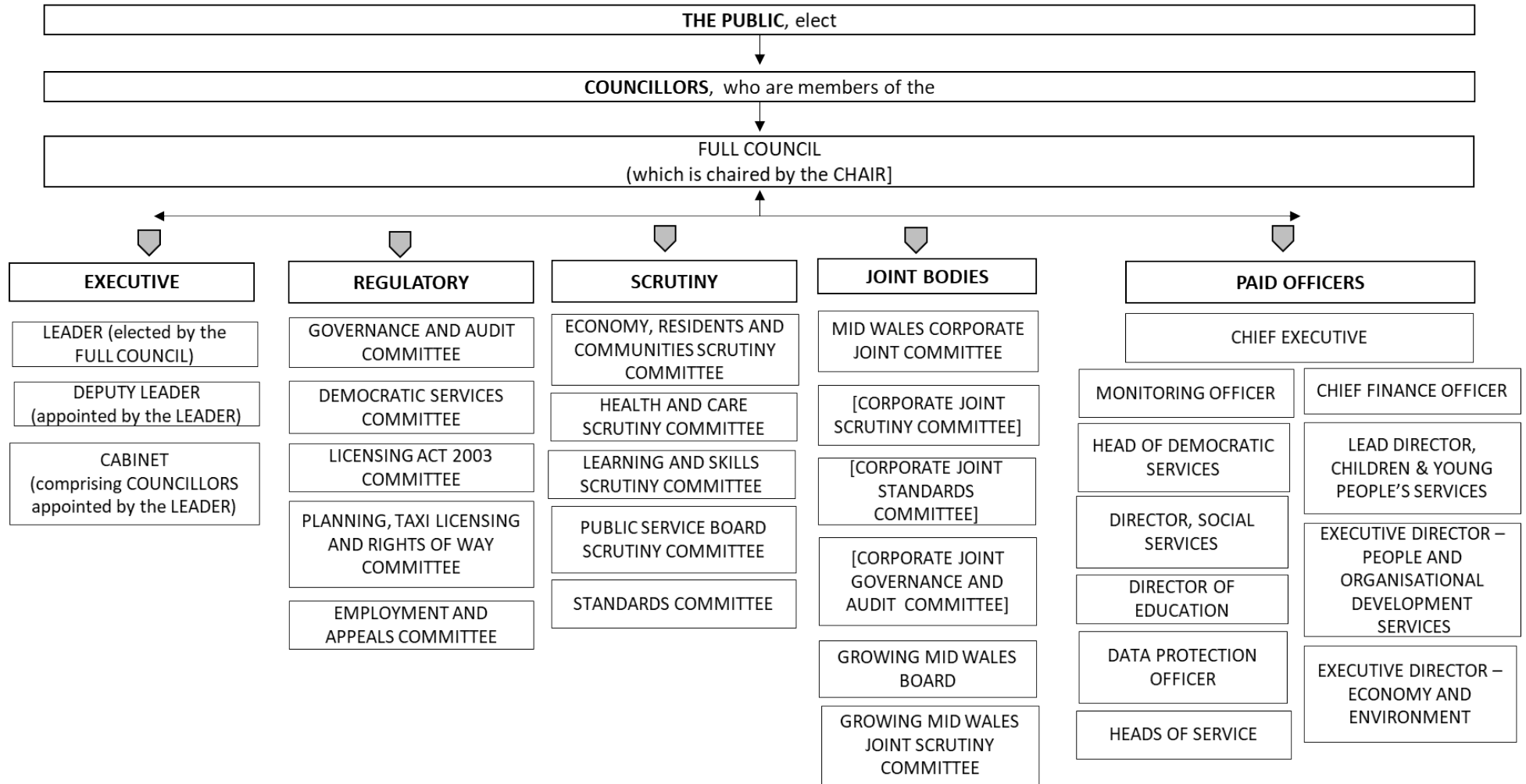
The Cabinet meets regularly to take collective decisions on those aspects of the Council's work which the Cabinet is responsible for.

Some of the Council's functions are carried out by committees. Committees are small groups of Councillors that meet together to carry out certain of the Council's regulatory and scrutiny functions.

The Full Council may engage such paid staff (referred to as officers) as it considers necessary. The Cabinet, Full Council and committees may delegate functions to officers.

You can read more about all of these structures in the following sections of this Part of the guide.

Structure chart




Councillors

Councillors are elected by the people living in a particular ward to represent them on the Council. However, Councillors are also accountable to the wider community and must act in the best interests of everyone living in the Council's area.

If you want to raise an issue with the Council and are not sure who to contact, you may wish to contact your Councillor to ask for help.

 You can find out who your local Councillor is and their contact details on the Council's website [County Councillors](#)


All Councillors are members of the Full Council, and they may also be members of one or more of the Council's members bodies (such as the Cabinet or a committee). Where Councillors act as a member of a particular Council body, they are referred to in the constitution as 'Members'.

 This is explained more fully in the list of definitions in section 2.2.2 of the constitution.

Councillors have certain rights that are set out in the constitution, which enable them to raise issues and make representations on your behalf.


For example, Councillors may: -

- see any information which they need in order to fulfil their role as a member of the Council;
- attend any meeting of the Council, its committees or the Cabinet;
- speak at any meeting of any Council body which they are a member of;
- with the permission of the chair, speak at any meeting of any Council body (even if they are not a member of that body);
- talk to the Leader, or members of the Cabinet or Council officers about any aspect of Council business; and
- raise complaints.

 Councillors' rights to information are set out in section 3.9 to 3.14 of the constitution.

 Councillors' rights to participate in Council proceedings are set out in section 3.19 of the constitution.

Councillors may also raise questions at meetings of the Full Council and the Council's committees and sub-committees, submit motions to the Full Council and call-in decisions.

 The rules surrounding how these rights are exercised are set out in sections 4.28 to 4.54 and 7.35 of the constitution.



You can read more about the role of elected Councillors and the qualities that make a good Councillor in the role description (in section 23 of the constitution) and the person specification (in section 23 of the constitution).

Full Council



Section 4 of the constitution governs the Full Council.

What does the Full Council do?

The law requires that certain important decisions are taken by all Councillors meeting together as the Full Council. These are referred to in the constitution as functions of the Full Council. The Council may decide that other non-executive functions should be carried out by the Full Council too. These are referred to in the constitution as local choice functions because the Council has a choice about which person or body should carry them out.



Section 13 of the constitution explains the different types of functions that are carried out by the Council and which part of the Council is responsible for carrying them out.

The Full Council is responsible for, amongst other things: -

- agreeing the constitution, and any changes to the constitution;
- setting the Council's budget;
- developing the Council's single integrated plan (which explains how the Council will deliver its legal duties in areas such as health and social care, children and young people and community safety);
- agreeing key plans and strategies (referred to in the constitution as the 'policy framework');
- reviewing and reporting on the Council's performance;
- electing the Leader and the Chair; and
- appointing the Chief Executive and other Chief Officers.




All of the functions of the Full Council are listed in section 4.6 of the constitution.

Meetings of the Full Council are chaired by the Chair. They are responsible for ensuring that meetings are conducted in accordance with the constitution and that decisions are made properly, fairly and lawfully.


You can read more about the role of the Chair in Part 3 of this guide.

What happens at meetings of the Full Council?


The Full Council will meet at the start of each financial year to elect Councillors to particular positions on the Council, to appoint Councillors to outside bodies and to establish committees and working groups to carry out the Council's business during the year. This is known as the annual meeting.

-  The timing of the annual meeting and the issues to be decided at that meeting are described in the council procedure rules in section 4.15 of the constitution.

Meetings of the Council are decided on an annual basis and dates published on the Council's website [Dates of Council meetings](#). These regular meetings of the Full Council are known as ordinary meetings.

-  Ordinary meetings are carried out in accordance with the council procedure rules in section 4.18 of the constitution.


In some circumstances, it may be necessary for the Full Council to meet before its next scheduled meeting to discuss an issue that is particularly urgent or important. This is known as an extraordinary meeting of the Council.

-  The process by which an extraordinary meeting may be called and the issues that may be discussed there are set out in section 4.19 of the constitution.

The Head of Democratic Services is responsible for notifying Councillors of when and where meetings of the Full Council will be held by the issuing of a summons.


The Head of Democratic Services is also responsible for ensuring that the public are told about meetings of the Full Council, by publishing a notice in advance of each meeting. The notice must include certain information such as the date and time of the meeting, where it will be held and how you can access the meeting remotely using video conferencing.

You can read more about participating in meetings of the Council in part 4 of this guide.

-  Section 4.23 of the constitution govern meeting arrangements and notice requirements.

How does the Full Council make decisions?

Meetings of the Full Council are carried out in accordance with an agreed set of rules that are designed to ensure that debates are conducted fairly and efficiently, and that every Councillor has the ability to raise questions and to make comments on the public's behalf.

-  The rules of debate are set out in section 4.44 to 4.59 of the constitution.

Decisions are made by Councillors casting votes for or against a particular decision (referred to in the constitution as a motion). Councillors may also propose amendments (changes) to a particular motion, which must then be voted on.

Usually, votes will be conducted by a show of hands, with Councillors asked to raise their hand to indicate whether they vote for or against a particular motion, or whether they wish to abstain (i.e. to vote neither for nor against the motion). The Council may also use voting software that allows Councillors to cast their votes electronically.

Decisions will usually require a simple majority of those present voting for a particular motion. In other words, more Councillors must vote for a motion than against it. Where a vote is tied once all Councillors have voted, the Chair will have a second, casting vote.

Councillors may request a recorded vote on a particular issue. In a recorded vote, the Councillors voting for and against a particular motion, and those abstaining, will be written down and recorded in the minutes of the meeting. Councillors may also request that their individual vote on a particular motion is recorded in the minutes.



The Council's voting arrangements are set out in section 4.62 to 4.74 of the constitution.

Does every Councillor need to be present before a decision can be taken?

Not every Councillor needs to vote on every decision. In fact, in some circumstances it may not be appropriate for a Councillor to vote on a particular issue (for example, where they have a personal interest in a decision). You can read more about this in part three of this guide.

However, in order for the Council to make a lawful decision a minimum number of Councillors must be present at a meeting. The minimum number of Councillors that must be present at a meeting is referred to in the constitution as the quorum for that meeting.



Section 4.26 of the constitution sets out the minimum number of Councillors that must be present so the Full Council can make a decision.




Are meetings recorded?

A record of each meeting will be kept in the form of minutes. The minutes will contain a record of the motions that were put to the meeting, and the decisions that were taken. They will also record who was present at the meeting.

The minutes of a meeting of the Full Council will be agreed by the next meeting of the Council and published on the Council's website in accordance with the Council's access to information procedure rules.


Meetings of the Full Council will also be webcast and recordings of the webcast are available for a period of six months following the meeting on the Council's website at [Dates of Council meetings](#) (Please refer to the individual meeting to access the link to the recording). Recordings of webcasts older than six months can be made available by contacting the Head of Democratic Services (email: wyn.richards@powys.gov.uk or write to Wyn Richards, Scrutiny Manager and Head of Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG)

If you want to find out what the Council decided about an issue that affects you, you can read the minutes of the meeting where that issue was discussed.


-  Information on minutes can be found in section 4.75 to 4.77 of the constitution.
-  The access to information procedure rules can be found in section 14 of the constitution.
-  Minutes of meetings are available on the Council's website [Dates of Council meetings](#)

The Cabinet

The Cabinet is made up of the Leader and individual Councillors appointed to the Cabinet by the Leader.

-  Sections 5.2, 5.3 and 5.6 of the constitution explain the composition of the Cabinet and how Councillors are appointed to the Cabinet.



The role of Leader and any role on the Cabinet may be carried out by two or more Councillors on a job-share basis.

-  Section 5.2.3 to 5.2.7 of the constitution explains the job sharing arrangements for members of the Cabinet.

What does the Cabinet do?

The Leader is responsible for carrying out the Council's executive functions. However, in practice the Leader cannot personally carry out every one of these functions, so the Leader delegates responsibility for certain functions to the Cabinet, to members of the Cabinet, to officers of the Council or to another bodies.

The Leader decides which functions to delegate to whom. This is known as the Council's scheme of delegation.


-  Sections 5.10 and 5.13 to 5.16 of the constitution explain how functions are delegated by the Leader.
-  The Council's scheme of delegation can be found in section 13 of the constitution.


Meetings of the Cabinet

The Leader will decide when the Cabinet will meet, and for how long, and will also chair meetings of the Cabinet.

The constitution prescribes certain matters that must be considered at every meeting of the Cabinet. Additionally, the Leader, members of the Cabinet and certain Chief Officers may require that an item of business is added to the meeting agenda.

Meetings of the Cabinet are carried out in accordance with the rules of procedure and debate set down in the constitution.


 The rules of procedure and debate of the Cabinet are set out in sections 5.26 to 5.30 of the constitution.


 Section 5.21 to 5.25 of the constitution governs how meetings of the Cabinet are conducted.

How does the Cabinet make decisions?

The Cabinet is obliged to consult with the local member(s) if the issue being considered is of a local nature.

The Cabinet must keep a record of every decision it makes, including every decision made by an individual member of the Cabinet and the Cabinet's committees.

 Section 14.29 to 14.36 of the constitution sets down the requirements for the Cabinet's record of decisions.

 You can read the minutes of meetings of the Cabinet on the Council's website [Dates of Cabinet Meetings](#) (Minutes are to be found with the agenda for the meeting)

Why does the Council have committees and what do they do?

The law requires the Council to establish committees for the purpose of carrying out certain legal functions of the Council.

The Council may also decide to establish other committees and working groups for the purpose of assisting the Council to conduct its business efficiently and effectively.


What do the Council's regulatory committees do?


Governance and Audit Committee

The Governance and Audit Committee advises the Full Council, the Cabinet and their respective committees and members on matters relating to good governance, financial oversight, risk management and complaints.

The Governance and Audit Committee monitors the effectiveness of the Council's rules and procedures for ensuring that the Council acts lawfully, responsibly and that it is accountable to the public (referred to in the constitution as the Council's governance systems and internal controls). The committee is also responsible for ensuring that the Council's decisions and finances are audited in accordance with agreed procedures.

The Governance and Audit Committee comprises a mixture of Councillors and lay members (who are not members of the Council). Councillors are appointed to the Committee in accordance with the political balance rules (which ensure that the political make-up of the committee reflects the political make-up of the Council).


 Section 9.4 of the constitution explains the Council's arrangements for the Governance and Audit Committee.


 The scheme of delegation in section 13 of the constitution explains the functions of the Governance and Audit Committee.

Democratic Services Committee

The Democratic Services Committee is responsible for appointing the Head of Democratic Services, keeping under review the provision of resources to the Head of Democratic Services and supporting non-executive members of the Council.

The Democratic Services Committee is made up of Councillors, though there are limits to the number of Cabinet members who can sit on the Democratic Services Committee. Councillors are appointed to the Committee in accordance with the political balance rules (which ensure that the political make-up of the committee reflects the political make-up of the Council).

 Section 9.2 of the constitution explains the Council's arrangements for the Democratic Services Committee.


 The scheme of delegation in section 13 of the constitution explains the functions of the Democratic Services Committee.

Licensing Committees

The Council is responsible for deciding whether to grant licences for a wide range of different businesses, services and activities in its area. The Council's licensing functions are delegated to the Council's Licensing Act 2003 Committee and the Planning Taxi Licensing and Rights of Way Committee.

The Council will appoint individual Councillors to the Licensing Act 2003 Committee and the Planning, Taxi Licensing and Rights of Way Committee and agree terms of reference for, and the delegation of powers to those Committees to enable them to discharge those functions.


 You can read more about the Council's Licensing Act 2003 Committee and the Planning, Taxi Licensing and Rights of Way Committee in section 9.3 of the constitution.


 You can also read more about the Council's licensing functions on the Council's website [Licences and Permits - Powys County Council](#)

Planning Committee

The Council is responsible for operating the planning system in its area. This involves preparing local development plans and local planning policies (which govern development in the Council's area) and managing development (by granting or refusing permission for new development).

The Council will appoint individual Councillors to the Planning, Taxi Licensing and Rights of Way Committee and agree terms of reference for, and the delegation of powers to the Committee to enable it to discharge those functions.

 You can read more about the Council's Planning, Taxi Licensing and Rights of Way Committee in section 9.3 of the constitution.

 You can also read more about the Council's planning functions on the Council's website [Planning and Building Control - Powys County Council](#)

What do the Council's scrutiny committees do?

Scrutiny Committees


The Scrutiny Committees are responsible for holding the Cabinet and other bodies of the Council to account.


The Scrutiny Committees can: -

- review and scrutinise decisions made by the Cabinet and other parts of the Council;
- make reports and recommendations to the Cabinet or to the Council; and
- make proposals regarding changes to the Council's policies and procedures.

 The functions of the Scrutiny Committees are set out in sections 7.5 to 7.9 of the constitution.

The Scrutiny Committees may require any member of the Cabinet or any senior paid officer of the Council to attend a meeting of the committee to explain a decision that they have taken or their performance.

 The Scrutiny Committee's rights and powers are described in sections 7.24 to 7.28 of the constitution.

 The rules around membership of the Scrutiny Committees, the conduct of committee meetings and the carrying out of the functions of the committee are set out in section 7 of the constitution.

Standards Committee

The Standards Committee is responsible for promoting high standards of conduct by Councillors, including by advising and training Councillors on the councillor code of conduct and advising the Council on changes to that code.

 The functions of the Standards Committee are set out in sections 8.8 to 8.9 of the constitution.

The Standards Committee is also responsible for considering alleged breaches of the councillor code of conduct when asked to do so by the Public Services Ombudsman for Wales, and for censuring members who are found to have failed to comply with that code.



The procedure for dealing with allegations made against Councillors is set out in sections 18.4 of the constitution.

The Standards Committee comprises a mixture of Councillors and independent members (who cannot be members or paid officers of the Council or related to members or paid officers of the Council).

Councillors are appointed to the Committee in accordance with the political balance rules (which ensure that the political make-up of the committee reflects the political make-up of the Council).



You can read more about the Standards Committee in section 8 of the constitution.

What are joint committees?

The Council may carry out some of its functions jointly with one or more other local authorities in Wales, and with other public bodies. The Council may decide to do this where, for example, the Council considers that it could better promote the economic, social or environmental wellbeing of people living in its area by coordinating its activities with other local authorities, bodies or people.

The Council can establish a joint committee with other local authorities, bodies or people and delegate decisions and functions to that joint committee. By allowing decisions to be taken by a joint committee, the Council can ensure that decisions can be coordinated between all authorities and bodies represented on the committee.

The Cabinet may also establish joint arrangements with one or more local authorities in Wales for the purpose of jointly exercising executive functions together with those authorities.



Section 10.3 of the constitution governs the circumstances in which the Council or Cabinet may enter into joint arrangements with other authorities and bodies.

The Council and the Cabinet may also delegate or contract out particular functions to another local authority or to another body or organisation.



Sections 10.5 to 10.6 of the constitution explain the Council's delegations and contracting out arrangements.

The Mid Wales Corporate Joint Committee

The Mid Wales Corporate Joint Committee is a type of joint committee.

However, unlike other joint committees (which are created by Councils deciding to work together), the Mid Wales Corporate Joint Committee was created by the Welsh Ministers.

The Mid Wales Corporate Joint Committee is responsible for the following functions:

- transport;

- strategic planning;
- economic development;

The Council must work together with other members of the Mid Wales Corporate Joint Committee when it performs these functions.

Corporate joint committees are established through regulations made by the Welsh Ministers. Consequently, many of the rules and standards that apply to corporate joint committees are set down in regulations, rather than in the constitution.



You can read the regulations that govern the Mid Wales Corporate Joint Committee online [The Mid Wales Corporate Joint Committee Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk/ukulsi/2021/0001)



You can read more about statutory joint committees generally in guidance published by the Welsh Government <Guidance not yet published by Welsh Government>.

Part 3 Roles and responsibilities

What roles do Councillors perform?

In section 23 of the constitution you can find information about the roles that Councillors may perform on the Council.

These include: -

- Leader and Deputy Leader;
- Chair and Vice Chair and Assistant Vice-Chair ;
- Member of the Cabinet;
- Elected Member (Councillor);
- Chair and / or member of the Democratic Services Committee;
- Chair and / or member of the Governance and Audit Committee;
- Chair and / or member of the Scrutiny Committees;
- Chair and / or member of the Standards Committee;
- Chair and / or member of a regulatory committee;
- Leader of the Opposition and Deputy Leader of the Opposition; and
- Member Champion.

In section 11 of the constitution you will find information about the roles played by senior paid officials of the Council, including the Chief Executive, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services.

This part of the guide provides more information about these important roles.

Chair, Vice Chair and Assistant Vice-Chair

The Chair, Vice Chair and Assistant Vice-Chair are elected by the Full Council every year at its AGM.




The procedures that govern the election of the Chair, Vice Chair and Assistant Vice-Chair and their resignation or dismissal are set out in section 4.9 of the constitution.


The Chair is responsible for: -

- promoting and upholding the constitution;
- presiding over meetings of the Full Council;
- ensuring that meetings of the Full Council are quorate and conducted in accordance with the Council's procedure rules; and
- ensuring that decisions are taken in accordance with the constitution.

The Chair is also the civil leader of the Council. They are responsible for promoting the interests and reputation of the Council and for carrying out civic, community and ceremonial activities.]

The Vice Chair performs the Chair's functions in their absence.


 You can read more about the role and functions of the Chair, the Vice Chair and Assistant Vice-Chair in section 4.12 of the constitution.]

 The role description and person specification for the Chair, Vice-Chair and Assistant Vice-Chair can be found in section 23 of the constitution.

Leader and Deputy Leader


The Leader is elected by the Full Council for a period determined by the Council, currently five years).

The Deputy Leader is appointed by the Leader to exercise the Leader's functions in their absence.

 The arrangements governing the election of the Leader and the appointment of the Deputy Leader are set out in sections 4.40, 6.1 to 6.2, and 6.15 to 6.18 of the constitution.


The Leader is responsible for appointing Councillors to the Cabinet and for allocating specific policy areas and responsibilities (portfolios) to members of the Cabinet .


The Leader is also responsible for preparing a scheme describing which functions are to be carried out by which members of the Cabinet (this is referred to in the constitution as the Cabinet scheme of delegation).

 See sections 5.9 and 6.10 of the constitution for more information.

The Leader also chairs meetings of the Cabinet.

The Leader will act as the Council member of the Mid Wales Corporate Joint Committee and the Council's representative on the Powys Public Services Board.

 See sections 6.12 to 6.13 of the constitution for more information.


 The role description and person specification for the Leader and Deputy leader can be found in section 23 of the constitution.


Member of the Cabinet

Members of the Cabinet are responsible for: -

- taking decisions regarding issues that fall within their area of responsibility;
- playing an active role in Cabinet meetings and decision making;
- contributing to the development of the Council's forward work programme and to policies and procedures in their area of responsibility;
- providing political leadership to the Council's paid officers on matters they are responsible for;

- reporting to the Full Council, the Leader, the Cabinet and others on the performance of services which they are responsible for; and
- participating in the Council's scrutiny processes and procedures, including by explaining decisions they have made and the performance of functions within their area to the Scrutiny Committees.


 You can read more about members of the Cabinet in section 5.5 to 5.6 of the constitution.

 The role description and person specifications for members of the Cabinet can be found in section 23 of the constitution.


What roles do paid officers of the Council perform?

The elected members of the Council are supported by paid officers of the Council, who are accountable to the Council and responsible for delivering services to the public in accordance with the policies and procedures agreed by the Full Council, the Cabinet and their committees and bodies.

The **Chief Executive** has overall corporate and operational responsibility for the work of the Council and for all paid officers of the Council.

 The Chief Executive's role and responsibilities are described in sections 11.2 and 11.5 to 11.6 of the constitution.


The **Monitoring Officer** is responsible for ensuring lawfulness and fairness in the Council's decision making, maintaining and upholding the constitution, receiving reports of alleged breaches of the Council's duties and obligations and conducting investigations into such allegations.

 The Monitoring Officer's role and responsibilities are described in section 11.7 to 11.17 of the constitution.

The **Head of Democratic Services** is responsible for advising the Council, its committees and individual Councillors, on the proper discharge of the Council's democratic functions and responsibilities.

 The Head of Democratic Services' role and responsibilities are described in section 11.29 to 11.32 of the constitution.

The **Chief Finance Officer** is responsible for ensuring that the Council makes lawful and financially prudent decisions. They are also responsible for the administration of the Council's financial affairs and providing advice to Councillors on the Council's budgetary and other financial procedures.


 The Chief Finance Officer's role and responsibilities are described in sections 11.18 to 11.25 of the constitution.

The Council also employs a number of other Chief Officers, including: -

- Lead Director for Children and Young People's Services
- Director of Social Services
- Executive Director – People and Organisational Development
- Executive Director – Economy and Environment

Chief Officers and Deputy Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with the Council's policies.

 The roles and responsibilities of Chief Officers and Deputy Chief Officers are described in section 11 of the constitution.

 The processes by which officers are recruited, appointed, disciplined and dismissed are set out in section 11.44 to 11.73 and Appendices A and B of Section 11 of the constitution.

How should Councillors and Officers behave?

Councillors should comply with the Members' Code of Conduct

Councillors are expected to uphold the highest standards of personal and professional conduct. Those standards are described in the Code of Conduct for Members.

The Code of Conduct for Members is intended to help and guide Councillors in maintaining appropriate standards of conduct when serving their community. In turn, it provides reassurance to the public and helps build their trust in, and respect for, their local representatives.

The Code of Conduct for Members is based upon the 7 Principles of Public Life, which were first set out in the 1995 Nolan Report on Standards in Public Life. Three additional principles were added in the local government principles in Wales.

The Code of Conduct for Members is consistent with, and provides for the practical application of, these principles.

➤ Selflessness

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

➤ Honesty

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

➤ Integrity and propriety

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

➤ **Duty to uphold the law**

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

➤ **Stewardship**

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

➤ **Objectivity in decision-making**

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

➤ **Equality and respect**

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

➤ **Openness**

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

➤ **Accountability**

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

➤ **Leadership**

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



You can read the Code of Conduct for Members in full in section 18 of the constitution.

Councillors are expected to ensure that they understand their obligations under the Code and act in a way which shows that they are committed to meeting the high standards of conduct that are expected of them. Councillors are provided with training when they are first appointed, and on a regular basis, to support them to comply with the Code of Conduct for Members.

Special requirements for Councillors who are members of the Council's planning committee

Planning affects people's private and financial interests in land and property and the environment in which communities live, work and play.

The Council's Planning, Taxi Licensing and Rights of Way Committee is responsible for balancing the needs and interests of individuals and the community to make decisions that are open, fair and transparent and decided using sound judgment and for justifiable reasons.

For these reasons, members of the Planning, Taxi Licensing and Rights of Way Committee are expected to abide by an additional Planning Protocol.

The Planning Protocol explains, amongst other things: -

- the role of officers in providing impartial and professional advice to members of the committee;
- the factors that should be taken into account when deciding an application for planning permission and the factors that should not be taken into account;
- the legal duties which members of the committee must have regard to, such as the duty to have regard to the need to ensure that development contributes to the economic, social, environmental and cultural well-being of Wales and the duty to have regard to the impact of development on the extent to which the Welsh language is used in the Council's area
- the action members should take if they have a personal interest in a matter being determined by the committee (e.g. where an application relates to a property which they own); and
- how applications for development proposed by, or to be carried out by, the Council should be decided.



You can read the Planning Protocol on the Council's website:

[Planning Protocol & Guide for Planning Committee speakers](#) .

Officers should comply with the Officers' Code of Conduct


Paid officers of the Council are responsible for serving the council by providing advice to Councillors, implementing the Council's policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

The public is entitled to expect the highest standards of conduct from all those who work for the Council. The Code of Conduct for Officers outlines the rules and conditions of service which apply to the Council's employees. It is designed to provide clear guidance to assist them in their day to day work and to allow the public to understand what they can expect when they interact with a Council employee.



You can read the Code of Conduct for Officers in full in section 20 of the constitution.

Officers who support the Council's planning committee are also expected to abide by the Code of Conduct for Members and Officers Dealing with Planning Matters.

 You can read the Code of Conduct for Members and Officers Dealing with Planning Matters in the Planning Protocol on the Council's website:


[Planning Protocol & Guide for Planning Committee speakers](#)

How should Councillors and Officers work together?

Councillors and Officers have different roles, responsibilities and accountabilities, but it is imperative that they work effectively together to perform the Council's functions and to deliver services to residents living in the Council's area.

The Protocol on Member and Officer Relations is designed to clarify the respective roles and responsibilities of Councillors and Officers and to guide them in their dealings with one another. It explains what Councillors and Officers can reasonably expect from one another and how they should work together to achieve their common purpose.

Councillors are entitled to express political views and to support the policies of the party or group to which they belong. Conversely, officers are expected to carry out the Council's business in a politically impartial way and many are restricted from engaging in political activity. The protocol therefore explains how officers can support the policy deliberations by political groupings, while remaining politically neutral.


 You can read the Protocol on Member and Officer Relations in full in section 21 of the constitution.


[Council Constitution](#) (Please refer to Section 21 - Protocol on Member / Officer Relations in the latest version on the website)

How can I complain about a Councillor?

Section 3.18 of the constitution explains how you can submit comments or complaints about the Council's services.

If you wish to complain about a Councillor, then you should contact either the Council's Monitoring Officer or the Public Services Ombudsman for Wales.

 You can get in touch by contacting the Monitoring Officer by telephone on 01597-826746 or by email on clive.pinney@powys.gov.uk or by post to Clive Pinney, Monitoring Officer, Legal and Democratic Services, County Hall, Llandrindod Wells, Powys LD1 5LG

 You can find out more about how to complain to the Public Services Ombudsman for Wales on their website
<<https://www.ombudsman.wales/how-to-complain/>>

How can I complain about an officer?

If you wish to complain about a paid officer of the Council, you should write to the officer concerned or their line manager.

If you are concerned about a wrongdoing such as danger to the public, professional misconduct, illegal practices or financial malpractice you may report your concerns to the Monitoring Officer, the Council's Head of Financial Services, the Leader or Deputy Leader of the Council or the Council's auditors.



[Council Constitution](#) (Please refer to Section 22 -Confidential Reporting Code, in the latest version on the website)

Part 4 Policies and procedures



The Council's key plans and strategies (the policy framework)

Where can I find the Council's key plans and strategies?

The Full Council is responsible for setting the Council's key plans and strategies, which together form the Council's policy framework.

-  The plans and strategies which form the Council's policy framework are listed in section 4.2 of the constitution.
-  Individual plans and strategies are published on the Council's website.

Additionally, the Council's Corporate Improvement Plan brings together the Council's plans and strategies for: communities; children and young people; health social care and wellbeing; and community safety.

-  You can read more about the Corporate Improvement Plan in section 4.3 of the constitution.
-  The Council's Corporate Improvement Plan is published on the Council's website [Vision 2025: Our Corporate Improvement Plan](#)


How is the Council's policy framework decided?

The Cabinet is responsible for consulting with relevant stakeholders (where appropriate), considering any reports or recommendations made by the Council's scrutiny committees and working with the Council's Chief Officers to develop a draft policy framework.

Once the Cabinet has developed a draft policy framework, it will be considered by a meeting of the Full Council. The Full Council may decide to adopt the policy framework, make changes to it, refer it back to the Cabinet so that further work can be done on it, or substitute its own policy framework for the draft prepared by the Cabinet.

If the Full Council decides to adopt the policy framework then it shall take effect immediately. If the Full Council amends the policy framework then the Leader has an opportunity to object to the amendments and to reconvene the Full Council to reconsider the policy framework.

Once adopted, the Cabinet, their committees, individual Councillors and the Council's paid officers are bound to act in accordance with the policy framework.

-  The process by which the Full Council adopts a policy framework is described in section 15.1 of the constitution.

Budget setting and financial management

How does the Council set its budget?

The Full Council is responsible for agreeing the Council's budget, and for agreeing changes to the Council's budget once it has been formally adopted.


The Council's budget is in two parts: -

- the revenue budget provides for day to day operating costs and expenditure like staff salaries, rent, and the ongoing costs of providing services.
- the capital budget provides for one-off costs like a major road improvement scheme, or the purchase or construction of a new car park.

The Cabinet, in consultation with the Chief Finance Officer, is responsible for developing initial proposals for the Council's budget and consulting over these.

Once this consultation has been completed, the Cabinet is responsible for preparing a final budget proposal for consideration by the Full Council.

The Full Council may adopt the budget without making any changes, amend the budget, or ask the Cabinet to reconsider it before adopting it.

 The process by which the Full Council adopts its budget is described in sections 15.2 and 16.29 to 16.32 of the constitution.


Decisions outside the budget or policy framework


Can decisions be taken that do not comply with the budget or policy framework?


The Full Council may decide to make changes to the policy framework.

Other bodies and individuals may only take decisions that do not comply with the policy framework in a limited number of exceptional circumstances, which are set out in the constitution. For example, where an urgent decision must be taken to safeguard the Council's interests and it is not possible to arrange a meeting of the Full Council in time.

However, the Council's overview and scrutiny committee may decide to refer such decisions to the Full Council for further consideration (this is referred to in the constitution as calling-in the decision).

 The Council's arrangements for urgent decisions which do not comply with the policy framework are set out in section 15.6 of the constitution.

 Section 15.7 of the constitution describes the limited circumstances in which bodies or individuals other than the Full Council may make changes to the policy framework.

 The scrutiny committees' powers are described in section 15.8 of the constitution.

Can money be moved from one budget head to another once the budget has been adopted?

During the year the Cabinet and Chief Officers may need to transfer budgets from one service area to another to reflect changed service needs or priorities in order to deliver the Council's policy framework within the financial limits set by the Council.



The mechanism by which the Cabinet and Chief Officers may move money between budget heads is set out in sections 15.4 and 16.87 to 16.99 of the constitution.

What other policies and procedures govern how the Council manages its budget?

The Council is bound by a number of different financial rules and procedures that govern how the Council's spending is planned, committed, reviewed and audited.



The Council's detailed financial procedure rules are set out in section 16 of the constitution.

Are there any restrictions on how the Council buys in goods and services?

The Council can enter into contracts to purchase goods and services in much the same way as any other person or organisation. However, the Council must comply with the contract procedure rules in the constitution when it does so.

The purpose of the contract procedure rules are to ensure that the Council complies with relevant legal requirements, and secures the most economically advantageous (best value) goods and services for taxpayers.

If you regularly sell goods or services to the Council then you may wish to familiarise with these rules and procedures.



The Council's contract procedure rules are set out in section 17 of the constitution.



How does the Council enter into contracts and agreements?

The rules and procedures that govern how agreements, contracts and deeds are authorised and executed on behalf of the Council are set out in sections 13 and 17 of the constitution.

Part 5 How can I get involved?



How can I find out when meetings of the Council and its committees and bodies are taking place?

The Council publishes notices of meetings of the Full Council and its committees.

-  You can find out more about notice requirements in sections 3.3, 4.23 and 14.6 of the constitution.
-  The Council publishes notices of meetings, and a programme of upcoming meetings, on its website [Calendar of Meetings](#)


How can I find out what will be discussed at a particular meeting?

The Council will publish agendas for meetings, together with any background papers and reports in advance of the meeting taking place.

-  You can find out more the information that is made publicly available in advance of a Council meeting in sections 14.8 to 14.9 of the constitution.
-  The Council publishes meetings agendas and supporting documents and reports on its website [Committees](#) (Please select a committee and Browse meetings to find agendas, documents, minutes and recordings [where applicable])

How can I find out when an issue I am concerned about will be decided?

The Council publishes a forward work programme, which sets out what decisions will be taken by the Cabinet and what issues the Scrutiny Committees will be considering, and when these matters will be discussed.

-  The Cabinet publishes its forward work programme on its website [Cabinet meetings](#) (The work programme is published as part of the agenda)

Can I ask a committee or body of the Council to look into a particular issue?


Yes. You can either


- (1) ask a question at Full Council, or [Public Participation Scheme](#)
- (2) Propose topics for discussion at scrutiny [Link to Suggesting a Topic](#)

You can also submit petitions to the Council, using the Council's petition scheme. The Council is obliged by law to operate a petition scheme, which sets out: -

- how a petition can be submitted to the Council;
- how and when the Council will acknowledge receipt of a petition;

- the steps the Council will take in response to a petition; and
- how any by when the Council will make available its response to a petition to the person who submitted the petition and to the public.

 You can read more about submitting a petition to the Council in section 3.18.3 of the constitution.

 The Council publishes details of its petition scheme on its website < [Committee structure Cyngor Sir Powys County Council \(moderngov.co.uk\)](http://www.moderngov.co.uk) >.

Can I attend meetings of the Full Council?

Yes, members of the public can come to meetings of the Full Council so long as they are being held in public.


Meetings of the Full Council are also broadcast live on the Council's website so you can watch them in real time remotely if you wish to do so.


The public must be excluded from meetings when confidential information would otherwise be disclosed. Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

The Council may also exclude the public from a meeting, or part of a meeting, where exempt information would be disclosed. Exempt information includes information that relates to a particular individual or their financial or business affairs, information that is legally privileged or information relating to the prevention, investigation or prosecution of a crime, or other information specified in the constitution.

If you interrupt a meeting of the Council, then you are likely to be warned by the Chair about causing a disturbance. If you continue to disturb the meeting, then you may be removed.


 The rules around excluding the public from meetings are set out in sections 4.81 and 14.14 to 14.15 of the constitution.

 The Council's obligations to broadcast meetings of the Council are set out in section 4.91 of the constitution.

 The rules around disturbance by members of the public are set out in section 4.89 and 4.90 of the constitution.

Can I attend other meetings?

Yes, members of the public can come to any meeting which the Council has resolved should be held in public.

 Your right to attend meetings of the Council's Cabinet, the council's committees and other bodies are described in section 14.5 of the constitution.

Can I speak at a meeting?

Members of the public can speak at any meeting which the Council has resolved should include participation by members of the public.

Can I ask a question at Full Council?

You can ask formal questions of:

- A Cabinet Member
- A Chair of a Committee [excluding the Planning, Taxi Licensing and Rights of Way Committee and the Licensing Act 2003 Committee]

at meetings of the Full Council. [Public Participation Scheme](#)

You will be provided with a written response to your question which will be recorded on the Council agenda and you may ask one supplementary question arising out of the response. If you cannot attend the meeting then you may submit your supplementary question in writing which will be asked on your behalf.

Time for questions is limited, and questions are permitted in the order in which they were notified to the Head of Legal Services and Monitoring Officer. If time for questions runs out before you are able to ask your question, then you will be provided with a written answer to your question instead.

Representations can also be made in specific circumstances, such as objectors to planning applications at planning committee (see Planning Protocol - [Planning Protocol & Guide for Planning Committee speakers](#)).

Contact information for the Public Participation Scheme:

Email: publicquestions@powys.gov.uk



Post: Public Participation Scheme, Head of Legal Services and Monitoring Officer, Legal and Democratic Services; County Hall, Spa Road East, Llandrindod Wells, Powys LD1 5LG

How can I find out what the Council decided?

The Council publishes the agenda, reports and the minutes of meetings once they have been agreed. These papers are available for inspection by the public for a minimum of six years from the date of the meeting. The background papers are available to the public for at least four years.

The Council also has arrangements in place for publishing written records of decisions taken by the Cabinet and the Council's committees and other bodies.



You can read about the Council's arrangements for publishing minutes of meetings in section 14.10 of the constitution.



You can read about the Council's arrangements for publishing a written record of decisions taken by the Cabinet, the Council's committees and individual

members of the Cabinet in section 14.29 to 14.33 and 14.36 of the constitution.



You can read meeting minutes, reports and agendas on the Council's website [Committees](#)

Can I view the Council's accounts to understand how my council tax is spent?

Yes. The Council is required to publish its accounts and to make them available for inspection by the public. You may raise questions of concerns about the Council's accounts with the Council or with the Council's external auditor.



You can find out more about how to view and comment on the Council's accounts in sections 3.8 of the constitution.

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B

SECTION 1 – INTRODUCTION

Purpose and Content of the Constitution

- 1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Health and Care Scrutiny Committee; Economy, Residents and Communities Scrutiny Committee; Learning and Skills Scrutiny Committee, Governance and Audit Committee; Planning, Taxi Licensing and Rights of Way Committee; Employment and Appeals Committee; Licensing Act 2003 Committee; Pensions and Investments Committee; Democratic Services Committee; Standards Committee. Section 11 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section 13 says which Council bodies, and which Officers, have authority to make which decisions.
- 1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, e.g. Full Council (Section 4), the Cabinet (Section 5) and Scrutiny Committees, (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view to the meeting.
- 1.5 Sections 18 to 20 have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it. In Section 2.2.2 there is a glossary of the terms used in the Constitution

How the Council Operates

- 1.7 The Council comprises 73 Councillors elected every five years or such other period as prescribed from time to time in legislation ("the Term"). Each Councillor is democratically accountable to the residents of their electoral division and as a Member of the Council to those who live in the county of Powys. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not or could not vote for them.
- 1.8 All Councillors have agreed to follow the Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.9 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public except where confidential matters are being discussed. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council for a term of 4 years or such other period as prescribed from time to time in legislation for the Term or otherwise removed in accordance with Rule 4.40.2 of the Constitution. Subject to the prescribed limits as to the size of the Cabinet as set

SECTION 1 – INTRODUCTION

out in regulations¹ the Leader decides the size and Membership of the Cabinet i.e. the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

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

Monitoring Officer
County Hall
Llandrindod Wells
Powys
Tel: 01597 826100

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

¹ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

C

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Purpose of the Constitution

2.1 The purpose of the Constitution is to:

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

Definitions in the Constitution

2.2.1 The Constitution of the Council is this document.

2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

Word or Phrase	Meaning
“Annual Meeting”	In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. ¹
“Budget”	the overall revenue and capital budget approved by Full Council (Section 4);
“Chief Executive”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Chief Executive;
“Chief Officer”	Unless stated otherwise Chief Officer means the following officers: Chief Executive Executive Directors
“Clear Days”	The number of days that the notice and summons of a meeting have to be published in advance of a meeting. The clear days do not include (a) the day the document is published and / or received; and (b) the day of the meeting; and (c) weekends and bank holidays. ²

¹ Local Government Act 1972, Schedule 12

² Schedule 12, Part 1, Regulation 4(2) – Local Government Act 1972.

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Word or Phrase	Meaning
“Co-Opted Member”	<p>A person chosen by the Council to serve on one of its Member Bodies consisting of the following:</p> <p>5 Independent (Lay) Members of the Standards Committee; 3 Town and Community Council representatives of the Standards Community Sub-Committee; 3 Parent Governor Representatives on the Learning and Skills Scrutiny Committee; 1 Church in Wales representative on the Learning and Skills Scrutiny Committee; 1 Roman Catholic Church representative on the Learning and Skills Scrutiny Committee; ‘Lay’ Members of the Governance and Audit Committee; 1 co-opted Member in respect of crime and disorder matters on the Economy, Residents, Communities and Governance Scrutiny Committee.</p>
“Corporate Joint Committee”	corporate bodies, established via regulation, comprising specified principal councils in Wales, for the purpose of enabling strategic planning and delivery at a regional scale.
“Councillor”	a person elected to the Council to represent an area (called an electoral division) within the county of Powys;
"Council Term"	The Council term will be 5 years or for such other period specified by Welsh Government from time to time.
“Deputy Chief Officer”	Unless otherwise stated Deputy Chief Officers means the following officers: Directors Heads of Service
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision” or “Cabinet Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member Bodies to whom the Leader or Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function” or “Cabinet Function”	<p>(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation ³ and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.</p> <p>It should be noted that regulatory functions such as planning, licensing, rights of way and building control, are not Executive Functions;</p>

³ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Word or Phrase	Meaning
	(b) Contractual matters (within an approved budget), the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.
“Exempt Information”	Information which a Council is able to withhold from being disclosed to the public as it falls within one of 10 categories of information described in regulations. ⁴
“Forward Work Programme”	the Forward Work Programme is a document which lists all of the decisions that the Cabinet intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;
“Full Council”	the body where all Councillors act to exercise functions of the Council;
“Head of Service”	such officers appointed from time to time by Strategic Directors and / or Directors to run the individual services within their directorates.
“Independent (Lay) Member”	a member of the Standards Committee who is not: (a) a Councillor; (b) an officer; or (c) the spouse of a Member or an officer of the Council, or any other Relevant Authority, or a Community Council.
“Lay Member”	the Co-Opted Member of the Governance and Audit Committee appointed by the Full Council who cannot be a Councillor.
"Leader"	The Leader of Council elected by the Council in accordance with Rule 4.40 or one or more Councillors elected by Council as Leader on a job-share basis.
“Local Choice Functions”	there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion; ⁵
“Local Representative”	has the meaning set out in Rules 19.82 to 19.89 (Planning Protocol).
“Management Team”	the senior management body for officers (Section 11). It includes those officers designated from time to time by the Chief Executive as members of the Management Team;
“the Measure”	means the Local Government (Wales) Measure 2011.

⁴ Paragraphs 12 to 18 of Part 4 of Schedule 12A to the Local Government Act 1972 as inserted by the Local Government (Access to Information)(Variation) Order 2007 and Regulation 4 of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) and the Standards Committees (Wales) (Amendment) Regulations 2007.

⁵ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Word or Phrase	Meaning
“Member”	either a Councillor or a Co-Opted Member chosen by the Council to serve on one of its Member Bodies;
“Member Body”	<p>any of the following:</p> <ul style="list-style-type: none"> • Governance and Audit Committee; • Cabinet; • Democratic Services Committee; • Employment and Appeals Committee; • Learning and Skills Scrutiny Committee; • Health and Care Scrutiny Committee; • Economy, Residents and Communities Scrutiny Committee; • Full Council; • Licensing Act 2003 Committee; • Pensions and Investments Committee; • Planning, Taxi Licensing and Rights of Way Committee; • Standards Committee (or its Community Sub-Committee) <p>Note - references to Committee also includes Sub-Committee;</p>
“Monitoring Officer”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member Body other than the Cabinet; ⁶
“Petition Scheme”	<p>a scheme prepared and published pursuant to section 42 of the Local Government and Elections (Wales) Act 2021 (and reviewed from time to time) for the purpose of setting out:</p> <ul style="list-style-type: none"> • how a petition may be submitted to the Council; • how and when the Council will acknowledge receipt of a petition; • the steps the Council will take in response to a petition received by it; • the circumstances (in any) in which the Council may take no further action in response to a petition; and

⁶ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Word or Phrase	Meaning
	<ul style="list-style-type: none"> • how any by when the Council will make available its response to a petition to the person who submitted the petition and to the public.
“Planning Application”	any of the applications set out in the Planning Protocol set out in Section 19.
“Policy Framework”	The framework set out in Rule 4.2;
“Public Interest”	Means the test set out in Section 14.
“Relevant Authority”	<ul style="list-style-type: none"> (a) a county council; or (b) a county borough council; or (c) a national park authority established under section 63 of the Environment Act 1995 (as amended); or (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies
“Returning Officer”	Means the officer appointed by Full Council pursuant to section 35 of the Representation of the People Act 1983 to be the officer responsible for the administration of elections of councillors of the county, and elections of councillors of communities within the County.
“Scrutiny Committees”	<ul style="list-style-type: none"> • Learning and Skills Scrutiny Committee; • Health and Care Scrutiny Committee; • Economy, Residents and Communities Scrutiny Committee; • Public Service Board Scrutiny Committee.
“Section 151 Officer”	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer may have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;
“Service”	any of the services provided by the Council;
“Corporate Improvement Plan (CIP)”	The CIP is a strategic document, and sets out the council’s vision for the future of Powys, in line with the priorities of the ruling administration. The plan outlines the well-being and equality objectives the council will aim to deliver over a five year period, to achieve its vision and meet the needs of local residents and communities. These objectives are required by legislation (Well-being of Future Generations Wales Act 2015 and Equality Act 2010).

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Interpretation of the Constitution

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules and for the purposes of the meeting the Chair's ruling is final.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.
- 2.3.4 Unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender.

The headings are inserted for convenience only and shall not affect the interpretation of the Constitution.

Duty to Monitor and Review the Constitution

- 2.4.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 2.4.2 The Monitoring Officer will make arrangements for any proposed changes to the Constitution to be considered by the Democratic Services Committee which will in turn make recommendations to the Full Council as to any amendments that may be necessary.
- 2.4.3 The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 16 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. S/he shall make arrangements for any proposed changes to be considered by the Governance and Audit Committee and Democratic Services Committee which will in turn make recommendations to the Full Council as to any amendments that may be necessary.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

- 2.5 A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:
 - 2.5.1 observe meetings of different parts of the Member and Officer structure;
 - 2.5.2 undertake an audit trail of a sample of decisions;
 - 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

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

Changes to the Constitution

Approval

2.6 Subject to Rules 2.7 and 2.8 below, changes to the Constitution will only be approved by the Full Council in accordance with the procedures set out in Rule 2.4.2 above.

Minor Changes

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

2.7.1 a minor variation; or

2.7.2 required to be made to remove any inconsistency, ambiguity or typographical correction;
the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the Democratic Services Committee and the next Full Council meeting for information.

2.7.3 A minor change includes changes to the titles and roles of the Senior Leadership Team and Proper Officers, and the names of Council Committees.

Legislative Change

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

Suspension of the Constitution

Limit to Suspension

2.9 Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law except for the following rules:

2.9.1 Motions affecting persons employed by the Council (Rule 4.39.7)

2.9.2 Point of Order (Rule 4.55)

2.9.3 Right to Require Individual Vote to be Recorded (Rule 4.67)

2.9.4 No Requirement to sign minutes of previous meeting at extraordinary meeting (Rule 4.76)

Procedure to Suspend

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

- 2.10 A motion to suspend any rule will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section. Any suspension will apply solely to the matter or matters being discussed at that meeting.

Publication

- 2.11.1 The Monitoring Officer will ensure that copies of this Constitution are available on the Council's website, and copies can be made available on request in audio format, in Welsh, and in Braille. Copies of Sections of the Constitution can be printed at the Council's Customer Service Points on request.
- 2.11.2 The Monitoring Officer will provide a link to a copy of this Constitution or by disk to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 2.11.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with Rule 2.6.

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SECTION 3 – GETTING INFORMATION AND GETTING INVOLVED

Information Available to Members of the Public

When Meetings of the Member Bodies Will Take Place

- 3.1 A programme of meetings is available by contacting the Council directly or via the website.

Forward Work Programme

- 3.2 The Cabinet and Scrutiny Committees will publish Forward Work Programmes, which set out the decisions that will be taken by the Cabinet and what issues the Scrutiny Committees will be considering and when these matters will be discussed.

Information Available Prior to a Meeting

- 3.3 3 clear days before a meeting, the agenda and any non-confidential report to be discussed shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any non-confidential report will be made available to the public as soon as it is available and sent to Councillors.
- 3.4 Confidential reports and all background papers to such report will **NOT** be available for public inspection or placed on the website.
- 3.5 Information which is confidential or exempt (as defined in Section 14) will not be disclosed to members of the public.

Information Available at a Meeting

- 3.6 The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the non-confidential reports for the meeting.

Information Available After a Meeting

- 3.7 For a period of six years the agenda, non-confidential reports and the minutes of the meeting shall be available for inspection and / or on the website. The non-confidential background papers will not be published on the website but shall remain open for inspection for a period of four years.

Council's Accounts

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

Information Available to Councillors (subject to Rule 3.11)

- 3.9A In accordance with Rules 14.37 to 14.44, a Councillor may request from the appropriate Head of Service only (and not individual officers) information or document relating to Council business which:

SECTION 3 – GETTING INFORMATION AND GETTING INVOLVED

- 3.9.1 is available to a member of the public;
 - 3.9.2 is confidential and to be considered at any meeting;
 - 3.9.3 s/he needs to know in order to fulfil his or her role as a Councillor (otherwise known as “need to know”). Any Councillor asserting a “need to know” in relation to documents not otherwise available under these rules shall make written application to the Monitoring Officer; ¹.
 - 3.9.4 is in the possession or control of the Council, its committees, the Cabinet and individual Cabinet Members;
 - 3.9.5 is available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2005;
 - 3.9.6 under Section 228 of the Local Government Act 1972 they have the right to inspect the accounts of the Council and accounts of any proper officer of the Council².
- 3.9B Where information requested under Rule 3.9A is not provided by the Head of Service within 10 working days, the Councillor may escalate the request to the appropriate Director / Strategic Director who will ensure that a response is received within 5 working days of the date of the escalation.

Information Given in Confidence.

- 3.10.1 A Member will not make public information which is confidential or exempt or should reasonably be regarded as such (as defined in Section 14) without the consent of a person authorised to give such consent or unless required by law to do so;
- 3.10.2 A Member must not prevent any person from gaining information to which that person is entitled by law ³ but prior to providing that information the Member must first check the alleged lawful entitlement with the Monitoring Officer.

Information Not Available to Members of the Council

- 3.11 A Member may not see any information or document where to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person’s rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Council or Government policy, rule or procedure.
- 3.12 No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

Members of Scrutiny Committees.

- 3.13 A Member of a Scrutiny Committee may also see any document within the remit of the Committee which contains material relating to:
 - 3.13.1 any business transacted by or at a meeting of the Cabinet;
 - 3.13.2 any decision taken by an individual Member of the Cabinet.

¹ See Paragraph 5(a) of Part 2 of The Local Authorities (Model Code of Conduct) (Wales) Order 2008.

² Local Government Act 1972 – Regulation 228(3)

³ See Paragraph 5(b) of Part 2 of The Local Authorities (Model Code of Conduct) (Wales) Order 2008

SECTION 3 – GETTING INFORMATION AND GETTING INVOLVED

3.13.3 any document which is in the possession or control of the Cabinet, its committees and / or individual Cabinet Members, and which contains material relating to 3.13.1 and 3.13.2 above.

3.14 A Member of a Scrutiny Committee is not entitled to:

3.14.1 any document in draft form;

3.14.2 any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Scrutiny Committee's Forward Work Programme;

3.14.3 any part of a document if to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person's rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Council or Government policy, rule or procedure.

Information Available to Officers

3.15 The Monitoring Officer, the Section 151 Officer and the Chief Executive may see any papers or records held by any part of the Council or its Officers. Subject to Rule 3.16 below other Officers may see any information held by the Council provided:

3.15.1 they need to see the information to do their job; and

3.15.2 the information is processed lawfully in accordance with the Data Protection Act 1998.

Information Not Available to Officers

3.16 Officers will not be allowed to see information contained in confidential reports relating to the staffing of their service area. Instead officers should make the appropriate enquiry of their Head of Service.

Getting Involved

3.17 The Council must encourage local people to participate in the making of decisions by the Council. See the Council's public participation strategy for more information.

Members of the Public

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

Voting for Councillors

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

Suggesting Items of Business for Meetings

3.18.2 A member of the public can seek to get a matter included in an agenda by asking the Chair of any Member Body to add an item to the agenda

3.18.3 A member of the public can seek to raise a matter with the Council by submitting a petition in accordance with the Council's Petition Scheme. **Views of the Public**

3.18.4 The public may bring to the attention of the relevant Scrutiny Committee their views on any matter under consideration by that Scrutiny Committee. The

SECTION 3 – GETTING INFORMATION AND GETTING INVOLVED

Scrutiny Committee must take into account any views brought to their attention under these arrangements pursuant to Section 62 of The Measure.⁴

When are Meetings Open to the Public?

3.18.5 Meetings will be open to the public wherever possible but members of the public will only be allowed to speak at meetings of the Planning, Taxi Licensing and Rights of Way Committee in accordance with the rules set out in Sections 19 and 24. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See Section 14 for definitions of exempt information and public interest.)

Making Comments

3.18.6 A member of the public may comment about Council services by:

- 3.18.6.1 contacting the Officer responsible for delivering the service or their manager;
- 3.18.6.2 contacting the Member of the Cabinet responsible for the service;
- 3.18.6.3 contacting their local Councillor.

Making Complaints

3.18.7 A member of the public may complain about Council services or the conduct of an officer by:

- 3.18.7.1 using the Council's complaints procedure⁵;
- 3.18.7.2 following completion of the Council's complaints procedure, by contacting the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsman-wales.org.uk.

Complaints Against a Member

3.18.8 A complaint against a Member should be referred to the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsman-wales.org.uk.

Getting Involved – Members

3.19 Members can get involved by:

Suggesting Items of Business for the Agenda

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

3.19.1.1 Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

Column A	Column B
Democratic Services Committee	Council

⁴ Section 62 of the Local Government (Wales) Measure 2011

⁵ <http://www.powys.gov.uk/en/customer-services/make-a-complaint/>

SECTION 3 – GETTING INFORMATION AND GETTING INVOLVED

Scrutiny Committees	Cabinet (Section 7) Council (Section 7)
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- 3.19.1.2 Councillors can submit a Notice of Motion to Council (Section 4) and also ask questions (Section 4).

Participating in Meetings

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

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

- 3.19.2.2 Members of the Cabinet are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

Comments and Complaints

- 3.19.3 Members may comment, subject to restrictions in the Code of Conduct for Members (Section 18), on any aspect of Council business by:

- 3.19.3.1 talking to Officers;
3.19.3.2 talking to the Leader or a Member of the Cabinet;
3.19.3.3 talking to the Chair of a Scrutiny Committee.

- 3.19.4 If a Member wishes to complain about an:

Officer

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

Member

- 3.19.4.2 The procedures set out in Sections 28 (Local Resolution Protocol) and / or 18 (Members' Code of Conduct) may be followed.

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SECTION 4 – FULL COUNCIL

Introduction

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

The Policy Framework

4.2 The Policy Framework means the following plans and strategies:

Plan, Scheme and Strategy	Reference
• Children and Young People's Plan;	• Regulations made under Section 26 of the Children Act 2004 (c.31)
• Best Value Performance Plan;	• Section 6(1) of the Local Government Act 1999 9c.27)
• Community Strategy;	• Section 4 of the Local Government Act 2000 (c.22)
• Crime and Disorder Reduction Strategy;	• Sections 5 and 6 of the Crime and Disorder Act 1998 9c.37)
• Health and Well-Being Strategy;	• Section 24 of the National Health Service Reform and Health Care professions Act 2002 9c.17)
• Local Transport Plan;	• Section 108 of the Transport Act 2000 (c.38)
• Plans and alterations which together comprise the Development Plan;	• Section 10A of the Town and Country Planning Act 1990 (c.8)
• Welsh Language Scheme;	• Section 5 of the Welsh Language Act 1993 (c.38)
• Youth Justice Plan;	• Section 40 of the Crime and Disorder Act 1998 (c.37)
• Powers to approve a Young People's Partnership Strategic Plan and a Children and Young Peoples Framework Partnership	• Section 123, 124 and 125 of the Learning and Skills Act 2000 (c.21)
• Housing Strategy;	• Section 87 of the Local Government Act 2003 (c.26)
• Rights of Way Improvement Plan;	• Section 60 of the Countryside and Rights of Way Act 2000 (c.37)
• Pay Policy	• Section 38(1) of the Localism Act 2011
• Single Integrated Plan	• Part 2 – Local Government (Wales) Measure 2009 ¹

¹ Welsh Government Guidance "Shared Purpose – Shared Delivery" to Part 2 of the Local Government (Wales) Measure 2009 Rules 37 to 46.

SECTION 4 – FULL COUNCIL

The Single Integrated Plan (The One Powys Plan)

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

The Budget

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

Housing Land Transfer

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

Functions of the Full Council

- 4.6 Only the Full Council will exercise the following functions:
- 4.6.1 adopting and changing the Constitution;
 - 4.6.2 approving or adopting the Single Integrated Plan (The One Powys Plan), Policy Framework, the Budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
 - 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
 - 4.6.4 appointing and removing the Leader;
 - 4.6.5 making appointments to the committees of the Council
 - 4.6.6 making appointments of Chairs of the Scrutiny and Democratic Services committees of the Council. The Chair of a Scrutiny Committee and the Democratic Services Committee may be removed from office by a motion to remove to Council which is put on the agenda pursuant to Rule 4.38.1.
 - 4.6.7 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;

SECTION 4 – FULL COUNCIL

- 4.6.8 changing the name of the area or conferring the title of freedom of the County;
- 4.6.9 making or confirming the appointment of the Chief Executive and other Chief Officers²;
- 4.6.10 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Private Bills;
- 4.6.11 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 4.6.12 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.13 appointing representatives to outside bodies unless the appointment has been delegated by the Council.
- 4.6.14 to determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer.
- 4.6.15 approve, review and amend the Council's Petition Scheme
- 4.6.16 approve, review and amend the public participation strategy

Membership

- 4.7 All Councillors shall be members of Full Council.
- 4.8 Substitution is not possible at meetings of the Council.

Chairing the Council

Appointment And Term Of Office Of Chair, Vice-Chair And Assistant Vice-Chair Of Council

- 4.9 The County Council will at every Annual Meeting elect from amongst its Councillors:

- 4.9.1 The Chair of the County Council;
- 4.9.2 The Vice-Chair of the County Council;
- 4.9.3 The Assistant Vice-Chair of the County Council.

and the Councillors so elected will hold office until the following Annual Meeting; they resign; are dismissed by a vote of Full Council upon a Motion on Notice; cease to be a member of the Council; or are unable to act as a member of the Council due to he/she being suspended or disqualified from being a Councillor under Part 3 of Local Government Act 2000.

- 4.10 The post of Chair, Vice Chair and Assistant Vice Chair will be nominated by Councillors in Montgomeryshire, Radnorshire and Brecknockshire in rotation.
- 4.11 In the event of a vacancy occurring between Annual Meetings the County Council will appoint a new Chair, Vice-Chair or Assistant Vice-Chair (as the case may be) at an ordinary meeting following the occurrence of the vacancy.

Role and Function of the Chair

² Defined in Section 2.2.2

SECTION 4 – FULL COUNCIL

4.12 The Chair of the Council and in his/her absence, the Vice Chair or Assistant Vice Chair will have the following roles and functions:

Ceremonial Role

4.12.1 The Chair of the Council:

- 4.12.1.1 is the civic leader of Powys County Council ;
- 4.12.1.2 promotes the interests and reputation of the Council and the geographic area of Powys as a whole and acts as an ambassador for both; and
- 4.12.1.3 undertakes civic, community and ceremonial activities and fosters community identity and pride.

Responsibilities of the Chair

4.12.2 The Chair of the Council will:

- 4.12.2.1 uphold and promote the purpose of the Constitution, and to interpret the Constitution with advice from the Monitoring Officer when necessary;
- 4.12.2.2 preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors with regards to their (a) participation in the affairs of Council; (b) access to documentation and information in accordance with Section 14; and (c) the interests of the Community;
- 4.12.2.3 ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and Committee chairs to account;
- 4.12.2.4 ensure public involvement in the Council's activities;
- 4.12.2.5 be the conscience of the Council; and

Political Neutrality

4.12.3 The Chair, Vice-Chair and Assistant Vice-Chair of the Council during their periods of office will not be actively involved with any political group to which they belong.

4.12.4 The Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, cannot be a member of the Cabinet .

Council Meetings

4.13 There are three types of Council meeting:

- 4.13.1 the Annual Meeting;
- 4.13.2 ordinary meetings; and
- 4.13.3 extraordinary meetings

SECTION 4 – FULL COUNCIL

Rules of Procedure and Debate

4.14 The Council Procedure Rules contained in Rules 4.15 onwards will apply to meetings of the Full Council. Unless otherwise indicated, those rules marked:

Symbol	Application
♣	will apply to Cabinet and Cabinet Committees
▲	will apply to committee and sub-committee meetings (with the exception of the Planning, Taxi Licensing and Rights of Way Committee when performing the functions of a planning authority as defined in Section 319ZD of the Town and Country Planning Act 1990)
■	will apply to the Planning, Taxi Licensing and Rights of Way Committee when performing the functions of a planning authority as defined in Section 319ZD of the Town and Country Planning Act 1990

Council Procedure Rules - Annual Meeting of the Council

Timing and Business

4.15 In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May. Every Annual Meeting will:

- 4.15.1 elect a person to preside if the Chair of the Council is not present. A member of the Cabinet cannot preside over a meeting of Council³;
- 4.15.2 elect the Chair of the Council (subject to 4.10 above);
- 4.15.3 elect the Vice Chair of the Council (subject to 4.10 above);
- 4.15.4 elect the Assistant Vice-Chair of the Council (subject to 4.10 above);
- 4.15.5 receive declarations of interest
- 4.15.6 receive apologies for absence
- 4.15.7 decide on any amendments to the Constitution⁴ recommended by the Democratic Services Committee
- 4.15.8 receive any announcements from the Chair, Leader and/or the Chief Executive;
- 4.15.9 elect the Leader of the Council, except where the Leader was appointed for a period of four years or the term of the Council at the initial annual meeting of the Council;
- 4.15.10 be informed by the Leader of the number of Councillors to be appointed to the Cabinet;

³ Schedule 12, Local Government Act 1972 (as amended)

⁴ Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution are subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution;

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- 4.15.11 decide on the allocation of seats on political balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989
- 4.15.12 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and to make appointments accordingly
- 4.15.13 appoint the Scrutiny Committees , Democratic Services Committee, Planning, Taxi-Licensing and Rights of Way Committee, Licensing Act 2003 Committee, Employment and Appeals Committee, Pensions and Investment Committee a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- 4.15.14 allocate the Chairs of Scrutiny Committees to the relevant political groups and to note the appointments to those Chairs made by the political groups
- 4.15.15 appoint the Chair of the Democratic Services Committee⁵
- 4.15.16 elect or appoint Members where vacancies occur in respect of:
- Independent Member of Standards Committee; and
 - Lay Member of the Governance and Audit Committee; and
 - Co-Opted Members of the Scrutiny Committee;
- 4.15.17 receive from the Leader any changes to the scheme of delegations (as set out in Section 13 of this Constitution);
- 4.15.18 to approve a Schedule of Members' Remuneration for the next ensuing financial year
- 4.15.19 consider any business set out in the notice convening the meeting.
- 4.15.20 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes PROVIDED ALWAYS that in allowing such urgent business the Chair shall have regard to the fact that the Annual Meeting of the Council is normally a civic / ceremonial occasion;
- 4.15.21 receive from political groups nominations of Councillors to serve on the Brecon Beacons National Park Authority and to make appointments accordingly
- 4.15.22 appoint 3 Councillors to the Welsh Local Government Association.
- 4.15.23 appoint 1 Councillor to the Welsh Local Government Association Co-Ordinating Committee
- 4.15.24 approve the Council's Pay Policy. Full Council has granted a dispensation for an officer nominated by the Section 151 Officer to be present during the course of the debate to answer any matters raised by members in the debate. Dispensation is also given for an officer to be present during the course of the debate to run the congress system.
- 4.16 The order of business, with the exception of Rule 4.15.1 may be altered by the Chair or decision of Council
- 4.17 Additional agenda items for the Annual Meeting next following the ordinary election of Councillors:

⁵ Regulation 14(1) of Local Government Measure (Wales) 2011

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- 4.17.1 Receive a report from the Returning Officer as to the Councillors elected;
- 4.17.2 Elect the Leader **;
- 4.17.3 Appoint Councillors to the Standards Committee **;
- 4.17.4 Make appointments of Councillors in accordance with the political balance requirements to:
 - Police and Crime Panel **;
 - Mid and West Wales Fire and Rescue Authority **;

** Unless terminated earlier in accordance with this Constitution, this election / appointment will be for a term expiring at the next ordinary council elections.

Ordinary Meetings

4.18 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council provided that the Chief Executive and Monitoring Officer shall have authority, subject to consultation with the Chair of Council, to change the date or time of any meeting, if such change is necessary in the interest of the convenient or efficient dispatch of the Council's business. The order of business at ordinary meetings will be as follows:

- 4.18.1 elect a person to preside if the Chair, Vice Chair and Assistant Vice-Chair are not present. A member of the Cabinet cannot preside at a meeting of the Council⁶;
- 4.18.2 receive any declarations of interest from Councillors;
- 4.18.3 receive apologies for absence;
- 4.18.4 approve as a correct record the minutes of the last meeting;
- 4.18.5 receive any announcements from the Chair, Leader or Chief Executive
- 4.18.6 decide on any amendments to the Constitution recommended by the Democratic Services Committee⁷
- 4.18.7 where required to elect, appoint, or note the appointment, or remove Members to / from the following positions:
 - 4.18.7.1 Chair, Vice-Chair, Assistant Vice-Chair of Council;
 - 4.18.7.2 Leader;
 - 4.18.7.3 Independent Member of Standards Committee;
 - 4.18.7.4 Appoint Lay Member of the Governance and Audit Committee and Co-Opted Members of the Scrutiny Committee;
 - 4.18.7.5 Chair of a Scrutiny Committee (excluding Chair of Audit) or Democratic Services Committee.
- 4.18.8 (if required due to the formation of a new political group or due to a Councillor joining a political group):

⁶ Schedule 12, Local Government Act 1972 (as amended)

⁷ Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution

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- 4.18.8.1 decide on the allocation of seats on politically balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989; and
- 4.18.8.2 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and make appointments accordingly; and
- 4.18.8.3 allocate the Chairs of scrutiny committees to the relevant political groups and to note the appointments to those Chairs made by the political groups in accordance with the Local Government (Wales) Measure 2011;
- 4.18.9 (if required due to vacancy) note appointment of chair(s) of scrutiny committee(s) by the political group(s) in accordance with the Local Government (Wales) Measure 2011
- 4.18.10 to receive the report of the Monitoring Officer setting out appointments to fill vacancies on committees and outside bodies s/he has made in accordance with the authority delegated to him / her to make such appointments which accords with the wishes of a political group to whom the committee seat or position on the outside body has been allocated
- 4.18.11 receive written statements from the Leader and / or members of the Cabinet (which statements shall be taken as read) and any questions and answers on any of the statements;
- 4.18.12 receive reports from the Cabinet, Leader, Cabinet member, and any questions, answers and observations on any of those reports;
- 4.18.13 receive reports from any of the Council's Committees introduced by the relevant Committee Chair, and any questions, answers and observations on any of those reports;
- 4.18.14 receive reports from any of the Council's statutory officers, or Chief Officers and any questions, answers and observations on any of those reports
- 4.18.15 receive any other report that the Chief Executive considers is required to be placed before the Council and any questions, answers and observations on any of those reports
- 4.18.16 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.18.17 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework;
- 4.18.18 receive any petitions
- 4.18.19 deal with any outstanding business from the last Council meeting
- 4.18.20 receive and consider recommendations from the Cabinet and the Council's committees
- 4.18.21 consider motions of which appropriate notice has been given;
- 4.18.22 receive questions submitted in accordance with Rule 4.30 (Questions on Notice), and answers in response to those questions.
- 4.18.23 consider and debate any major issue which is relevant to the Council and its functions, for example a "state of the county" debate
- 4.18.24 to receive the report of the Monitoring Officer setting out any changes by the Leader in the scheme of delegation and executive functions
- 4.18.25 consider any business set out in the notice convening the meeting

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- 4.18.26 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes
- 4.18.27 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules in Section 14.
- 4.18.28 To consider annual reports received from the Standards Committee within three months of receipt.
- 4.18.29 The order of business, with the exception of Rule 4.18.1 may be altered by the Chair or decision of Council
- 4.18.30 No meetings of the Council, or its committees (other than Committees, Sub-Committees or Panels dealing with planning, licensing and employment matters), shall be held in the month of August, unless circumstances so require.

Extraordinary Meetings

Calling Extraordinary Meetings

4.19 The Chief Executive may call Council meetings in addition to ordinary meetings. Those listed below may request the Chief Executive to call additional Council meetings:

- 4.19.1 the Council by resolution;
- 4.19.2 the Chair of the Council;
- 4.19.3 The Leader;
- 4.19.4 The Chief Executive;
- 4.19.5 The Monitoring Officer or the Section 151 Officer;
- 4.19.6 any five Councillors if they have signed a requisition presented to the Chair of the Council and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Business

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

Time, Place and Duration of Meetings

Time and Place of Meetings

4.21 The time and place of meetings will be determined by the Chief Executive in consultation with the Chair and notified in the summons. ♣ ▲ ■⁸

Duration of Meetings

4.22 At ordinary meetings, when 8 hours have elapsed after the commencement of the meeting, the Chair shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered

⁸ See Rule 4.14

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at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. ♣ ▲ ■⁹

Notice, Summons and Agenda of Meetings

- 4.23.1 The Chief Executive will give notice to the public (Notice) of the time and place by publishing it on the Council's website at least 3 clear days before a meeting. The Chief Executive will send a summons signed by him/her to every Councillor by post and / or by leaving it at their usual place of residence and / or by electronic means including a link to the Members' website. ♣ ▲ ■¹⁰
- 4.23.2 Where the meeting or part of the meeting is open to the public and is held through remote means only the Notice, will give details of the time of the meeting and how to access it;
- 4.23.3 Where the meeting or part of the meeting is open to the public and is held partly through remote means or is not held through remote means, the Notice will give details of the time and place of the meeting and how to access it;
- 4.23.4 Where the meeting is not open to the public and is held partly through remote means or is not held through remote means, the Notice will give details of the time and place of the meeting and the fact that it is not open to the public;
- 4.23.5 Where the meeting is not open to the public and is held through remote means only, the Notice will give details of the time of the meeting, and the fact that it is being held through remote means only and is not open to the public.¹¹
- 4.23.6 The agenda and connected reports (which are not exempt pursuant to Section 14) for all Council meetings will be published on the Council's website and where an item is added to an agenda which has been published on the website, the item (or the revised agenda), and any report for the meeting relating to the item, must be published on the website from the time the item is added to the agenda.¹²

Chair of Meeting

- 4.24.1 Whenever present the Chair of Council will chair meetings of the Council. In his / her absence the Vice-Chair of Council, or in his / her absence the Assistant Vice-Chair of Council or in his/her absence the Councillor elected to preside over the meeting in accordance with Rule 4.18.1, will take the chair. The person presiding at the meeting may exercise any power or duty of the Chair. A member of the Cabinet cannot preside at a meeting of the Council
- 4.24.2 At the first meeting of Committees or Sub-Committees (save the Standards Committee) in each municipal year the Committee / Sub-Committee will elect a Chair and Vice-Chair for the forthcoming 12 month period save where the Chair of Committee has been appointed by Council by the Full Council in accordance with Rules 4.15.14, 4.15.15 or Rule 4.18.7.5. ▲ ■¹³
- 4.23.3 Whenever present the Chair of a Committee / Sub-Committee elected in accordance with Rule 4.24.2 above will chair meetings. In his / her absence the

⁹ See Rule 4.14

¹⁰ See Rule 4.14

¹¹ Regulation 4 – Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

¹² Regulation 5 - Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

¹³ See Rule 4.14

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Vice-Chair of the Committee / Sub-Committee will take the chair. In the absence of the Chair and Vice-Chair the Committee / Sub-Committee will elect a Councillor to preside over the meeting. The person presiding at the meeting may exercise any power or duty of the Chair. ♣ ▲ ■¹⁴

Conduct of Meeting

4.25 The Chair shall conduct the meeting to secure a proper, full and effective debate of business items where a decision is required and a committee or sub-committee has not previously considered the matter. The steps the Chair may take include: ♣ ▲ ■¹⁵

4.25.1 calling for more time to allow the speaker to properly explain the matter; ♣ ▲ ■¹⁶

4.25.2 permitting a Member to speak more than once; ♣ ▲ ■¹⁷

4.25.3 allowing employees of the Council to advise the meeting as appropriate, having regard to the provisions of Rules 4.94 and 4.95 below; ♣ ▲ ■¹⁸

4.25.4 allowing a full discussion of reports and matters for decision; ♣ ▲ ■¹⁹

Quorum

4.26 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. ♣ ▲ ^{20 21}

Remote Attendance

4.27.1 Pursuant to Section 47 of the Local Government and Elections (Wales) Act 2021, Members may attend meetings by remote means. ♣ ▲ ■²²

4.27.2²³ For the purposes of Rule 4.27.1 above “remote means” has the following meaning namely a meeting held by means of any equipment or other facility which enables persons who are not in the same place to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see or be seen by each other)

¹⁴ See Rule 4.14

¹⁵ See Rule 4.14

¹⁶ See Rule 4.14

¹⁷ See Rule 4.14

¹⁸ See Rule 4.14

¹⁹ See Rule 4.14

²⁰ See Rule 4.14

²¹ For the quorum of the Planning, Taxi Licensing and Rights of Way Committee acting as a Planning Authority see Rule 19.92

²² See Rule 4.14

²³ Regulation 2 – Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

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Questions by Councillors

On Minutes, Reports or Statements of the Cabinet or Committees

4.28 A Member of the Council may ask the Leader, Cabinet member or the Chair of a Committee / Sub-Committee any question without notice directly **arising from an item in the minutes** (whether or not that minute has been approved as a true record at a subsequent meeting of the Cabinet or Committee / Sub-Committee), report or statements of the Cabinet / Cabinet member or a Committee / Sub-Committee, when that item is being received or is under consideration by the Council.

Questions from Members

4.29A Subject to Rule 4.30, a Councillor may ask on Notice at Full Council:

4.29A.1 the Chair;

4.29A.2 a member of the Cabinet;

4.29A.3 the chair of any committee or sub-committee;

4.29A.4 nominated Councillors of the Fire and Rescue Authority or the Brecon Beacons National Park Authority or the Police and Crime Panel

a question on any matter in relation to which the Council has powers or duties or which affects the Council other than operational matters which must be addressed as set out in Rule 4.29C

4.29B In addition to questions put under Rule 4.29A above a Councillor may ask the Leader or a Portfolio Holder a written question on any matter in relation to which the Council has powers or duties or which affects the Council other than operational matters which must be addressed as set out in Rule 4.29C at any time which must be responded to within 10 working days. All such questions and responses will be published on the council's website.

4.29C In addition to questions put under Rules 4.29A and 4.29B above a Councillor may ask the relevant Head of Service a written question on any operational matter at any time which must be responded to within 10 working days. All such questions and responses will be published on the council's website.

Notice of Questions

4.30 A Councillor may ask a question under Rule 4.29 if either:

4.30.1 written notice of the question has been received by the Monitoring Officer not later than 5.00 p.m. 10 Clear Days before the date of the Council meeting at which it is to be considered; or

4.30.2 the question relates to urgent matters, they have the consent of the Chair and the Councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer by 5 p.m. on the day prior to the meeting.

Maximum Number of Questions

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- 4.31 A Councillor may ask only two questions (including any urgent question(s)) under Rule 4.29 except with the consent of the Chair of the Council. With the consent of the Chair of Council a Member may substitute an urgent question for a question that has already been raised provided that the urgent question complies with Rule 4.30.2.

Order of Questions

- 4.32 Questions of which notice has been given under Rule 4.29 will be listed on the agenda in the order determined by the Chair of the Council.

Rejection of Questions

- 4.33 Questions under Rule 4.29 may be rejected if, in the opinion of the Monitoring Officer and the Chair they:

- 4.33.1 are not about a matter for which the Council has a responsibility and which affects the administrative area of the Council;
- 4.33.2 are defamatory, frivolous or offensive;
- 4.33.3 are substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given;
- 4.33.4 concern an item of business which is the subject of a report to the meeting;
- 4.33.5 disclose confidential or exempt information where there is no demonstrable need to know;
- 4.33.6 are based on opinion where the factual basis for the opinion is not detailed in the question
- 4.33.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer.

Withdrawal of Questions

- 4.34.1 A question of which notice has been given can only be withdrawn with the consent of the person asking the question;
- 4.34.2 If the Monitoring Officer considers that a response to a submitted question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Councillor concerned to ascertain whether the Councillor agrees that the question could be withdrawn.
- 4.34.3 A question which has been withdrawn under Rule 4.34.1 may only be reinstated provided that Rule 4.30 has been adhered to.

Responses

- 4.35 A response to a question or supplementary question may take the form of:
- 4.35.1 a direct oral answer at the meeting or if it is more appropriate to supply the answer in written form, a written answer should be circulated at the meeting or later to the questioner and other Councillors (if requested). Where an oral answer is given the response shall last for no longer than 5 minutes.
 - 4.35.2 where the desired information is in a publication of the Council or other published work, by reference to that publication,

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Supplementary Question

4.36 A Councillor asking a question under Rule 4.29 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. The Councillor asking the supplementary question may speak for no longer than 1 minute. The speech must not amount to a response or comment upon the response provided under Rule 4.35 above.

Motions on Notice

Notice

- 4.37.1 Except for motions which can be moved without notice under Rule 4.42 and in cases of urgency under Rule 4.43, written notice of every motion, must be received by the Monitoring Officer and be accompanied by a costed analysis of the financial and resource implications that motion, would have on the Council, should it be approved and should be received no later than 5 p.m. 21 days before the date of the Council meeting at which it is to be considered in accordance with the timetable set out in Rule 4.49.2.1 below.
- 4.37.2 Each motion must have one Member to propose and another Member to second the motion and the proposer and seconder must either sign the motion or otherwise confirm by email or in writing to the Monitoring Officer that they are proposing or seconding the motion.

Motion Set Out in Agenda

- 4.38.1 Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.
- 4.38.2 If an issue arises at a meeting of a committee as to the appointment, promotion, dismissal, salary, superannuation or Conditions of Service, or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council has decided on the exercise of the power of exclusion of the public under the terms of the Access to Information Rules set out in Section 14.

Scope

- 4.39 Motions may be rejected if, in the opinion of the Monitoring Officer and the Chair they:
- 4.39.1 are not about a matter for which the Council has a responsibility and which affects the wellbeing of the administrative area of the Council;
 - 4.39.2 are defamatory, frivolous or offensive;
 - 4.39.3 are substantially the same as a motion which has been put at a meeting of the Full Council in the past six months;
 - 4.39.4 concern an item of business which is the subject of a report to the meeting;
 - 4.39.5 disclose confidential or exempt information where there is no demonstrable need to know;
 - 4.39.6 are based upon a legally inaccurate premise;

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- 4.39.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer;
- 4.39.8 would amount to an attempt to “Call-In” a decision of Cabinet or a delegated decision made by a Portfolio Holder which would not be allowed due to application of the Call-In rules set out in Section 7.
- 4.39.9 are not accompanied by a costed analysis of the financial and resource implications that motion, would have on the Council, should it be approved

Appointment and Removal of the Leader

4.40.1 The following process will be followed for the appointment of the Leader:

- 4.40.1.1 The Chair will ask for written nominations;
 - 4.40.1.2 The Chair will declare the number of nominations for each candidate and where a candidate has been nominated by more than 1 Councillor they will be deemed to have had their nomination seconded. For candidates with a single nomination, the Chair will ask for a seconder from the floor of Council;
 - 4.40.1.3 Those nominated will be asked whether they accept or refuse the nomination;
 - 4.40.1.4 In the event of there being a single candidate, there will be a secret ballot and the Chair will have a casting vote.
 - 4.40.1.5 In the event of there being more than 1 candidate, all candidates will be asked to leave the Chamber and each candidate will be invited, in alphabetical / surname order to separately make a presentation of up to 5 minutes to Council.
 - 4.40.1.6 After all presentations have been made there will be a vote by secret ballot. Where no candidate receives a majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives a majority. If the bottom 2 candidates have the same number of votes, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote as to the candidate to be eliminated.
 - 4.40.1.7 For the avoidance of doubt in the event of the last 2 candidates having the same number of votes, the Chair will have a casting vote as to which candidate is appointed as Leader.
- 4.40.2 The Leader may be removed by a Notice on Motion which has a simple majority of those Councillors voting and present in the room at the time the question was put.
- 4.40.3 A motion to remove the Leader cannot be moved more than once in any rolling 6 month period.

Two Motions per Councillor

- 4.41 No Councillor may give notice, or second, more than 2 motions for any Council meeting, except with the consent of the Chair.

Motions without Notice

- 4.42 The following motions may be moved without notice:

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- 4.42.1 to appoint a Chair of the meeting at which the motion is moved; ♣ ▲ ■²⁴
- 4.42.2 in relation to the accuracy of the minutes; ♣ ▲ ■²⁵
- 4.42.3 to change the order of business in the agenda; ♣ ▲ ■²⁶
- 4.42.4 to refer something to an appropriate committee, body or individual for consideration or reconsideration; ♣ ▲ ■²⁷
- 4.42.5 to appoint a committee or Member to perform a function or duty arising from an item on the summons for the meeting; ♣ ▲ ■²⁸
- 4.42.6 to receive reports and / or adopt and / or amend recommendations of the Cabinet, committees or Officers and any resolutions following from them; ♣ ▲ ■²⁹
- 4.42.7 to withdraw a motion; ♣ ▲ ■³⁰
- 4.42.8 to amend a motion; ♣ ▲ ■³¹
- 4.42.9 a closure motion under Rule 4.54 ♣ ▲ ■³²
- 4.42.10 to suspend a particular Council Procedure Rule (provided that at least one half of the whole number of Members are present)³³;
- 4.42.11 to exclude the public and press in accordance with the Access to Information Procedure Rules; ♣ ▲ ■³⁴
- 4.42.12 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87; and ♣ ▲ ■³⁵
- 4.42.13 to give the consent of the Council where its consent is required by this Constitution.
- 4.42.14 urgent motions, provided the requirements of Rule 4.43 is satisfied. ♣ ▲ ■³⁶

Urgent Motions

- 4.43.1 An urgent motion complying with Rule 4.37.2 may be presented, with the permission of the Chair, provided it has been received by the Monitoring Officer by 5.00 p.m. on the day prior to the Council meeting
- 4.43.2 Subject to Rule 4.43.3 below, the Chair has general authority to agree to take an urgent motion which is not on the agenda, and the discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency;
- 4.43.3 The general authority referred to above is qualified in that an urgent motion should not be taken unless:
 - 4.43.3.1 the matter dealt with in the motion has arisen between the deadline for the submission of motions and the date of the meeting; and
 - 4.43.3.2 the motion requires an urgent decision in the public interest which cannot be dealt with by other means (including referring the motion for consideration and

²⁴ See Rule 4.14

²⁵ See Rule 4.14

²⁶ See Rule 4.14

²⁷ See Rule 4.14

²⁸ See Rule 4.14

²⁹ See Rule 4.14

³⁰ See Rule 4.14

³¹ See Rule 4.14

³² See Rule 4.14

³³ See Rule 2.10

³⁴ See Rule 4.14

³⁵ See Rule 4.14

³⁶ See Rule 4.14

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decision to the Cabinet or a committee), or left to be decided at a subsequent meeting.

4.43.4 In all cases, the reason for the urgency shall be clearly stated on the motion, and the Chair will explain to the Council the reason why he or she has accepted a motion not listed on the agenda as urgent

4.43.5 For the avoidance of doubt an urgent motion does not need to be accompanied by a costed analysis of the financial and resource implications that motion.

Rules of Debate

No Speeches until Motion Seconded

4.44 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded. The proposer of the motion shall have the right to make the first speech in relation to the motion which s/he has moved by notice. ♣ ▲ ■³⁷

Right to Require Motion in Writing

4.45 Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed. ♣ ▲ ■³⁸

Secunder's Speech

4.46 When seconding a motion or amendment, a Member may reserve their speech until later in the debate. ♣ ▲ ■³⁹

Content and Length of Other Speeches

4.47.1 Non aligned Members and a nominated principal speaker from each Political Group will be able to speak on each motion with all Members having a right to speak to raise additional or different issues in the debate.

4.47.2 Speeches in accordance with 4.47.1 above must be directed to the motions under discussion or to a personal explanation, point of order or right of reply. The proposer of a motion may speak for no more than 5 minutes; otherwise no speech may exceed 3 minutes without the consent of the Chair. ▲ ■⁴⁰

When a Member may Speak Again

4.48 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except: ♣ ▲ ■⁴¹

4.48.1 to speak once on an amendment moved by another Member; ▲ ■⁴²

³⁷ See Rule 4.14

³⁸ See Rule 4.14

³⁹ See Rule 4.14

⁴⁰ See Rule 4.14

⁴¹ See Rule 4.14

⁴² See Rule 4.14

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- 4.48.2 to move a further amendment if the motion has been amended since he last spoke; ▲ ■⁴³
- 4.48.3 if his first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he spoke was carried); ▲ ■⁴⁴
- 4.48.4 in exercise of a right of reply; ▲ ■⁴⁵
- 4.48.5 on a point of order; and ▲ ■⁴⁶
- 4.48.6 by way of personal explanation. ▲ ■⁴⁷

Amendments to Motions

4.49.1 Subject to Rules 4.49.2 to 4.49.9 below an amendment to a motion must be relevant to the motion and will either be: ♣ ▲ ■⁴⁸

- 4.49.1.1 to refer the matter to an appropriate committee, body or individual for consideration or reconsideration; ♣ ▲ ■⁴⁹
- 4.49.1.2 to leave out words; ♣ ▲ ■⁵⁰
- 4.49.1.3 to leave out words and insert or add others; or ♣ ▲ ■⁵¹
- 4.49.1.4 to insert or add words or additional recommendations; ♣ ▲ ■⁵²

as long as the effect of Rules 4.49.1.2 to 4.49.1.4 is not to negate or would otherwise change the material substance of the original motion.

4.49.2.1 Subject to Rule 4.49.2.2 below, amendments to motions in accordance with Rule 4.49.1.2 to 4.49.1.4 (adding, removing or substituting words), will only be allowed if committed to writing and received by the Head of Legal and Democratic Services and / or the Head of Democratic Services in accordance with the timetable set out below ♣ ▲ ■

Motions and Amendments to Motions	These are calendar days
Last day for Receipt of Motions with confirmation from S151 Officer that a costed analysis of the financial and resource implications of the Motion has been received and agreed in accordance with Rule 4.39.9	-21 days before the day of Council
Chair to Agree Motion is compliant with the Constitution	-18 days before the day of Council
Members advised of Motions approved by the Chair on a Confidential basis	-18 days before the day of Council

⁴³ See Rule 4.14

⁴⁴ See Rule 4.14

⁴⁵ See Rule 4.14

⁴⁶ See Rule 4.14

⁴⁷ See Rule 4.14

⁴⁸ See Rule 4.14

⁴⁹ See Rule 4.14

⁵⁰ See Rule 4.14

⁵¹ See Rule 4.14

⁵² See Rule 4.14

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Time for proposed amendments and financial consequences of Amendments to be discussed with S151 Officer	-17 to -3 days before the day of Council
Last date for Receipt of Amendment approved by Section 151 Officer	-2 days before the day of Council
Chair to Agree Amendment	- 1 day before the day of Council
Council	

- 4.49.2.2 Rule 4.49.2.1 above does not apply to amendments to Budget proposals and no amendment to a Budget Proposal (including an alternative budget proposal) will be allowed after the date for publication by the Section 151 Officer of the Cabinet Budget and any alternative Budgets for the Council Budget Setting Meeting as set out in the timetable published by the Section 151 Officer in accordance with Rule 15.3, except for amendments which arise during the course of the debate and do not negate or change the material substance of the original proposal in accordance with Rule 4.49.4
- 4.49.3 Any amendments received in accordance with these rules will be automatically circulated to all Members as soon as reasonably practicable. ♣ ▲ ■
- 4.49.4 The Chair will have a general discretion to allow any amendments which do not have the effect of negating or would otherwise change the material substance of the original motion, in circumstances where the Chair in his / her absolute discretion considers the amendment has arisen out of the debate. ♣ ▲ ■
- 4.49.5 Each amendment will be proposed, seconded, committed to writing and handed to the Chair; ▲ ■⁵³
- 4.49.6 Only one amendment may be moved and discussed at any one time and strictly in the order of receipt. No further amendment may be moved until the amendment under discussion has been decided. ♣ ▲ ■⁵⁴
- 4.49.7 If an amendment is not carried, other amendments to the original motion may be moved. ♣ ▲ ■⁵⁵
- 4.49.8 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved. ♣ ▲ ■⁵⁶
- 4.49.9 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote. ♣ ▲ ■⁵⁷

⁵³ See Rule 4.14

⁵⁴ See Rule 4.14

⁵⁵ See Rule 4.14

⁵⁶ See Rule 4.14

⁵⁷ See Rule 4.14

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Alteration of Motion

- 4.50.1 A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. ♣ ▲ ■⁵⁸
- 4.50.2 Only alterations which could be made as an amendment pursuant to Rule 4.49 may be made. ♣ ▲ ■⁵⁹

Withdrawal of Motion

- 4.51 A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused. ♣ ▲ ■⁶⁰

Right of Reply

- 4.52.1 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. ♣ ▲ ■⁶¹
- 4.52.2 The mover of the amendment has no right of reply to the debate on his amendment. ♣ ▲ ■⁶²
- 4.52.3 A Member exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion. Members may not speak after the owner of a motion has exercised a right of reply, except to seek clarification of a particular matter before the owner of the motion concludes his or her speech. A Member may not speak after a proposition has been voted on except on a point of order relating to it. ♣ ▲ ■⁶³

Procedural Motions which may be Moved During Debate

- 4.53 When a motion is under debate, no other motion may be moved except the following procedural motions: ♣ ▲ ■⁶⁴
- 4.53.1 to withdraw a motion; ♣ ▲ ■⁶⁵
- 4.53.2 to amend a motion; ♣ ▲ ■⁶⁶
- 4.53.3 a closure motion under Rule 4.54 ♣ ▲ ■⁶⁷
- 4.53.4 to exclude the public and press in accordance with the Access to Information Procedure Rules; and ♣ ▲ ■⁶⁸

⁵⁸ See Rule 4.14

⁵⁹ See Rule 4.14

⁶⁰ See Rule 4.14

⁶¹ See Rule 4.14

⁶² See Rule 4.14

⁶³ See Rule 4.14

⁶⁴ See Rule 4.14

⁶⁵ See Rule 4.14

⁶⁶ See Rule 4.14

⁶⁷ See Rule 4.14

⁶⁸ See Rule 4.14

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- 4.53.5 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87. ♣ ▲ ■⁶⁹
- 4.53.6 to suspend a particular council procedure rule (provided that at least one half of the whole number of Members are present). ♣ ▲ ■⁷⁰

Closure Motions

- 4.54.2 to ask that the question be now put; ♣ ▲ ■⁷¹
- 4.54.1 to proceed to the next business; ♣ ▲ ■⁷²
- 4.54.3 to adjourn a debate; or ♣ ▲ ■⁷³
- 4.54.4 to adjourn a meeting. ♣ ▲ ■⁷⁴
- 4.54.5 subject to Rule 4.54.8 below, if a motion to proceed to next business under Rule 4.54.1 is seconded and only if the Chair thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote. ♣ ▲ ■⁷⁵
- 4.54.6 subject to Rule 4.54.8 below, if a motion that the question be now put under Rule 4.54.2 is seconded and only if the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote. ♣ ▲ ■⁷⁶
- 4.54.7 subject to Rule 4.54.8 below, if a motion to adjourn the debate or to adjourn the meeting under Rules 4.54.3 and 4.54.4 is seconded and only if the Chair thinks the item has been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply. ♣ ▲ ■⁷⁷
- 4.54.8 in the event that a closure motion under Rule 4.54.1 to 4.54.4 is moved and seconded, the following procedure will apply in the order set out below: ♣ ▲ ■⁷⁸
- 4.54.8.1 the closure motion will be voted upon without further debate;
- 4.54.8.2 if an amendment has been moved and seconded before a closure motion has been passed by Full Council, that amendment must be discussed immediately but will be subject to the following restrictions:
- The debate on the amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
 - the proposer will have a maximum of 5 minutes to speak on the amendment;
 - the relevant Portfolio Holder(s) will have a maximum of 3 minutes to speak on the amendment;

⁶⁹ See Rule 4.14

⁷⁰ See Rule 4.14

⁷¹ See Rule 4.14

⁷² See Rule 4.14

⁷³ See Rule 4.14

⁷⁴ See Rule 4.14

⁷⁵ See Rule 4.14

⁷⁶ See Rule 4.14

⁷⁷ See Rule 4.14

⁷⁸ See Rule 4.14

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- the seconder and all other speakers will have a maximum of 3 minutes to speak on the amendment;
- 4.54.8.3 Full Council will vote on the proposed amendment debated under Rule 4.54.8.2 above.
- 4.54.8.4 a single new amendment to the substantive motion (as amended if appropriate) will be allowed if properly seconded, but will be subject to the following restrictions:
- the first new amendment proposed and seconded will be considered and no further proposed amendments will be considered;
 - The debate on the new amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
 - the proposer will have a maximum of 5 minutes to speak on the new amendment;
 - the relevant Portfolio Holder will have a maximum of 3 minutes to speak on the new amendment;
 - the seconder and all other speakers will have a maximum of 3 minutes to speak on the new amendment;
- 4.54.8.5 the new amendment proposed in accordance with Rule 5.54.8.4 will be voted upon.
- 4.54.8.6 the substantive motion (as amended under Rule 4.54.8.2 or Rule 4.54.8.4) will be voted upon.

Point of Order

- 4.55 A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time by indicating to the Chair by standing that they wish to raise a point of order and waiting for the Chair to call them to speak at a convenient point at the discretion of the Chair. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Chair on the matter will be final. ♣ ▲ ■⁷⁹

Personal Explanation

- 4.56 A Member may make a personal explanation at any time. A personal explanation may only relate to one of the following: ♣ ▲ ■⁸⁰
- 4.56.1 some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood; ♣ ▲ ■⁸¹
- 4.56.2 to reply to an allegation of misconduct made against the Member giving the explanation; or ♣ ▲ ■⁸²
- 4.56.3 to make an apology to the Council. ♣ ▲ ■⁸³

⁷⁹ See Rule 4.14

⁸⁰ See Rule 4.14

⁸¹ See Rule 4.14

⁸² See Rule 4.14

⁸³ See Rule 4.14

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4.57 The ruling of the Chair on the admissibility of a personal explanation will be final. ♣ ▲ ■⁸⁴

4.58 Points of personal explanation will only be recorded in the minutes if the Monitoring Officer considered that such an inclusion would provide greater clarity to the minutes. ♣ ▲ ■⁸⁵

Declarations of Interest

4.59 A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member makes a declaration s/he shall be heard immediately and shall be allowed to make the declaration without interruption. ♣ ▲ ■⁸⁶

Previous Decisions and Motions

Motion to Rescind a Previous Decision

4.60.1 A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members. ▲ ■⁸⁷

4.60.2 Rule 4.37.2 does not apply to a motion under Rule 4.60.1. ▲ ■⁸⁸

4.60.3 For the sake of clarity rule 4.60.1 does not apply to decisions taken by the Cabinet. ▲ ■⁸⁹

Motion Similar to One Previously Rejected

4.61.1 A motion or amendment in similar terms to one that has been rejected at a meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months. ▲ ■⁹⁰

4.61.2 Rule 4.37.2 does not apply to a motion under Rule 4.61.1. ▲ ■⁹¹

Voting

Majority

4.62 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put. ♣ ▲ ■⁹²

⁸⁴ See Rule 4.14

⁸⁵ See Rule 4.14

⁸⁶ See Rule 4.14

⁸⁷ See Rule 4.14

⁸⁸ See Rule 4.14

⁸⁹ See Rule 4.14

⁹⁰ See Rule 4.14

⁹¹ See Rule 4.14

⁹² See Rule 4.14

SECTION 4 – FULL COUNCIL

Chair's Casting Vote

4.63 If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote. ♣ ▲ ■⁹³

Method of Voting

4.64 Unless a recorded vote is demanded under Rule 4.66 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting. ♣ ▲ ■⁹⁴

Ballots

4.65.1 In respect of Full Council the vote will take place by ballot if 10 Councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

4.65.2 In respect of committees the vote will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known. ♣ ▲ ■⁹⁵

Recorded Vote

4.66.1 Subject to 4.66.2 below, whenever an electronic voting system is available voting at Full Council meetings shall take place by means of that electronic voting system and the votes cast by each Councillor will be made available on the Council's website upon publication of the draft minutes for that meeting.

4.66.2 In respect of Full Council if 10 Councillors present at the meeting demand it, before a vote is taken, the details of the votes cast by each Councillor will be made available to the meeting.

4.66.3 In respect of committees and the Cabinet if a majority of Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote together with a demand for a ballot will be voted upon by the committee. ♣ ▲ ■⁹⁶

Right to Require Individual Vote to be Recorded

4.67 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. ♣ ▲ ■⁹⁷

⁹³ See Rule 4.14

⁹⁴ See Rule 4.14

⁹⁵ See Rule 4.14

⁹⁶ See Rule 4.14

⁹⁷ See Rule 4.14

SECTION 4 – FULL COUNCIL

Voting on Appointments

Voting on appointments to external bodies and organisations

- 4.68.1 If there is one position (in an external body or organisation) to be filled by a nominee or representative of the Council and more than one person is nominated for that position then the position will be filled by the person with the greatest number of votes. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote. ♣ ▲ ■⁹⁸
- 4.68.2 If there are two or more positions (in an external body or organisation) to be filled by nominees or representatives of the Council and the number of nominations exceeds the number of such positions, each Councillor of the Council will be able to exercise one vote for each such position (but may vote only once for each nominee) and the persons to whom more votes have been given than other persons up to the number of positions to be filled, shall be appointed. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote. ♣ ▲ ■⁹⁹

Voting on employee appointments

- 4.69 In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote. ♣ ▲ ■¹⁰⁰

Voting on Internal Councillor Appointments

- 4.70 This Rule applies to the appointment of Councillors to positions within the Local Authority or to joint committees with other authorities including: ♣ ▲ ■¹⁰¹
- 4.70.1 the Chair / Vice-Chair / Assistant Vice-Chair of Council;
- 4.70.2 Leader;
- 4.70.3 the Chair or Vice-Chair of a Committee or Sub-Committee; ♣ ▲ ■¹⁰²
- 4.70.4 Member of a Committee or Sub-Committee or Panel; ♣ ▲ ■¹⁰³
- 4.70.5 Member of any other internal Council board, panel or group with or without officers; ♣ ▲ ■¹⁰⁴

⁹⁸ See Rule 4.14

⁹⁹ See Rule 4.14

¹⁰⁰ See Rule 4.14

¹⁰¹ See Rule 4.14

¹⁰² See Rule 4.14

¹⁰³ See Rule 4.14

¹⁰⁴ See Rule 4.14

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- 4.70.6 Member of any joint committee, board, panel or group involving the Council and one or more local authorities, and / or other public bodies. ♣ ▲ ■¹⁰⁵
- 4.71 If there are more than two Councillors nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Voting under this paragraph will normally be conducted by ballot paper. ♣ ▲ ■¹⁰⁶
- 4.72 Where there is a tie with two or more candidates receiving the least number of votes they both be eliminated from the voting where the addition of all the votes cast for the tied candidates would not equal or exceed the candidate with the next number of lowest votes. If the total number of votes cast for the candidates who tied would equal or exceed the next candidate, then only one of those candidates be eliminated and that decision be determined by ballot between the two. ♣ ▲ ■¹⁰⁷
- 4.73 Where there is a tie, at the end of the voting process between two candidates the Chairman shall either use his / her second or casting vote, or require the appointment to be determined by the drawing of lots. ♣ ▲ ■¹⁰⁸
- 4.74 This procedure may be varied by agreement of the meeting. ♣ ▲ ■¹⁰⁹

Minutes

Signing the Minutes

- 4.75 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy. ♣ ▲ ■¹¹⁰

No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

- 4.76 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting¹¹¹, then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes¹¹². ♣ ▲ ■¹¹³

Form of Minutes

- 4.77 Save as provided below the form of the minutes will be a matter for the Chief Executive: ♣ ▲ ■¹¹⁴

¹⁰⁵ See Rule 4.14

¹⁰⁶ See Rule 4.14

¹⁰⁷ See Rule 4.14

¹⁰⁸ See Rule 4.14

¹⁰⁹ See Rule 4.14

¹¹⁰ See Rule 4.14

¹¹¹ a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972

¹¹² paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972

¹¹³ See Rule 4.14

¹¹⁴ See Rule 4.14

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- 4.77.1 Minutes will contain all motions and amendments in the exact form and order the Chair put them. ♣ ▲ ■¹¹⁵
- 4.77.2 Replies given to questions of which notice has been given under Rule 4.30 will be recorded in the minutes. ♣ ▲ ■¹¹⁶

Record of Attendance

- 4.78 All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. ♣ ▲ ■¹¹⁷
- 4.79 Members permanently leaving a meeting shall advise the Chair or the clerk of their departure so that this can be formally recorded in the minutes, including the time of departure and the committee clerk shall so record in the minutes of that meeting. ♣ ▲ ■¹¹⁸
- 4.80 Before Members leave a meeting room before the conclusion of business the Chair shall advise that Member of the above requirement. ♣ ▲ ■¹¹⁹

Exclusion of Public

- 4.81.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rules 4.89 and 4.90 (Disturbance by the Public). ♣ ▲ ■¹²⁰
- 4.81.2 Where members of the public have been excluded pursuant to Rule 4.81.1, Members may nevertheless remain in the meeting (with the exception of confidential meetings of the Standards Committee) unless they have a personal and prejudicial interest. ♣ ▲ ■¹²¹

Members' Conduct

Declarations of Interest

- 4.82 Members must in all matters consider whether they have a personal interest (within the meaning within the Members' Code of Conduct) in a matter to be discussed at a meeting, and whether that Code of Conduct requires them to disclose that interest and if they conclude that it does, must disclose the existence and nature of the interest at the commencement of the discussion or when the interest becomes apparent and decide whether they should withdraw from consideration of the matter as required by the Code. ♣ ▲ ■¹²²
- 4.83 A Member who is under the Members' Code of Conduct required to disclose the existence and nature of such an interest must complete the requisite form

¹¹⁵ See Rule 4.14

¹¹⁶ See Rule 4.14

¹¹⁷ See Rule 4.14

¹¹⁸ See Rule 4.14

¹¹⁹ See Rule 4.14

¹²⁰ See Rule 4.14

¹²¹ See Rule 4.14

¹²² See Rule 4.14

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provided for that purpose at meetings. ♣ ▲ ■¹²³

Speaking at Meetings

4.84 When a Member speaks at a meeting he/she must address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. ♣ ▲ ■¹²⁴

Chair Standing

4.85 When the Chair stands during a debate, or otherwise indicates that the meeting must be silent, any Member speaking at the time must stop and all Members must be seated. ♣ ▲ ■¹²⁵

Member not to be Heard Further

4.86 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion. If the motion is passed the named Member may not discuss or debate any further business whilst it is transacted at the meeting. ♣ ▲ ■¹²⁶

Member to Leave the Meeting

4.87 If the Member continues to behave improperly after a motion under Rule 4.86 is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. If the motion is passed the named Member must leave the room forthwith. ♣ ▲ ■¹²⁷

General Disturbance

4.88 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he thinks necessary. ♣ ▲ ■¹²⁸

Disturbance by Public

Removal of Member of the Public

4.89 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room. ♣ ▲ ■¹²⁹

Clearance of Part of Meeting Room

4.90 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared. ♣ ▲ ■¹³⁰

¹²³ See Rule 4.14

¹²⁴ See Rule 4.14

¹²⁵ See Rule 4.14

¹²⁶ See Rule 4.14

¹²⁷ See Rule 4.14

¹²⁸ See Rule 4.14

¹²⁹ See Rule 4.14

¹³⁰ See Rule 4.14

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Filming, Audio Recording and Use of Social Media During Meetings

4.91 Filming, audio recording and use of social media is permitted during meetings except (a) where children and / or vulnerable adults are participating in the debate by way of a presentation, or (b) where meetings or parts of meetings which are held in confidential session pursuant to Section 14, or (c) where a meeting is being webcast. ♣ ▲ ■¹³¹

Suspension and Amendment of Council Procedure Rules (Rules 4.15 to 4.95)

Suspension

4.92 The Council Rules of Procedure may be suspended in accordance with Rules 2.9 and 2.10.

Amendment

4.93 Any motion to add to, vary or revoke these Council Rules of Procedure will, stand adjourned without discussion and be automatically referred to the Democratic Services Committee which will make a recommendation to Council PROVIDED ALWAYS that this Rule will not apply to any recommendations or report by the Democratic Services Committee concerning the variation, revocation or amendment of these Council Rules of Procedure. ♣ ▲ ■¹³²

Officer Advice

4.94 Any report placed for decision before Council should contain all necessary advice to enable Councillors to take a decision. Reports will be circulated in advance of the meeting and if a Councillor requires clarification on an issue related to the report, this should be sought prior to the meeting. ♣ ▲ ■¹³³

4.95 Further officer advice will only be available at the meeting of Council with the consent of the Chair, in consultation with the Chief Executive. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned. ♣ ▲ ■¹³⁴

Attendance of Cabinet Members at Council Meetings

4.96 The Leader and Cabinet members in attendance at meetings of Full Council will not sit with the other Councillors but shall sit alongside the Chair, Vice-Chair and Assistant Vice-Chair of the County Council. The only officers to sit alongside the Chair shall be the Chief Executive, Monitoring Officer and Clerk unless otherwise authorised to do so by the Chief Executive.

Petitions

4.97 Where a Councillor delivers a petition to the Council in accordance with Rule 4.18.18 the Councillor may outline the request by the petitioners, the reason for the request and the number of the signatories **PROVIDED THAT** in any event the Councillor may not speak under this Rule for more than 5 minutes.

¹³¹ See Rule 4.14

¹³² See Rule 4.14

¹³³ See Rule 4.14

¹³⁴ See Rule 4.14

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4.98 Where a member of the public delivers a petition to the Council the procedure for the receipt of that petition will be determined by the Chair of the Council.

All Council Seminars / Member Development Sessions

4.99 The Chair, Vice-Chair or Assistant Vice-Chair of the Council will preside at all Council Seminars or Member Development Sessions. Cabinet members with responsibility for portfolios which are the subject of the Council Seminar / Member Development Session may assist the Chair / Vice-Chair or Assistant Vice-Chair in facilitating the seminar / development session but may not preside over such a seminar / development session unless authorised by the Chair of the Council.

F

SECTION 5 – THE CABINET

Introduction

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

Form and Composition of the Cabinet

5.2 Subject to Rules 5.2.3 to 5.2.5 below, the Cabinet will consist of:

5.2.1 the Leader of the Council (the “Leader”); and

5.2.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

Job Sharing – Executive Leader and Executive Member¹

5.2.3 The election of the Leader may include the election of two or more Councillors to share that office.

5.2.4 Any appointment to the Cabinet including the Leader may include the election of two or more Councillors to share office.

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

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

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

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

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

Election

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

Term of Office

5.4 The Leader is appointed for a period of 4 years or for such other period as is prescribed from time to time in legislation or until s/he leaves office pursuant to Rules 6.4 to 6.7.

Role of the Leader

5.5 The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

¹ Section 58 – Local Government and Elections (Wales) Act 2021

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Other Cabinet Members

- 5.6 Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:
- 5.6.1 s/he resigns from that office; or
 - 5.6.2 s/he is removed either individually or collectively from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two Clear Days after receipt of the notice by the Monitoring Officer; or
 - 5.6.3 s/he ceases to be a Councillor; or
 - 5.6.4 s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension).
- 5.7 The Leader may at any time appoint a Cabinet Member to fill any vacancies.
- 5.8 The Cabinet shall not include the Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, a member of a Scrutiny Committee, the Chair of any other Committee or Sub-Committee of the authority (save for the Pensions and Investments Committee).

Assistants to the Executive.²

- 5.9.1 Other Councillors may, from time to time, be designated by the Leader[s] as Assistants to the Executive. Such Councillors will not be:
- 5.9.1.1 a Member of the Cabinet
 - 5.9.1.2 The Chairman and Vice-Chairman of the Council
- 5.9.2 Assistants to the Cabinet will not participate in Executive Decision making, but may work closely with an Cabinet Member. They will not be a Member of a Scrutiny Committee and / or Governance and Audit Committee relating to the specific responsibilities of the Cabinet Member they are assisting or any other areas to which they are assigned.
- 5.9.3 An Assistant to the Executive may support the Cabinet Member through the delegation of tasks as agreed for their area of responsibility, including attending / chairing meetings; speaking / opening events; reading and commenting on papers; meeting Officers; agreeing press releases / comments and carrying out interview; representative the Council on appropriate groups. An Executive Support Member will not, however, have delegated powers and will not be entitled to vote at Cabinet Meetings or Cabinet Committee Meetings nor deputise for the Cabinet Member when the Cabinet Member is called to appear at a Scrutiny Committee or the Governance and Audit Committee

² Section 57 – Local Government and Elections (Wales) Act 2021

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5.9.4 Assistants to the Executive will be are entitled to attend, and speak at, any meeting of the Cabinet or a committee of the Cabinet.

Delegation of Functions

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

- 5.10.1 the Cabinet as a whole;
- 5.10.2 a committee of the Cabinet (comprising Cabinet Members only);
- 5.10.3 an individual Cabinet Member;
- 5.10.4 a joint committee;
- 5.10.5 another local authority or the executive of another local authority;
- 5.10.6 a delegated Officer.

Responsibility for Functions When There is No Cabinet

5.11 During any period when there is no Cabinet, any functions which are the responsibility of the Cabinet shall be allocated to and discharged by the Chief Executive or in his/her absence the Strategic Directors acting singularly or collectively **PROVIDED THAT** in discharging such functions the Head of the Paid Service or the Strategic Directors shall have regard to and comply with any protocol applying to the exercise of delegated powers in so far as that is reasonably practicable, and in consultation with all the Leaders of political groups in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

Rules of Procedure and Debate

5.12 The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Rules 5.12 to 5.29 below.

Cabinet Procedure Rules

Delegation by the Leader

5.13 The Monitoring Officer, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 13 to this Constitution. This will contain the following information about Executive Functions:

- 5.13.1 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 5.13.2 the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 5.13.3 the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- 5.13.4 the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made

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Sub-Delegation of Executive Functions

- 5.14.1 Where the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements, or an Officer.
- 5.14.2 Where a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to an Officer.
- 5.14.3 Unless otherwise stated in the delegation, where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

The Council's Scheme of Delegation and Executive Functions

- 5.15.1 The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and wherever practicable to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report for information purposes to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader withdraws any delegation from any person, body or committee the delegated powers revert back to the Leader with immediate effect from the time of receipt of the notice by the Monitoring Officer.
- 5.15.2 Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when it is served on its chair.

Conflicts of Interest

- 5.16.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.
- 5.16.2 If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.
- 5.16.3 If the exercise of an Executive Function has been delegated to a committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.

Cabinet Meetings

- 5.17.1 The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.
- 5.17.2 Those listed below may ask the Monitoring Officer to call Cabinet meetings in addition to those agreed by the Leader:
 - 5.17.2.1 the Chief Executive;

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- 5.17.2.2 the Section 151 Officer
- 5.17.2.3 the Monitoring Officer
- 5.17.2.4 any three members of the Cabinet.

5.17.3 Any request presented in accordance with Rule 5.16.2 above must be in writing and must specify the business to be transacted at the meeting.

Public or Private Meetings of the Cabinet?

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

Quorum

5.19.1 The quorum for a meeting of the Cabinet, or a committee of the Cabinet, shall be 3 members of the Cabinet. During any meeting if the person presiding counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the person presiding. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Cabinet.

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

How are Decisions to be Taken by the Cabinet

5.20.1 All decisions taken by the following need to follow the Access to Information Procedure Rules set out in Section 14:

- 5.20.1.1 Cabinet;
- 5.20.1.2 Cabinet Committee;
- 5.20.1.3 Individual Members of the Cabinet

5.20.2 All decisions taken by the Executive, a Committee of the Executive, or an Individual Member of the Executive shall comply with the Budget and Framework Procedure Rules (so far as appropriate) as set out in Section 15.

5.20.3 All decisions taken by the Executive and / or a Committee of the Executive will be taken by a majority vote of those present at the meeting with the person Chairing the meeting having a second or casting vote.

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

How are Cabinet Meetings Conducted?

Who Chairs?

5.21 The Leader will chair at any meeting of the Cabinet or its committees at which s/he is present. In his absence, a Deputy Leader will chair. In his/her absence,

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then a person appointed by the meeting to do so by those present shall chair the meeting.

Who May Attend?

5.22.1 These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Rule 3.18.2 in relation to Member participation in meetings.

5.22.2 Subject to Rule 5.26.3 below a Member may attend any meeting of the Cabinet or Cabinet Committee (whether or not they are a member of the Cabinet or a Cabinet committee)

5.22.3 The right to attend will not apply in the following cases:

5.22.3.1 where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

5.22.3.2 where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;

5.22.3.3 where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.

What Business?

5.23 At each meeting of the Cabinet the following business will be conducted:

5.23.1 elect a person to chair if the Leader or a Deputy Leader is not present;

5.23.2 receive apologies for absence

5.23.3 approval of the minutes of the last meeting;

5.23.4 declarations of interest, if any;

5.23.5 matters referred to the Cabinet by a Scrutiny Committee for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and 15 of this Constitution;

5.23.6 consideration of reports from a Scrutiny Committee or other committees;

5.23.7 consideration of reports from Cabinet Committees;

5.23.8 reports from Cabinet Members

5.23.9 reports from Officers of the Authority.

5.23.10 make recommendations to the Council or a scrutiny or other committee

5.23.11 consider such other business specified in the summons to the meeting;

5.23.12 consider other business, not specified in the summons as the Leader considers urgent, subject to the nature of the urgency being specified in the minutes

5.23.13 exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules

5.23.14 consider the Cabinet Forward Work Programme and to ensure that the programme has been populated for at least 8 months and is regularly updated. In the event that urgent items are considered by Cabinet which have not been included on the Cabinet Forward Work Programme, the

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relevant Chair (or Vice-Chair) of a Scrutiny Committee must be informed of those urgent items before those matters are discussed at Cabinet.

Consultation

5.24 All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Who can put Items on the Cabinet Agenda?

- 5.25.1 The Leader will decide upon the schedule for meetings of the Cabinet. S/he may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter.
- 5.25.2 Any Member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 5.25.3 The Chief Executive, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened.
- 5.25.4 The Leader will make sure that an item is placed on the agenda of the next available meeting of the Cabinet and / or Cabinet Committee where a Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet and / or Cabinet Committee.
- 5.25.5 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet and / or Cabinet Committee meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet and / or Cabinet Committee. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting, and, at the discretion of the Leader or person presiding, be permitted to speak.

Speaking at Meetings

- 5.26.1 Subject to Rules 5.25.3 and 5.26 below only Cabinet Members, employees or persons asked to or with a duty to advise Cabinet or other persons asked by the Cabinet to do so may speak at an Cabinet meeting
- 5.26.2 With the permission of the person chairing, a Member may speak at a Cabinet meeting on matters affecting his / her ward. Members wishing to speak should wherever possible notify the Chair in advance of the meeting. Members speaking under this Rule will be allowed a maximum of 5 minutes, subject to the discretion of the person chairing the meeting to extend the time.
- 5.26.3 The right to speak pursuant to rule 5.25.2 will not apply where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

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PROVIDED THAT nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings.

Rights of Chairs of Scrutiny Committees to Speak at Meetings.

5.27 The Chairs (or in their absence Vice-Chairs) of the Scrutiny Committees may speak for no longer than 5 minutes at a meeting of the Cabinet only to present a scrutiny report to the Cabinet for consideration, and to respond to questions from Cabinet Members on the scrutiny report. Cabinet agendas should clearly state which items have been subject to scrutiny by the relevant Scrutiny committee prior to consideration by the Cabinet. Minutes of Cabinet meetings should clearly state why recommendations from the relevant Scrutiny Committee have been accepted or rejected.

This right may not be exercised where the Scrutiny Chair / Vice-Chair is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;

PROVIDED THAT nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

Disturbance by the Public, Filming, Audio Recording and Use of Social Media

5.28.1 The provisions in Council Procedure Rules in Rules 4.89 to 4.90 in relation to disturbance by the public apply to meetings of the Cabinet.

5.28.2 The provisions in Council Procedure Rules in Rule 4.91 relating to filming, audio recording and use of social media apply to meetings of the Cabinet.

Format of Reports for Cabinet Decisions

5.29 Reports prepared by Cabinet Members and / or officers on which it is intended that Cabinet decisions are taken whether by the Leader, the Cabinet, a Cabinet Committee, Individual Cabinet Members or an officer shall comply with a report template protocol provided by the Monitoring Officer.

Call-In of Decisions

5.30 A decision of the Cabinet, a Committee of the Cabinet, or an Individual Member of the Cabinet is subject to the Call-In provisions set out in the scrutiny procedure rules in Section 7 of this Constitution.

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SECTION 6 – THE LEADER

Election

- 6.1 The Leader will be elected by Full Council in accordance with Rule 4.40 and will have authority to delegate the functions of the Leader to one or more deputies selected from the Cabinet.
- 6.2 The Leader will usually be elected. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

Term of Office

- 6.3 The Leader is appointed for a term of 4 years or for such other period as is prescribed from time to time in legislation or until s/he leaves office pursuant to Rules 6.4 to 6.7.

Resignation, Dismissal, Disqualification and Suspension

- 6.4 The Leader may resign the position of Leader by writing to the Chair of Council.
- 6.5 The Leader can be dismissed where the Council passes a resolution removing him/her from office in accordance with the Rule 4.40.
- 6.6 The Leader shall cease to be Leader if s/he is suspended or disqualified as a Councillor, or, for other such reasons, cannot fulfil the role of Leader.
- 6.7 The Leader will cease to be Leader upon death or upon being incapacitated which will, or is likely to, prevent him / her from undertaking the role of Leader for a period of six months or more (“Incapacitation”).

Functions and Delegated Authority

Membership of the Cabinet

- 6.8 The Leader appoints and dismisses the Members of the Cabinet subject only to there being a minimum of two, and a maximum of nine.

Role of the Leader

- 6.9 The Leader will chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

The Executive Scheme of Delegations

- 6.10 The Leader will delegate Executive Functions in accordance with Rule 5.9. (NB: No Member of the Cabinet may have a Deputy, other than the Leader).

Meetings of the Cabinet

- 6.11 Subject to the requirement to publish notice of each meeting three clear days before it takes place, the Leader can call meetings of the Cabinet at such times and places as s/he chooses (NB: the Chief Executive, the Section 151 Officer, the Monitoring Officer and three members of the Cabinet acting collectively can also call meetings of the Cabinet).

Chairing Cabinet Meetings

- 6.12 The Leader shall chair Cabinet meetings. In the Leader’s absence a Deputy Leader will chair the Cabinet, and in the absence of the Leader and Deputy Leader(s) the Cabinet will appoint a Member of the Cabinet to Chair the meeting.

6.13 Acting as the Council member of the Mid Wales Corporate Joint Committee ¹

¹ Regulation 7 of the Mid Wales Corporate Joint Committee Regulations 2021

SECTION 6 – THE LEADER

The Leader shall be the Council member of the Mid Wales Corporate Joint Committee. Where the Leader is unable to discharge his / her functions in respect of the Mid Wales Corporate Joint Committee, the Council shall appoint another member of the Cabinet to discharge those functions on behalf of the Council.

Appointments of Representatives on Outside Bodies

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

Deputy Leader(s)

6.15 The Leader should / must appoint one or more Cabinet Members to act as Deputy Leader. The Deputy Leader(s) may exercise the functions of the Leader in the event of the resignation, death or Incapacitation² of the Leader. In the event of resignation, death or Incapacitation of the Leader for a period of more than 6 months, the Deputy Leader(s) may exercise the functions of the Leader until a Council meeting is held to elect a new Leader,(such Council meeting to be held as soon as reasonably practicable).

6.16 In the event that the Leader appoints more than one Deputy Leader those Deputy Leaders must decide which of them is to exercise the functions of the Leader in the event of the resignation, death or Incapacitation of the Leader, and the decision must be notified to the Monitoring Officer in writing within 24 hours of the date of the resignation, death or Incapacitation of the Leader. Such written notification to the Monitoring Officer must be signed by a majority of the Deputy Leaders or by both Deputy Leaders in the event that only 2 Deputy Leaders are appointed.

6.17 In the event that a Deputy Leader resigns his / her post as Deputy Leader. Such resignation does not mean that the Member resigns as a Cabinet Member.

6.18 In the event of the death or Incapacitation of the Leader in circumstances where the Leader has not appointed a Deputy Leader, the Cabinet will appoint one of its members to act as Chair of Cabinet meetings until such time as a Council meeting takes place to elect a new Leader.

² "Incapacitation" is defined in Rule 6.7

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SECTION 7 – SCRUTINY COMMITTEES

Introduction

- 7.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. The Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- 7.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

Scrutiny Committees

- 7.3 In order to achieve this, the Council will appoint three Scrutiny Committees (and in addition the Council will participate in a PSB Scrutiny Committee) which between them will:
- 7.3.1 review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions whether by the Cabinet or another part of the Council;
 - 7.3.2 make reports or recommendations to the Cabinet or the Council in connection with the discharge of any functions;
 - 7.3.3 consider any matter which affects the Council’s area or its inhabitants; and
 - 7.3.4 exercise the right to call in for reconsideration decisions made, but not yet implemented, by the Cabinet and Officers.

Role, Scope and Membership

- 7.4 The role, scope and Membership of the Scrutiny Committees are described in the table below:

Committee and Membership	Terms of Reference / Areas of Responsibility
<p style="text-align: center;">Economy, Residents, and Communities Scrutiny Committee</p> <p>11 Councillors – Politically Balanced; 1 Non-Voting Co-optee for crime and disorder functions</p>	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Economy:</p> <ul style="list-style-type: none"> • Providing support for businesses to grow • Promoting Powys as a place to live, visit and do business • Improving the availability of affordable and sustainable housing • Improving our infrastructure to support regeneration and attract investment • Improving skills and supporting people to get good quality jobs <p>Residents and Community:</p> <ul style="list-style-type: none"> • Strengthening community development and resilience

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	<ul style="list-style-type: none"> • Support communities to be able to do more for themselves and reduce the demand on our public services • Strengthening our relationship with residents and communities • Improve our understanding of our residents needs and improve our service delivery <p style="text-align: center;">SERVICE AREAS:</p> <p>CHIEF EXECUTIVE</p> <ul style="list-style-type: none"> • Finance • Legal and Democratic Services <p>ECONOMY AND ENVIRONMENT</p> <ul style="list-style-type: none"> • Property, Planning and Public Protection • Highways, Transport and Recycling • Housing and Community Development <p>TRANSFORMATION</p> <ul style="list-style-type: none"> • Strategy, Performance and Transformation Programmes • Customers and Communications • Workforce and OD <p style="text-align: center;">PARTNERSHIPS</p> <ul style="list-style-type: none"> • Growing Mid Wales • Powys Regeneration Partnership • TRACC • BBNP • MWWFRA • WLGA • Central Wales Infrastructure Collaboration • Central Wales Waste Partnership • North and Mid Wales Trunk Road Agency Partnership Board • Tourism Partnership Mid Wales • Western Valleys Strategic Regeneration Area Board • Powys Community Endowment Fund
<p>Health and Care Scrutiny Committee 11 Councillors – Politically Balanced</p>	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Health and Care:</p> <ul style="list-style-type: none"> • Focussing on well-being • Early help and support • Providing joined up care

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	<ul style="list-style-type: none"> • Developing a workforce for the future • Creating innovative environments • Developing digital solutions • Transforming in partnership <p style="text-align: center;">SERVICE AREAS:</p> <ul style="list-style-type: none"> • Children’s Services • Adult Services • Commissioning (Children and Adults) <p>TRANSFORMATION</p> <p>PARTNERSHIPS</p> <ul style="list-style-type: none"> • Regional Partnership Board • Powys Executive Safeguarding Group • Regional Safeguarding Group • Youth Justice Board • Health, Social Care and well-Being Partnership • Powys Community Health Council
<p>Learning and Skills Scrutiny Committee Membership: 11 Councillors – Politically Balanced; 2 parent governor representatives; 1 Church in Wales Diocese representative; 1 Roman Catholic Church Diocese representative,</p>	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Learning and Skills:</p> <ul style="list-style-type: none"> • Improving the educational attainment of all pupils • Supporting children and families to have the best start in life • Improving our schools infrastructure • Improving the skills and employability of young people and adults <p style="text-align: center;">SERVICE AREAS:</p> <ul style="list-style-type: none"> • Education <p>TRANSFORMATION</p> <p>PARTNERSHIPS</p> <ul style="list-style-type: none"> • ERW
<p>Public Service Board Scrutiny Committee</p>	<p>As set out in Rules 7.39 to 7.40</p>

General Functions

7.5 Within their terms of reference, Scrutiny Committees will:

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- 7.5.1 review and / or scrutinise decisions made, or other action taken in connection with the discharge of any function of the authority;
- 7.5.2 make reports and / or recommendations to the Cabinet and / or the Full Council, and / or any joint committee in connection with the discharge of any function of the authority;
- 7.5.3 consider any matter affecting the area or its inhabitants;
- 7.5.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented, by the Cabinet, a committee of the Cabinet, a member of the Cabinet, an officer exercising functions delegated by the Cabinet.(See Call-In Procedure – Rule 7.36);

Specific Functions

Policy Development and Review

7.6 The Scrutiny Committees may:

- 7.6.1 assist the Cabinet and the Council in the development of its Budget and Policy Framework by in depth analysis of policy issues, including pre-scrutiny of draft or amended policies;
- 7.6.2 conduct research, site visits, community and other consultation in the analysis of policy issues and possible options;
- 7.6.3 question members of the Cabinet and / or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- 7.6.4 liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working;
- 7.6.5 consider the impact of policies to assess if they have made a difference;
- 7.6.6 consider and implement mechanisms to encourage and enhance community participation in the scrutiny of the development of policy options; and
- 7.6.7 investigate or review a particular matter in depth, reporting their conclusions and making any recommendations to the Cabinet or Council as appropriate.
- 7.6.8 Each scrutiny committee will regularly review the effectiveness of its meetings and will undertake an annual self-assessment exercise to be considered as part of the annual review of the Council's performance.

Scrutiny

7.7 Scrutiny Committees may:

- 7.7.1 review and scrutinise the decisions by and performance of the Cabinet and / or Cabinet Committees and Council Officers in relation to individual decisions and over time;
- 7.7.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- 7.7.3 question members of the Cabinet and / or Cabinet Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- 7.7.4 make recommendations to the Cabinet and / or appropriate Committee and / or Council arising from the outcome of the scrutiny process;

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- 7.7.5 review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
- 7.7.6 question and gather evidence from any person (with their consent);
- 7.7.7 review and scrutinise the budget setting process;
- 7.7.8 conduct research, site visits, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships; and
- 7.7.9 consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options.

Finance

- 7.8 Scrutiny Committees may exercise overall responsibility for the finances made available to them.

Annual Report

- 7.9 Each Scrutiny Committee shall report annually to the Full Council on their workings.

Head of Democratic Services

- 7.10 One of the roles of the Head of Democratic Services under section 8 of The Measure is to promote the role of the Council's Scrutiny Committees and to promote support and guidance to members and Officers generally about the functions of the Scrutiny Committees .

Who May Sit on Scrutiny Committees ?

- 7.11 All Councillors (except members of the Cabinet and Assistants to the Executive) may be members of the Scrutiny Committees. However, no Member may be involved in scrutinising decisions in which they have been directly involved.

Co-Optees

- 7.12.1 The Learning and Skills Scrutiny Committee shall include in its membership the following voting representatives:
 - 7.12.1.1 One Church in Wales diocese representative;
 - 7.12.1.2 One Roman Catholic diocese representative; and
 - 7.12.1.3 Two parent governor representatives (covering so far as practicable the primary / special schools and secondary / all-through schools)
 - 7.12.1.4 The term of office for co-opted Members will be a period of no more than four years.
- 7.12.2 When matters which are not education matters, which are the responsibility of the Cabinet, fall to be considered by the Learning and Skills Scrutiny Committee, the co-opted representatives specified in rule 7.12.1 shall not vote, although they may stay in the meeting and speak.
- 7.12.3 The Economy, Residents and Communities Scrutiny Committee shall include in its membership in a non-voting capacity 1 representative from the Police and Crime Panel (or from such other body which replaces the Panel),

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subject to that representative not being a Powys County Council representative on the Police and Crime Panel.

- 7.12.4 In addition to co-optees appointed under rules 7.12.1.1 to 7.12.1.3 above, Scrutiny Committees may recommend to Full Council the co-option of other persons as voting or non-voting representatives. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them
- 7.12.5 The total number of co-optees on each Scrutiny Committee may not exceed more than one third the membership of the committee.¹
- 7.12.6 A co-optee cannot be a Vice-Chair of a Scrutiny Committee and cannot represent the Council on outside bodies.

Who Chairs Scrutiny Committees?

- 7.13 The arrangements included in sections 66-75 of The Measure will be followed for appointing persons to chair².

Role of the Chair of Scrutiny Committees

- 7.14.1 The chairs of the Scrutiny Committees will liaise with the Cabinet and the Chief Executive and will supervise the work programme for their Scrutiny Committee and identify cross cutting themes arising from the various Scrutiny Committees .
- 7.14.2 In summary, therefore, the Chair will:
- 7.14.2.1 be accountable for delivering effective scrutiny;
 - 7.14.2.2 will regularly monitor the work programmes for their Scrutiny Committee; and
 - 7.14.2.3 will liaise with the Cabinet on issues affecting the scrutiny work programme.
 - 7.14.2.4 Prepare Annual Reports to Council in accordance with Rule 7.9 above
 - 7.14.2.5 To receive requests from Members of Scrutiny of potential matters to be scrutinised.

Work Programme

- 7.15 The Chair in consultation with the Committee and officers will be responsible for setting the work programme for each scrutiny committee and in doing so they should take into account the Cabinet Forward Work Programme, and suggestions of scrutiny topics from other Members and the public and should focus on strategic and important issues.

Joint Scrutiny Committees

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

¹ Paragraph 8.19 Statutory Guidance from the Local Government Measure 2011 (issued by Welsh Government June 2012)

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Rules of Procedure and Debate (“Scrutiny Procedure Rules”)

7.17 Rules 7.17 to 7.36 (inclusive) shall be known as the Scrutiny Procedure Rules and will apply to meetings of the Scrutiny Committees.

What will be the Number and Arrangements for Scrutiny Committees ?

- 7.18.1 Subject to Rules 7.39 to 7.41 the Council will have three Scrutiny Committees set out in the table in Rule 7.3 and will appoint to them as it considers appropriate from time to time. The Committee may appoint smaller groups (Member and Officer Working Groups) to carry out detailed examination of particular topics for report back to the committee. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist or may be appointed on a task and finish basis. Such Member and Officer Working Groups should work on a non-political basis and wherever possible should comprise as many political groups as practicable.
- 7.18.2 The terms of reference / areas of responsibility of the various Scrutiny Committees will be as set out in Rule 7.4 above.
- 7.18.3 Each Scrutiny Committee (with the exception of the Public Service Board Scrutiny Committee) will be Chaired by a chair appointed by the Full Council from the membership of that Scrutiny Committee and there will be cross party membership of all Scrutiny Committees.

Meetings of the Scrutiny Committees

- 7.19.1 The three Scrutiny Committees will meet on a regular basis to meet the needs of Council and with the agreement of each Chair of Scrutiny.
- 7.19.2 In addition, extraordinary meetings may be called from time to time by:
- 7.19.2.1 the Full Council by resolution; or
 - 7.19.2.2 the relevant Scrutiny Committee by resolution; or
 - 7.19.2.3 the chair of the relevant Scrutiny Committee; or
 - 7.19.2.4 any 5 members of the relevant Scrutiny Committee; or
 - 7.19.2.5 the Chief Executive; or
 - 7.19.2.6 the Monitoring Officer; or
 - 7.19.2.7 the Section 151 Officer;

as s/he / they considers necessary or appropriate.

Quorum

7.20 The quorum of a meeting will be 25% of the number of members of that Scrutiny Committee. During any meeting, if the chair declares that there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Scrutiny Committee..

Business at First Meeting Following the Annual Meeting of the County Council

7.21 The first meeting of a scrutiny committee following the Annual Meeting of the County Council will (as may be appropriate):

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- 7.21.1 elect a chair of the PSB Scrutiny Committee;
- 7.21.2 elect a person to preside if the chair of the Committee is not present;
- 7.21.3 elect the vice-chair of the Committee
- 7.21.4 make appointments to sub-committees authorised by Full Council (see Rules 4.6.1; 4.6.7; 4.15.7; and 4.18.6); such appointments to be in accordance with the wishes of the groups unless the committee decides unanimously to dis-apply the political balance requirements;
- 7.21.5 deal with those items of business listed in Rule 7.23 below as may be appropriate.

The order of business, with the exception of items 7.21.1 and 7.21.2 may be altered by the chair.

Business at Other Meetings

- 7.22 At all other meetings of committee, the committee will (as may be appropriate)
 - 7.22.1 elect a person to preside if the chair and vice-chair of the Committee are not present;
 - 7.22.2 elect the chair of the PSB Scrutiny Committee in the event of there being a vacancy
 - 7.22.3 elect a vice-chair of the Committee in the event of there being a vacancy;
 - 7.22.4 receive declarations of interest (including whipping declarations);
 - 7.22.5 make appointments to sub-committees and Member and Officer Task and Finish Groups in the event of there being a vacancy;
 - 7.22.6 receive apologies for absence;
 - 7.22.7 approve the minutes of the last meeting;
 - 7.22.8 receive any announcements from the chair;
 - 7.22.9 receive reports from the Cabinet and / or from any other committees, and / or from officers;
 - 7.22.10 make recommendations to the Cabinet or Full Council;
 - 7.22.11 deal with any business outstanding from the last meeting;
 - 7.22.12 (where the Leader or a Cabinet member attends a meeting of the committee) to receive a presentation from the Leader or a Cabinet member and / or to put questions to, and to receive responses from the Leader or a Cabinet member;
 - 7.22.13 put questions to the chair or relevant officers of the Council where appropriate on items of business before the committee and to receive responses.
 - 7.22.14 receive reports from sub-committees and Member and Officer Task and Finish Groups;
 - 7.22.15 to consider requests from members of the committee for items of business for consideration at a future meeting or at the meeting when the request is made if the chair is satisfied that the matter is urgent (the reason for the urgency being recorded in the minutes), and that the committee is able to have the necessary professional advice of officers;
 - 7.22.16 consider motions without notice as set out in the Full Council Procedure Rules in Section 4 of this Constitution;
 - 7.22.17 review the Committee's Work Programme for the forthcoming year;
 - 7.22.18 consider such other business specified in the summons to the meeting;

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- 7.22.19 consider other business, not specified in the summons as the chair considers urgent, subject to the nature of the urgency being specified in the minutes;
- 7.22.20 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules;

The order of business, with the exception of items 7.22.1 to 7.22.4 may be altered by the chair.

Agenda Items

- 7.23.1 Any member of a Scrutiny Committee shall be entitled to give notice to the chair of the Scrutiny Committee that s/he wishes an item relevant to the functions of that Scrutiny Committee for inclusion on the agenda for the next available meeting.
- 7.23.2 Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Full Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and / or Council as appropriate. The Cabinet and / or the Council shall consider the report of the Scrutiny Committee and respond (if appropriate) as soon as possible or at the latest within 2 months of the date of the meeting.

Policy Review and Development

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

Reports from Scrutiny Committees

- 7.25.1 All formal reports from Scrutiny Committees will be submitted for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 7.25.2 If a Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, one minority report may be prepared and submitted for consideration by Cabinet or Council with the majority report.

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7.25.3 A Scrutiny Committee may publish any non-confidential report.

Making sure that Scrutiny Reports are considered by Full Council or Cabinet

- 7.26.1 The reports of Scrutiny Committees shall be referred to the Cabinet (as determined by the Scrutiny Committee) within one month or to the next meeting of Full Council (where applicable). Where an item is not considered by Cabinet or Council within the period specified above, the Chair of Council or the Leader or Portfolio Holder will give an explanation of the reasons to the chair of the relevant Scrutiny Committee as soon as practicable.
- 7.26.2 Where a scrutiny report is referred to the Cabinet the relevant Portfolio Holder(s) and senior officers will attend the meeting of the Cabinet wherever possible. The Cabinet will prepare a written response to the scrutiny report, including an action plan where appropriate, as soon as possible or at the latest within 2 months of the date of the meeting. The Portfolio Holder(s) and senior officers if requested to do so will attend a future meeting of that Scrutiny Committee to present the Cabinet's response.

Rights of Members of Scrutiny Committees to Documents

- 7.27.1 Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section 14 of this Constitution.
- 7.27.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees as appropriate depending on the particular matter under consideration.

Members and Senior Officers Giving Account

- 7.28.1 Scrutiny Committees / Working Groups may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within its remit. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain the following matters within their remit:
- 7.28.1.1 any particular decision or series of decisions; and / or
 - 7.28.1.2 the extent to which the actions taken implement Council policy; and/or
 - 7.28.1.3 the implementation of decision(s) and or Council policy

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

- 7.28.2 Where there are concerns about the appropriateness of the Officer who should attend, the relevant Chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- 7.28.3 Where any Cabinet Member is required to attend Scrutiny Committees / Working Group under this provision, the Chair of that Committee / Working Group will inform the relevant Cabinet Member in writing at least 5 working days' before the meeting at which s/he is required to attend (unless agreed otherwise). The written notice will state the nature of the item on

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which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.

- 7.28.4 Where any Officer is required to attend Scrutiny Committees / Working Group under this provision, the Chair of that Committee / Working Group will inform the relevant Head of Service. The relevant Head of Service shall inform the Officer, if necessary in writing, giving at least 5 working days' notice of the meeting at which s/he is required to attend (unless agreed otherwise). The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.
- 7.28.5 Where the account to be given to a Scrutiny Committee / Working Group will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for its preparation.
- 7.28.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee / Working Group shall in consultation with the Member or Officer arrange an alternative date for attendance.

Attendance by Others

Attendance of Leader or Cabinet Member

- 7.29 Subject to the Members' Code of Conduct, the Leader or a Cabinet member in the role of the Leader's representative may attend and speak but not vote at meetings of Scrutiny Committees where the Leader has a specific issue to raise with the committee. The attendance of a Cabinet member in all other cases will be at the invitation of the chair or the Scrutiny Committee.

Attendance of Members at Committee Meetings

- 7.30.1 In addition to their right to attend all meetings of committees of which they are members, Members (with the exception of Cabinet members) shall have the right to attend any meeting of a Scrutiny Committee and to remain present notwithstanding the passing of a resolution to exclude the public.
- 7.30.2 Such attendance shall be as observer only, with no right to vote, the attendance not being included in the relevant quorum, and no right to speak, provided that the chair in his / her discretion may permit the member to speak on a particular issue.
- 7.30.3 Such right of attendance is subject to the Councillor not having a Prejudicial Interest in the matter under discussion under the Members' Code of Conduct and subject to any legal provisions and any limitations or restrictions within this Constitution.

Others

- 7.31 Scrutiny Committees / Working Group may invite people other than those people referred to in Rules 7.28 and 7.29 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, members and officers in other parts of the public sector and shall invite such people to attend.

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The Party Whip in Scrutiny

7.32 If a member of a Scrutiny Committee is subject to a party whip in respect of an issue to be considered by it, that member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting. The member declaring the existence of a whip may speak at the meeting but is not entitled to vote on the question.³

Procedure at Scrutiny Committee Meetings

7.33.1 The Rules of Procedure at Scrutiny Committees will be the same as the Full Council Procedure Rules set out in Section 4 of this Constitution except that the chair of the meeting may allow the rules of debate to be relaxed to enable a full contribution by those attending the meeting whether members of a Scrutiny Committee or in any other capacity which allows them to contribute to the worth of the meeting.

7.33.2 Scrutiny Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

7.33.2.1 that the business be conducted fairly and all members of the Scrutiny Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

7.33.2.2 that those assisting by giving evidence be treated with respect and courtesy;

7.33.2.3 that the business be conducted as efficiently as possible.

7.33.3 Following any investigation or review, a Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Full Council as appropriate and shall make its report and findings public.

Matters within the Remit of more than one Scrutiny Committee

7.34 Where a matter for consideration by Scrutiny Committees falls within the remit of more than one Scrutiny Committee the decision as to which Scrutiny Committee is to consider the matter will be resolved by the respective Chairs or if they fail to agree, the decision will be made by Monitoring Officer.

Call-In Procedure Rules

7.35A The Call-In Procedure Rules set out in this Rule 7.35 do not apply to the Public Services Board Scrutiny Committee. For the sake of clarity the Public Service Board Scrutiny Committee does not have the ability to call-in decisions / recommendations made by the Public Service Board.

7.35B For the purpose of Rule 7.35, where the Monitoring Officer and / or the Chief Finance Officer is the author of the report which is the subject of a potential Call-In to scrutiny, that officer cannot undertake the decisions described in Rules 7.35.3 and 7.35.15 in which event, the decision will be taken by the Chief Executive in consultation with the Deputy Monitoring Officer and / or Deputy Chief Finance Officer as appropriate.

³ Section 78(1) of the Local Government (Wales) Measure 2011.

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- 7.35.1 Where a decision is made by the Cabinet or an individual member of the Cabinet or a Committee of the Cabinet or under joint arrangements with other public bodies, the decision shall be published by the Monitoring Officer, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of it being made. All Councillors will be sent copies of the records of all such decisions within the same time scale.
- 7.35.2 The communication to Councillors sending them the decision will (a) bear the date on which the decision is published and (b) will specify the date when the decision will come into force (subject to Rule 7.36.3) and may then be implemented, on the expiry of five clear days (the “Call-in Period”) after the date of publication of the decision, unless the appropriate Scrutiny Committee objects to it and calls it in for review within the Call-in Period.
- 7.35.3 Subject to Rule 7.35B above, and during the Call-in Period the Monitoring Officer shall call-in a decision for scrutiny by the relevant Scrutiny Committee if so requested in the specified format (“the Call-In Request”⁴) by the chair or 4 members of a Scrutiny Committee PROVIDED THAT the Monitoring Officer and / or the Chief Finance Officer are satisfied that the following conditions are met:

Appendix 1 - Call In Request

- 7.35.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the Cabinet; or
- 7.35.3.2 the Cabinet or decision maker had not followed agreed procedures or failed to consult (where required) before reaching its decision; or
- 7.35.3.3 the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council’s actions, or other guidance adopted by the Council.
- 7.35.4 Where the Monitoring Officer and / or the Chief Finance Officer are satisfied that one or more of the conditions set out in rule 7.35.3 above have been met, they shall produce a written report setting out the reasons for coming to this conclusion and the Monitoring Officer (subject to Rule 7.35B above) will then arrange for a “Call-In Notice”⁵ to be issued in accordance with Rule 7.35.5 below.

Appendix 2 - Call In Notice

- 7.35.5 A Call-In Notice must contain the following:
- 7.35.5.1 details of the condition set out in rule 7.35.3 above being relied upon;
- 7.35.5.2 the reasons why it is believed one or more of the conditions are satisfied;
- 7.35.6 The Monitoring Officer (subject to Rule 7.35B above) shall call a meeting of that Scrutiny Committee on such a date as s/he may determine, where possible after consultation with the chair or vice chair of that the appropriate

⁴ See Appendix 1 to this Section.

⁵ See Appendix 2 to this Section.

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Scrutiny Committee , and usually within 10 clear days of the receipt of the Call-In Request (the “Scrutiny Period”) (only in exceptional circumstances will the chair of the Scrutiny Committee consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).

- 7.35.7 If, having considered the decision, the Scrutiny Committee remains concerned about the decision, then the Committee may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council for review. If the decision is referred back to the decision maker, the decision maker shall then reconsider the decision within 10 clear days of the date of the reference. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in.
- 7.35.8 If a Scrutiny Committee does not meet within the Scrutiny Period the decision shall take effect and be implemented on the next day following the expiry of the Scrutiny Period (as extended pursuant to Rule 7.35.6 as the case may be).
- 7.35.9 If following an objection to the decision, a Scrutiny Committee does not refer the matter back to the decision making person or body or to Full Council, the decision shall take effect on the date of the Scrutiny Committee meeting.
- 7.35.10 If a Scrutiny Committee refers the matter to Full Council, the Monitoring Officer (subject to Rule 7.35 above) shall call a meeting of the Full Council on such a date as s/he may determine, where possible after consultation with the chair or vice chair of the Full Council, and usually within 10 clear days of the receipt of the referral (the “Council Scrutiny Period”) (only in exceptional circumstances will the chair of the Full Council consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).
- 7.35.11 If, having considered the decision, the Full Council remains concerned about the decision, then the Full Council may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If the decision is referred back to the decision maker, the decision maker shall then reconsider the decision within 10 clear days of the date of the reference. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in.
- 7.35.12 If the Full Council does not meet within 10 clear days of the date of the reference (“the Council Scrutiny Period”), the decision shall take effect on the day after the expiry of the Council Scrutiny Period.
- 7.35.13 If the Full Council does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Full Council meeting.
- 7.35.14 In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
- 7.35.14.1 each Scrutiny Committee may only call-in a total of five decisions per year;
- 7.35.14.2 where a Call-in Request has been made by four members of a Scrutiny Committee in accordance with Rule 7.35.3 those four members must

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- come from at least two political groups, or one political group and / or one or more non-aligned Councillor(s);
- 7.35.14.3 once a Member (the chair of the Scrutiny Committee excepted) has signed a Call-in Request s/he may not do so again until the period of six months has expired.
- 7.35.14.4 no Education Co-opted members may request a decision be called in.
- 7.35.14.5 only decisions involving expenditure or reduction in service over the threshold value for tenders set out in Section 17 of this Constitution may be called-in.
- 7.35.14.6 the decision being called-in, or broadly the same decision, has been called in during the last 6 months.
- 7.35.14.7 the provisions of Rule 7.36.1 apply (Urgency)
- 7.35.15 Subject to Rule 7.35B above, the Monitoring Officer and / or the Chief Finance Officer may veto any request for call-in if it falls outside the remit of this scheme.
- 7.35.16 Save in exceptional circumstances all members of a Scrutiny Committee requesting a matter be called in must attend the meeting at which the matter is being considered.
- 7.35.17 For the avoidance of doubt a Call-In remains valid even if one or more of the members who have signed the Call-in Request do not attend the Scrutiny Meeting at which the Call-in is debated.

Call-In and Urgency

- 7.36.1 The call-in procedure set out in Rule 7.35 above shall not apply where the decision being taken is urgent. A decision will be urgent if:
- 7.36.1.1 any delay likely to be caused by the call-in process would seriously prejudice the Council's or other public interests; and
- 7.36.1.2 Subject to Rule 7.36.3 below the Chief Executive and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing the reasons why any delay caused by a call-in process could seriously prejudice the Council, or the public interest; and
- 7.36.1.3 the chair of the relevant Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency. In the absence of the Scrutiny chair then either the Scrutiny vice chair or the chair of Council may agree to the decision being treated as a matter of urgency; and
- 7.36.1.4 the record of the decision, and notice by which it is made public, shall state that the decision is an urgent one, and that the urgency of the matter has been approved by the Chief Executive and / or the Monitoring Officer and / or the Chief Finance Officer (subject to Rule 7.35B above) and by the chair of the relevant Scrutiny Committee or Scrutiny vice-chair or the chair of Council.
- 7.36.2 Decisions taken as a matter of urgency can be implemented forthwith but must be reported at the next available meeting of the relevant Scrutiny Committee, together with the reasons for urgency, such report to the scrutiny committee must contain the written certification as required in Rule 7.36.1.2 above.

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7.36.3 For the purposes of Rules 7.36.1.2 above the officer certifying the reasons why any delay caused by a call-in process could seriously prejudice the Council, or the public interest cannot be an officer whose report is being considered under the Rule 7.36 procedure.

Finance Panel.

Role, Scope and Membership.

7.37

- 7.37.1 Membership: The Panel should be constituted as follows:
- 9 Members (politically balanced); plus
 - An Independent Member nominated by the Governance and Audit Committee
- 7.37.2 Other Attendees
- The Portfolio Holder for Finance will be required to attend all meetings, but will not have any voting rights.
 - Other Portfolio Holders together with relevant officers would be invited to attend meetings as necessary
- 7.37.2 Chair :
- The Chair of the Panel will be elected from the Panel's membership.
- 7.37.3 Vice-Chair:
- The Vice-Chair of the Panel will be elected from the Panel's membership.
- 7.37.4 Meetings:
- Meetings of the Panel will be held on a schedule to be determined by the Panel.
- Meetings of the Panel will be split as follows:
- Public Meetings - to review budget monitoring reports for Revenue and Capital and any other monitoring and performance reports as appropriate
- Closed Confidential Meetings - to discuss the development of the budget, future planning and finance transformation, allowing a more frank, open and honest discussion, and providing an opportunity to consider proposals in closed session prior to formal inclusion in the budget and public engagement
- 7.37.5 Reports by the Panel:
- The Panel will make reports on its findings to the Cabinet and where necessary Full Council.

Terms of Reference:

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7.38 The Panel will concentrate on strategic financial matters including the following:

7.38.1

- review and scrutinise in private session:
- assist with the delivery of financial plans to support change and the Medium Term Financial Strategy to inform policy changes, and providing robust challenge and accountability;
- consider the robustness of the evidence base upon which the MTFs and Council budget are predicated
- Assumptions underlying the budget strategy;
- The Medium Terms Financial Strategy / Finance Resource Model;
- Budget Assumptions;
- Draft Budget and Impact Assessments;
- Development of the budget, future planning and finance transformation
- provide evidence based recommendations to the Cabinet on its findings;
- develop a forward work programme based on the budget timetable and the Council's medium term financial strategy;

7.38.2

- to review and scrutinise in public session:
- Annual Local Government Settlement and any legislative changes affecting local government;
- Financial aspects of the Risk Register;
- Financial Monitoring;
- to review budget monitoring reports for Revenue and Capital
- any other monitoring and performance reports as appropriate
- provide evidence based recommendations to the Cabinet on its findings
- develop a forward work programme

Public Service Board Scrutiny Committee.

7.39 Membership.

The membership of the Public Service Board Scrutiny Committee will be as follows:

9 Members in total, comprising:

- The 3 Vice-Chairs of the Scrutiny Committees (Economy, Residents and Communities, Health and Care and Learning and Skills), together with
- 2 additional representatives from each of the scrutiny committees (on a politically balanced basis based on a Committee of 6)

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- 7.40 The Terms of Reference of the Public Service Board Scrutiny Committee are set out in the “Arrangements for the Scrutiny of the Public Service Board in Powys” document approved by Full Council from time to time.

Councillor Call for Action

- 7.42.1 The Councillor Call for Action is a mechanism for enabling Councillors to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of “last resort”.
- 7.42.2 Any Councillor may request that an item is placed on the agenda of the relevant Scrutiny Committee for consideration.
- 7.42.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors which can be found on the Council's website as follows:

[Councillor Call for Action - Guidance for Members](#)

SECTION 8 – THE STANDARDS COMMITTEE

The Council will establish a Standards Committee to exercise the functions set out in Rule 8.8. The Standards Committee will appoint a Standards Community Sub-Committee to exercise the functions set out in Rule 8.8 insofar as they affect Town and Community Councils. The Standards Committee and the Sub-Committee are exempt from the requirements to achieve as far as reasonably practicable a political balance on committees which apply to other Council committees.

Composition

Membership of the Standards Committee.

8.1 The Standards Committee is composed of 9 Members. Its Membership includes:

8.1.1 5 'Independent' (Lay) Members.

The following persons are not eligible to serve as Independent (Lay) Members of the Standards Committee:

- (a) A person who is a Councillor or Officer of Powys County Council or the spouse or civil partner of a Councillor or an Officer;
- (b) A person who has been, but is no longer a Councillor or Officer of Powys County Council;
- (c) A person who is a member or an officer, or the spouse or civil partner of a member or an officer of:

Any other County Council;
Any County Borough Council;
Any National Park Authority;
Any Fire Authority;
Any Community Council.

- (d) For the period of 12 months commencing with the date on which that person ceased to be a member or officer of any of the bodies listed below, a person who has been, but is no longer a member or officer of;

Any other County Council;
Any other County Borough Council;
A National Park Authority;
A Fire Authority.

8.1.2 4 Councillors (other than the Cabinet Leader including not more than 1 member of the Cabinet) appointed by the County Council at the Annual Meeting following the ordinary local government elections for the County Council, or at an ordinary meeting in the event of a vacancy occurring.

SECTION 8 – THE STANDARDS COMMITTEE

Membership of the Standards Community Sub-Committee.

8.2.1 The sub-committee will comprise of:

- The five Independent (Lay) Members of the Standards Committee;
- One County Councillor; and
- Three community committee members appointed in accordance with Rule 8.2.2. below.

8.2.2 Nominations will be sought from all Town and Community Councils in Powys for three community committee members, one from each Shire. Following the close of nominations a ballot will be held and those receiving the majority of the votes cast in each Shire will be appointed by the Standards Committee to the Standards Community Sub-Committee. (The County Council delegated the responsibility for making these appointments to the Standards Committee in July 2008)

Term of Office

8.3.1 Independent (Lay) Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.

8.3.2 Councillors who are also Members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term. A Councillor ceases to be a Member of the Standards Committee upon ceasing to be a Councillor.

Quorum of Standards Committee

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

8.4.1 at least 3 Members, including the Chair, are present; and

8.4.2 at least half the Members present (including the Chair) are Independent (Lay) Members.

Quorum of Standards the Community Sub-Committee

8.5 A meeting of the Standards Community Sub-Committee shall only be quorate when:

8.5.1 at least three members, including the chair, are present, and

8.5.2 at least half the members present (including the chair) are Independent (Lay) Members

8.5.3 For the purposes of this Rule “community committee member” means a member of the Standards Community Sub-Committee who is also a member of a community council within Powys

8.5.4 Where the Standards Community Sub-Committee considers any matter relating to a Town or Community Council in Powys or a Councillor of such a Town or Community Council, any member of the Standards Community Sub-Committee (whether County Councillor or Community Committee Member) who is also a member of that Town or Community

SECTION 8 – THE STANDARDS COMMITTEE

Council shall not take part in the proceedings of the Sub-Committee in relation to that matter.

Voting

- 8.6.1 All Members including Independent (Lay) Members will be entitled to vote at meetings.
- 8.6.2 A question to be decided by the Standards Committee / Standards Community Sub-Committee shall be decided by a majority of the votes cast by those members present at the meeting and eligible to vote.
- 8.6.3 In the case of an equality of votes, the person presiding at a meeting of the Standards Committee / Standards Community Sub-Committee shall have a second, casting vote.

Chairing the Committee and the Standards Community Sub-Committee.

- 8.7.1 Only an Independent (Lay) Member of the Standards Committee and the Standards Community Sub-Committee may be the Chair or Vice-Chair.
- 8.7.2 If the Chair is absent from a meeting of the Standards Committee / Standards Community Sub-Committee, then the Vice-Chair of the Committee / Standards Community Sub-Committee, if present, shall preside.
- 8.7.3 If both the Chair and the Vice-Chair of the Standards Committee / Standards Community Sub-Committee are absent from a meeting, an independent member as chosen by the Standards Committee / Standards Community Sub-Committee shall preside.
- 8.7.4 Subject to 8.7.1 and 8.7.5 below the Chair and Vice Chair will be elected by the Members of the Standards Committee or the Standards Community Sub-Committee for whichever is the shortest period of:
 - (i) not less than four years or no more than six years; or
 - (ii) until the term of office of the Independent Member comes to an end.
- 8.7.5 A Chair or Vice-Chair can be re-elected following their re-appointment as a Member of the Committee or Sub-Committee as the case may be.

Role and Function

- 8.8 The Standards Committee will have the following roles and functions:
 - 8.8.1 promoting and maintaining high standards of conduct by Members (including church and parent governor representatives);
 - 8.8.2 assisting Members (including church and parent governor representatives) to observe the Members' Code of Conduct;
 - 8.8.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
 - 8.8.4 monitoring the operation of the Members' Code of Conduct;
 - 8.8.5 advising on training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
 - 8.8.6 granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set

SECTION 8 – THE STANDARDS COMMITTEE

- out in the Members' Code of Conduct;
- 8.8.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.
- 8.8.8 overseeing the Council's whistle-blowing regime;
- 8.8.9 providing advice to individual Councillors on such issues as the treatment of personal interest and on conduct matters generally;
- 8.8.10 determining appropriate action on matters referred to it by the Public Services Ombudsman for Wales.
- 8.8.11 overseeing the Register of Interest of Members, Co-opted members and Church and Parent Governor Representatives and Officers.
- 8.8.12 overseeing the Council's rules and protocols on accountability of members.
- 8.8.13 overseeing the attendance of Members and Co-opted Members at relevant meetings;
- 8.8.14 monitor the training of Members serving on Member Bodies.
- 8.8.15 To monitor compliance by leaders of political groups on the council to take reasonable steps to promote and maintain high standards of conduct by members of the group; and
- 8.8.16 To advise on training or arranging to train leaders of political groups on the council about matters relating to this duty.
- 8.8.17 As soon as reasonably practicable after the end of each financial year, the Standards Committee will make an annual report to Full Council setting out the following:
- (a) how the Committee's and Sub-Committee's functions have been discharged
 - (b) what has been done to discharge the general and specific functions set out in Rules 8.8.1 to 8.8.5 above;
 - (c) reports and recommendations made or referred to the Committee or Sub-Committee by the Ombudsman;
 - (d) action taken by the Committee or Sub-Committee following its consideration of such reports and recommendations;
 - (e) notices given to the Committee or Sub-Committee by the Adjudication Panel for Wales.
 - (f) the extent to which leaders of political groups on the council have complied with their duties to promote and maintain high standards of conduct during the financial year.
 - (g) such other matters as the Committee may wish to draw to the attention of Full Council in relation to the Standards Committee's functions.
- 8.9 the Standards Community Sub-Committee will have the roles and functions listed in 8.8.1 to 8.8.7 above in relation to the Town and Community Councils in Powys and members of those Councils.

Rules of Procedure and Debate

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

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SECTION 9 – REGULATORY AND OTHER COMMITTEES

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

The Democratic Services Committee

- 9.2.1 The Council will appoint a Democratic Services Committee to discharge the functions described in Section 13 of this Constitution.¹
- 9.2.2 The Committee shall consist of 11 Members to achieve so far as reasonably practicable a political balance.
- 9.2.3 No more than one Member of the Cabinet may be a member of the Committee and that Cabinet Member cannot be the Leader.
- 9.2.4 The Chair of the Democratic Services Committee is appointed by Full Council at its Annual Meeting and the Chair may be removed from office by a motion to remove to Council which is put on the agenda pursuant to Rule 4.38.1. The Chair must not be a member of an Executive Group (meaning a political group some or all of whose members comprise, or are included in, the Cabinet of the Authority, unless there are no opposition groups [meaning a political group none of whose members are included in the Cabinet of the Authority] in which case the Chair may be a member of an Executive Group but must not be a member of the Cabinet).
- 9.2.5 The Committee may appoint one or more sub-committees and may arrange for the discharge of any of its functions by such a sub-committee.
- 9.2.6 The Committee is to appoint the Chair of any Sub-Committee.
- 9.2.7 The Vice-Chair of the Committee is appointed by the Committee and the Vice-Chair of any Sub-Committee is appointed by the Sub-Committee
- 9.2.8 The Vice-Chair of the Democratic Services Committee and the Chair and Vice-Chair of a Sub-Committee may be removed from office by a motion to remove which is put on the agenda of the Democratic Services Committee pursuant to Rule 4.38.1

Regulatory Committees and Sub-Committees

- 9.3.1 The Council will appoint such Regulatory Committees as it considers appropriate to the exercise of its functions described in Section 13 of this Constitution. These will include a Planning, Taxi Licensing and Rights of Way Committee of 17 Members¹, a Licensing Act 2003 Committee of 11 Members², an Employment and Appeals Committee of 11 Members, a Governance and Audit Committee of 9 Members, and a Pensions and Investments Committee of 5 Members plus the Portfolio Holder for Finance together with a Staff and Employers Representative.
- 9.3.2 Any Regulatory Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the Regulatory Committee's terms of reference.
- 9.3.3 Subject to Rule 9.3.4 below, Cabinet Members cannot be members of Regulatory Committees and / or their Sub-Committees.

¹ See Rule 11, of the Local Government (Wales) Measure 2011.

² Licensing Act 2003 - Part 2 - Section 6 states Licensing committees - (1)Each licensing authority must establish a licensing committee consisting of at least ten, but not more than fifteen, members of the authority.

SECTION 9 – REGULATORY AND OTHER COMMITTEES

9.3.4 Cabinet Members may be members of the following Regulatory Committees and / or their Sub-Committees in the manner described below:

9.3.4.1 Pensions and Investment Committee;

9.3.4.2 Employment and Appeals Committee where dealing with shortlisting and appointments in accordance with Rules 11.46, 11.52, and 11.56.

9.3.5 The quorum of any Sub-Committee of a Regulatory Committee will be 25% of the membership save that the quorum of the Taxi Licensing Sub-Committee shall be at least 3 Members and the quorum of the Licensing Sub-Committee of the Licensing Act 2003 Committee shall be at least 3 Members.

9.3.6 A Regulatory Committee and / or Sub-Committee will appoint a Chair and Vice-Chair at the first meeting of the Committee / Sub-Committee following the Council’s Annual Meeting.

9.3.7 A Chair and Vice-Chair of a Regulatory Committee may be removed from office by a motion to remove which is put on the agenda pursuant to Rule 4.38.1

9.4 Governance and Audit Committee.

9.4.1 The role, scope and Membership of the Governance and Audit Committee is set out below:

<p>Governance and Audit Committee Membership: 6 Councillors (politically balanced) plus 3 Independent / Lay Member</p>	<ul style="list-style-type: none"> • To approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be). • Ensure the risk management strategy guides the programme of internal and external work, to address the controls and risk related issues identified • Oversee the production of the annual governance statement, recommend its adoption to County Council and ensure appropriate action is taken to address the issues raised • To consider and approve the annual audit opinion on internal control and the level of assurance given to the corporate governance arrangements • Approve the annual audit plan, ensuring there is sufficient and appropriate coverage, with a strong emphasis on risk management and resources are available to implement the plan. • Receive and review internal audit reports and ensure officers respond promptly to the findings. Where necessary recommendations to other committees and portfolio holders will be made, to ensure action plans are implemented • Consider and approve the annual letter, regulatory plan and specific reports as agreed. • Where necessary ensure action is taken by officers to address those issues raised, and if necessary
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SECTION 9 – REGULATORY AND OTHER COMMITTEES

	<p>recommendations to other committees and portfolio holders will be made to address findings and deliver clear conclusions</p> <ul style="list-style-type: none">• Comment on the scope and depth of the external audit work, to ensure it gives value for money• Assess and approve the annual statement of accounts, external audit opinion and management representation in relation to annual audit findings• Promote effective relationships between external and internal audit, inspection agencies and other relevant bodies to ensure the value of audit and inspection is enhanced and actively promoted• regularly monitor treasury management reports <p>Local Government Measure 2011 (Section 81) as amended by the Local Government and Elections (Wales) Act 2021 (Section 115)</p> <ul style="list-style-type: none">• review and scrutinise the authority's financial affairs• make reports and recommendations in relation to the authority's financial affairs• review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the authority• make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements• review and assess the authority's ability to handle complaints effectively• make reports and recommendations in relation to the authority's ability to handle complaints effectively• oversee the authority's internal and external audit arrangements, and• review the financial statements prepared by the authority <p>Local Government and Elections (Wales) Act 2021 (Section 91)</p> <ul style="list-style-type: none">• Duty to review the Council's draft performance self assessment report and may make recommendations for changes to the conclusions or to anything included in the draft• Duty to review the Council's draft response of the panel performance assessment and may make recommendations for changes to the statements made• Duty to consider the report of the Auditor General following a special inspection• Duty to review the Council's draft response to the report of the Auditor General and may make recommendations for changes to the statement made
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9.4.2 The Committee can make reports and / or recommendations to the Cabinet

SECTION 9 – REGULATORY AND OTHER COMMITTEES

and / or Scrutiny Committees and / or the Full Council, in connection with the discharge of any function of the authority;

Membership of the Governance and Audit Committee

9.4.3 The Governance and Audit Committee will comprise 6 Councillors, appointed to achieve as far as reasonably practicable a political balance on the committee plus 3 voting Independent / Lay Members.

9.4.4 In accordance with Section 82 of The Measure as amended by Section 116 of the Local Government and Elections (Wales) Act 2021:

9.4.4.1 One third of the membership of the Governance and Audit Committee must be lay persons (Independent Members);

9.4.4.2 An act of the Governance and Audit Committee will be invalid if the membership of the committee breaches any of the membership requirements set out in Rules 9.4.4

9.4.4.3 The Chair of the Governance and Audit Committee is appointed by the Committee at the first meeting following the Council's Annual Meeting and the Chair:

- must be a Lay / Independent Member;

9.4.4.4 The Measure does not require a Cabinet Member to be a member of the Governance and Audit Committee but a maximum of one member of Cabinet (but not the Leader or an Assistant to the Executive) may be a member of the Governance and Audit Committee;

9.4.4.5 The Chair of the Governance and Audit Committee may be removed from office by a motion to remove which is put on the agenda of the Governance and Audit Committee pursuant to Rule 4.38.1

9.4.5 The Vice-Chair of the Governance and Audit Committee will be appointed annually by the Committee at the first meeting following the Council's Annual Meeting who may appoint a Councillor or an Independent / Lay Member. (see Rule 9.4.6 below)

9.4.6 The Member appointed as the Vice-Chair must not be a member of the local authority's executive or an assistant to its executive.

9.4.7 The Vice-Chair of the Governance and Audit Committee may be removed from office by a motion to remove which is put on the agenda of the Governance and Audit Committee pursuant to Rule 4.38.1

Who May Sit on the Governance and Audit Committee

9.4.8 In accordance with Section 82 of The Measure no more than one member of the Cabinet may be a member of the Governance and Audit Committee (but there is no requirement for Full Council to appoint a member of the Cabinet to the Governance and Audit Committee). The Leader or an Assistant to the Executive cannot be a member of the Governance and Audit Committee.

Work Programme

9.4.9 The Chair in consultation with the Committee will determine its own work programme

SECTION 9 – REGULATORY AND OTHER COMMITTEES

Meetings of the Governance and Audit Committee

9.4.10 The Governance and Audit Committee must also meet if:

- (a) the Full Council resolves that the Committee should meet; or
- (b) at least one third of the members of the Governance and Audit Committee requisition a meeting by one or more notices in writing to the chair.

9.4.11 For the purposes of attendances of members or Officers at the Governance and Audit Committee only, in accordance with Section 83(6) of The Measure, a person is not obliged to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.

Rules of Procedure and Debate

9.5 The Council Procedure Rules in Section 4 will apply.

ⁱ To comply with The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 a Planning Committee must have between 11 and 21 Members.

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SECTION 10 – JOINT COMMITTEES

- 10.1 There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority or with a Local Health Board(s).
- 10.2 The Council and Cabinet in order to promote the economic, social, or environmental wellbeing of its area may:
- 10.2.1 enter into arrangements or agreements with any person or body;
 - 10.2.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and
 - 10.2.3 exercise on behalf of that person or body any functions of that person or body.

Joint Arrangements

- 10.3.1 The Council may establish joint arrangements with one or more local authorities or a Local Health Board(s) and/or their executives to (a) exercise functions which are not Executive Functions in any of the participating authorities, or (b) advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 10.3.2 The Cabinet may establish joint arrangements with one or more local authorities or a Local Health Board(s) to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities or a Local Health Board(s). Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- 10.3.3 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.
- 10.3.4 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Section 13 of this Constitution.

Access to Information

- 10.4.1 The Access to Information Rules applying to a Joint Committee will depend upon the terms of reference agreed for the operation of that committee.
- 10.4.2 Where it is agreed that Powys County Council Access to Information Procedure Rules in Section 14 will apply to a Joint Committee, those rules will take effect subject to rules 10.4.3. and 10.4.4. below.
- 10.4.3 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

SECTION 10 – JOINT COMMITTEES

10.4.4 If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply. ¹

Delegation to and from Other Local Authorities

10.5.1 The Council can delegate Non-Executive Functions to another local authority or a Local Health Board(s), and where those functions are the responsibility of the executive of another local authority, to the executive of another local authority.

10.5.2 The Cabinet can delegate Executive Functions to another local authority or the executive of another local authority or a Local Health Board(s).

10.5.3 The decision whether or not to accept such a delegation from another local authority or a Local Health Board(s) is reserved to the Full Council.

Contracting Out

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

10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994²; or

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

¹ See Section 14.

² Any function of the Council or of an Executive

SECTION 11 – OFFICERS

Management Structure

General

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

Chief Officers

11.2 The Full Council will engage persons for the following posts, who will be designated Chief Officers¹, which designation includes persons acting temporarily in such capacity:

Post	Functions and Areas of Responsibility
Chief Executive	<p>The Chief Executive will have the responsibility for keeping the following under review:</p> <ul style="list-style-type: none"> • Leading and managing the Executive and Senior Leadership Teams and determining the way in which the Council's different functions are co-ordinated • Delivery of the Corporate Improvement Plan • Overall performance of the Council • With S151 officer, the oversight of Financial Planning (including Medium Term Financial Strategy), asset management and risk management • With Monitoring Officer, the smooth running of democracy • Leadership of strategic partnerships and major structural collaborations/service mergers • Performance management of Executive Directors, Section 151 Officer and Monitoring Officer. • The number and grades of staff required by the Council for the exercise of its functions • The organisation of the Council's staff • The appointment of the Council's staff • Arrangements for the management of the Council's staff (including arrangements for training and development)

Post	Functions and Areas of Responsibility
Executive Director – Economy and Environment	<p>The Executive Director – Economy and Environment will share be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none"> • Leadership of aspects of Vision 2025 (to be agreed with Chief Executive); • Development of the Mid-Wales Growth Deal;

¹ Defined in Section 2, 2.2

SECTION 11 – OFFICERS

	<ul style="list-style-type: none"> • Leadership of the Council's overall approach to commercialisation; • Emergencies and business continuity; • Performance management of relevant Heads of Service.
<p>Executive Director – People and Organisational Development</p>	<p>The Executive Director – People and Organisational Development will be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none"> • This Executive Director will also be the Council's statutory Director of Social Services and the lead Director for Children and Young People; • Leadership of aspects of Vision 2025 (to be agreed with Chief Executive); • Outcomes for all children and young people and vulnerable adults; • Leadership of the Regional Partnership Board (RPB) and working with key strategic partners especially Education and Health; • Performance management of relevant Heads of Service; • Leading the Council's Workforce and Organisational Development, including Health and Safety and Welfare. • As Director of Social Services this post holder will be the Council's senior lead on Safeguarding.

Statutory Officers

11.3 The Council will designate the following posts as shown:

Designation	Post
Chief Executive ²	Chief Executive
Monitoring Officer ³	Head of Legal Services and Monitoring Officer
Chief Finance Officer (Section 151 Officer) ⁴	Head of Finance
Director of Social Services	⁵ Executive Director – People and Organisational Development
Chief Education Officer	Director of Education ⁶
⁷ Lead Director for Children and Young People's Services	Executive Director – People and Organisational Development
Head of Democratic Services ⁸	Scrutiny Manager
Data Protection Officer	Professional Lead – Data Protection

² Section 4 – Local Government and Housing Act 1989.

³ Section 5 – Local Government and Housing Act 1989.

⁴ Section 151 – Local Government Act 1972.

⁵ Section 6 – Local Authority Social Services Act 1970

⁶ Section 532 – Education Act 1996

⁷ Section 27 – Children Act 2004

⁸ Section 8 of the Local Government (Wales) Measure 2011 as amended by Section 161 of the Local Government and Elections (Wales) Act 2021.

SECTION 11 – OFFICERS

11.4 The posts set out in Rule 11.3 above will have the functions described in Rules 11.5 to 11.33.

Functions of the Chief Executive

Discharge of Functions by the Council

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

Restrictions on Functions

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

Functions of the Monitoring Officer

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

Maintaining the Constitution

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

Ensuring Lawfulness and Fairness of Decision Making

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

Supporting the Standards Committee

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

Receiving Reports

11.11 The Monitoring Officer will receive and act on reports made by the Public Services Ombudsman for Wales ("the Ombudsman") and decisions of the case tribunals.

SECTION 11 – OFFICERS

Conducting Investigations

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

Proper Officer for Access to Information

11.13 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and officer under investigation reports and background papers are made publicly available as soon as possible.

Advising whether decisions of the Cabinet are within the Budget and Policy Framework

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

Providing Advice

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

Power to Appoint to Committees and Outside Bodies and Amendments to the Constitution.

11.16.1 The Council has authorised the Monitoring Officer to make an appointment to fill a vacancy on a committee or outside body where the appointment must reflect the wishes of a political group and the appointment reflects such wishes of that political group to whom the committee seat or position on the outside body remains allocated.

11.16.2 The Council has authorised the Monitoring Officer to make minor amendments to the Constitution in accordance with Rule 2.7 and Council confirms that changes to the titles and roles of the Senior Leadership Team and Proper Officers are minor changes which can be made by the Monitoring Officer provided that they are reported to the Democratic Services Committee and the next Full Council meeting for information.

Restrictions on Posts

11.17 The Monitoring Officer cannot be the Chief Finance Officer, the Chief Executive.

Functions of the Chief Finance Officer (Section 151 Officer)

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

Ensuring Lawfulness and Financial Prudence of Decision Making

11.19 After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if s/he considers that any proposal, decision or course of action will involve incurring unlawful expenditure,

SECTION 11 – OFFICERS

or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

Administration of Financial Affairs

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

Contributing to Corporate Management

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

Providing Advice

11.22 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles and in particular will advise whether decisions of the Cabinet or Full Council are in accordance with the budget.

Give Financial Information

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

Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

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

Restrictions on Posts

11.25 The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.

Functions of the Director of Social Services

Protocol – Responsibility for Social Services Functions

11.26 The areas of responsibility of the Director of Social Services are detailed in the protocol contained in Section 25 of this Constitution.

Lead Director for Children and Young People's Services

11.27 Strategic management responsibility for ensuring that the Authority meets the requirements of Section 27 of the Children Act 2004.

Functions of the Chief Education Officer

11.28 Strategic management responsibility and provision of the Council's education services in accordance with Section 532 of the Education Act 1996.

SECTION 11 – OFFICERS

Functions of the Head of Democratic Services

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

- 11.29.1 to provide support and advice to the authority in relation to its meetings, subject to Rule 11.31;
- 11.29.2 to provide support and advice to committees of the authority (other than the committees mentioned in Rule 11.29.5) and the members of those committees (subject to Rule 11.31);
- 11.29.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to Rule 11.31;
- 11.29.4 to promote the role of the Scrutiny Committees;
- 11.29.5 to provide support and advice to:
 - 11.29.5.1 the authority's Scrutiny Committees ; and
 - 11.29.5.2 the authority's Democratic Services Committee;
- 11.29.6 to provide support and advice in relation to the functions of the authority's Scrutiny Committees to each of the following:
 - 11.29.6.1 Members and officers of the authority;
 - 11.29.6.2 members of the Cabinet of the authority;
- 11.29.7 to provide support and advice to each Member of the authority in carrying out the role of Member of the authority, subject to Rule 11.32;
- 11.29.8 to make reports and recommendations in respect of any of the following:
 - 11.29.8.1 the number and grades of staff required to discharge democratic services functions;
 - 11.29.8.2 the appointment of staff to discharge democratic services functions;
 - 11.29.8.3 the organisation and proper management of staff discharging democratic services functions;
- 11.29.9 such other functions as may be prescribed by law.

Restrictions on Posts

- 11.30 The Head of Democratic Services cannot be the Chief Executive, or the Chief Finance Officer.
- 11.31 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Scrutiny Committees and Democratic Services Committee.
- 11.32 Advice to a Member does not include advice in connection with their role as a Cabinet Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Scrutiny Committee or Democratic Services Committee).

Functions of the Data Protection Officer.

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11.33.1 To monitor internal compliance with GDPR, to inform and advise the Council on its data protection obligations, to provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority.

11.33.2 To monitor compliance with the GDPR and other data protection laws, the Council’s data protection policies, awareness-raising, training, and audits.

11.33.3 To act as the contact point for the ICO, and to co-operate with the ICO in all matters.

Duty to Provide Sufficient Resources to the Chief Executive, Monitoring Officer, Chief Finance Officer, Head of Democratic Services and Data Protection Officer

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

Deputy Chief Officers.

11.35 The Employment and Appeals Committee will engage persons for the following Director and Heads of Service posts within the directorates indicated, who will be designated Deputy Chief Officers and such posts will have the functions and areas of responsibility set out below.

Post	Functions and Areas of Responsibility
Director of Education	<ul style="list-style-type: none"> • Chief Education Officer • Statutory Director of Education and will be accountable for the effective and efficient delivery of educational services to young people across Powys • Lead and Manage Education Services providing educational leadership and oversight of major strategic priorities • Strategic Responsibility for: <ul style="list-style-type: none"> • Adult and Community Learning • ALN / SEN • Cross networking with Powys Teaching Local Health Board • Schools Service • School Transformation • Standards in schools and School Improvement • Regional and National Partnerships • Youth Services

Post	Functions and Areas of Responsibility
Head of Finance	<ul style="list-style-type: none"> ▪ Council’s statutory s151 officer, the statutory officer for all financial matters and the proper administration of the Council’s financial affairs, as defined by section 151 of the Local Government Act 1972 ▪ Section 151 Officer for the Powys Pension Fund

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	<ul style="list-style-type: none"> ▪ Income and Awards ▪ Commercial Services ▪ Risk
Head of Legal Services and Monitoring Officer	<ul style="list-style-type: none"> ▪ Monitoring Officer, the statutory officer with the specific duty to ensure that the Council, and its Elected Members and officers, maintain the highest standards of conduct in all they do, as set out in section 5 of the Local Government and Housing Act 1989, as amended by the Local Government Act 2000 ▪ Corporate Legal Team ▪ Electoral Registration ▪ Members' Standards and Ethical Issues. ▪ Ombudsman. ▪ Registration of Births, Deaths and Marriages ▪
Head of Transformation, and Democratic Services	<ul style="list-style-type: none"> • Lead on improvement, performance and transformation • Lead delivery of the 21st Century Schools programme • Lead development of Corporate strategies, and plans including the Corporate Improvement Plan, the Strategic Equality Plan and the Public Service Board Wellbeing Plan • Lead Communications and Welsh Language Services • Lead the development and overall strategic Programme Management of the Council's Transformation • Scrutiny, Democratic Services and Member Support
Head of Economy and Digital Services	<ul style="list-style-type: none"> ▪ Customer Services ▪ Digital Transformation of Council's services ▪ Economic Growth ▪ ICT Support Services and Cyber Security ▪ Information Governance
Head of Workforce and Organisational Development	<ul style="list-style-type: none"> ▪ Workforce strategy, planning and development ▪ Health and Safety ▪ Employment Services ▪ Human Resources advice, guidance and support ▪ Leadership, management and corporate development programme
Head of Property, Planning and Public Protection	<ul style="list-style-type: none"> ▪ Building Control. ▪ Community Safety ▪ County Farms Estate ▪ Corporate Property ▪ Emergency Planning ▪ Environmental Health ▪ National Estate and Lettings Agency ▪ Planning ▪ Trading Standards
Head of	<ul style="list-style-type: none"> ▪ Active Travel

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<p>Highways, Transport and Recycling</p>	<ul style="list-style-type: none"> ▪ Car parks ▪ Countryside Services ▪ Fleet Management ▪ Grounds Maintenance ▪ Home to School / College Transport ▪ Highways ▪ Local Lead Flood Authority, Sustainable Approval Body & Land Drainage ▪ Markets ▪ Public Conveniences ▪ Public rights of way management and enforcement; ▪ Public Transport ▪ Road safety ▪ Street Cleaning (▪ TraCC (Trafnidiaeth Canolbarth Cymru / Mid Wales Transportation) ▪ Traffic Management ▪ Waste & Recycling Services
<p>Head of Housing and Community Services</p>	<ul style="list-style-type: none"> ▪ Archives and Information Management ▪ Arts ▪ Catering and Cleaning ▪ Housing ▪ Leisure ▪ Libraries ▪ Museums ▪ Sports Development ▪
<p>Head of Education</p>	<ul style="list-style-type: none"> ▪ Overall strategic responsibility for: <ul style="list-style-type: none"> ▪ Developing and maintaining strong relationships with school leaders ▪ School improvement and effectiveness ▪ Additional learning needs (ALN) and inclusion (0-25) ▪ School transformation and organisation ▪ School standards and school provision ▪ Pupil attainment ▪ Pupil exclusions and attendance ▪ Central Support Services relating to education and Powys schools ▪ Development of educational strategies and operating arrangements ▪ School improvement aspects of 21st Century Schools (delivery lead of 21st Century Schools is Head of Transformation and Communications) ▪ Education welfare and educational psychology ▪ Education other than at school, including Pupil Referral Units ▪ Children looked after's (CLA) educational needs

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	<ul style="list-style-type: none"> ▪ English as an additional language ▪ Education provision for migrant and traveller children ▪ Pupil admissions and links with school transport policy ▪ School governance and Governor support ▪ Early years education ▪ Post – 16 provision ▪ Youth Services ▪ Adult continuing learning, training and skills ▪ Relations with strategic partners
<p>Head of Children Services</p>	<ul style="list-style-type: none"> ▪ Early Help Services ▪ Children’s Services Front Door ▪ Assessment Services ▪ The local authority’s care and support provision for children with disabilities ▪ Services for children in need of Care and Support ▪ Services for children in need of Protection ▪ Services for children in the care of Powys County Council ▪ Care Leaver Services ▪ Adoption Services ▪ Fostering Services ▪ RISCA regulated services ▪ Intervention and Prevention Services ▪ Youth Justice Services ▪ Workforce Development for Adult and Children’s Social Services ▪ Safeguarding Services ▪ Emergency Duty Team for Adult and Children’s Social Services ▪ Responsibility for delegated budget across Children’s Services ▪ Systems to ensure children and young people in Powys are safeguarded and the management of associated risks ▪ System leadership for the safety and wellbeing of children across the Startwell agencies ▪ Strategic Oversight of the delivery of the Health and Care Strategy
<p>Head of Adult Services</p>	<ul style="list-style-type: none"> ▪ Bodlondob extra care support ▪ Day services and day centres ▪ Front Door (Assist) ▪ Home support ▪ Housing Wardens ▪ Occupational Therapy ▪ Provider services ▪ Reablement and Domiciliary Care ▪ Sensory Loss

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	<ul style="list-style-type: none"> ▪ Shared Lives ▪ Social Services Emergency Duty Team ▪ Social Work Assessment Teams (Older Peoples, Disabilities and Mental Health) ▪ Supported Living
<p>Head of Commissioning and Partnerships</p>	<ul style="list-style-type: none"> • Carers Services • Childcare and Support • Contract monitoring • Health and Care Equipment and Technology Enabled Care • Long-term support and care for children, adults, and older people • Partnership with the Powys Teaching Health Board and other external partners • Social care focussed accommodation and homelessness prevention • Social care emergency planning and social care business continuity • Strategic planning and Commissioning for adults and children’s services • Welsh language Champion for social services

Departmental Structure.

11.36 The Chief Executive will recommend to Cabinet and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

Appointment of Proper Officers

11.37 The posts set out below have been designated to the Proper Officer Posts for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Proper Officer.

11.38 In the event of any Officers mentioned below being unable to act in their post or the post becoming vacant, the Chief Executive or in his/her absence, the Monitoring Officer, and in the absence of both, the Chief Finance Officer, shall nominate an Officer to act in their stead.

11.39 Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has been made as set out in rule Rule 11.40 below. In the absence of the Chief Executive, or otherwise being unable to act, the Monitoring Officer will act as the proper Officer.

11.40 The Council has designated the following Proper Officer Posts:

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Proper Officers

Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.	Chief Executive
Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.	Chief Executive

Building Act 1984:

Section	Provision	Proper Officer
S61(2)	To exercise the right to have free access to work undertaken in relation to emergency repairs of drains.	Head of Highways, Transport and Recycling
All (except S61(2))		Head of Property, Planning and Public Protection

Council Tax (Administration and Enforcement) Regulations 1992:

Section	Provision	Proper Officer
Reg 7	Service of Attachment of Earnings Orders	Chief Financial Officer

Elections:

Section	Provision	Proper Officer
N/A	Registration Officer for any constituency or part of a constituency coterminus with or contained in the County of Powys	Chief Executive
N/A	Returning Officer for the election of Councillors for the County Council of Powys	Chief Executive
N/A	Returning Officer for the election of Town and Community Councillors for Town and Community Councils in the County of Powys	Chief Executive

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Environmental Protection Act 1990:

Section	Provision	Proper Officer
All		Head of Property, Planning and Public Protection

Estate Agents Act 1979 as amended and ancillary legislation:

Section	Provision	Proper Officer
All	National Trading Standards Estate and Letting Agency Team (“the Lead Enforcement Authority”)	Senior Manager – National Trading Standards Estate and Letting Agency Team

Health Protection (Notification)(Wales) Regulations 2010:

Section	Provision	Proper Officer
All	Infectious Diseases	Head of Property, Planning and Public Protection

Health Protection (Part 2A Orders)(Wales) Regulations 2010:

Section	Provision	Proper Officer
All	Infectious Diseases	Head of Property, Planning and Public Protection

Highways Act 1980:

Section	Provision	Proper Officer
All		Head of Highways, Transport and Recycling

Local Authorities Cemeteries Order 1977:

Section	Provision	Proper Officer
All		Head of Property, Planning and Public Protection

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Local Authorities (Standing Orders) (Wales) Regulations 2005

Section	Provision	Proper Officer
Regs 6 and Schedule 3, Part 4	Provisions relating to the appointment and dismissal of, and taking disciplinary action against, staff	Chief Executive or by an officer(s) nominated by the Chief Executive

Local Elections (Parish and Communities) (England and Wales) Rules 2006:

Section	Provision	Proper Officer
Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
	Receipt from Returning Officer of names of persons elected to Town and Community Councils in the County of Powys	Chief Executive
	Receipt from Returning Officer of election documents	Chief Executive
	Retention of election documents and making them available for public inspection	Chief Executive

Local Government Act 1972:

Section	Provision	Proper Officer
N/A	Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council	Chief Financial Officer
N/A	Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council	Chief Financial Officer
S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Monitoring Officer
S84	Receipt of declaration of resignation of office	Monitoring Officer
S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Monitoring Officer
S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive
S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Monitoring Officer

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S96(1)	Receipt of notices of pecuniary interests	Monitoring Officer
S100(B)(2)	Circulation of reports and agendas	Monitoring Officer
S100(B)(7)	Supply of papers to press	Monitoring Officer
S100(C)(2)	Summary of minutes	Monitoring Officer
S100(D)(1)(a)	Compilation of background papers	Monitoring Officer
S100(D)(5)(a)	Identification of background papers	Monitoring Officer
S100(F)	Identification of confidential documents not open to Members	Monitoring Officer
S115(2)	Receipt of money due from Officers	Chief Financial Officer
S146(1) (a) & (b)	Declarations and certificates with regard to securities	Chief Financial Officer
S210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to the Proper Officer	Chief Financial Officer
S225(1)	Deposit of documents	Monitoring Officer
S228(3)	Accounts - to be open for inspection	Chief Financial Officer
S229(5)	Deposit of documents - certification	Monitoring Officer
S234(1)	Authentication of documents	Monitoring Officer
S236(9) & (10)	Service of Byelaws on other Authorities	Monitoring Officer
S238	Certification of Byelaws	Monitoring Officer
S248 (2)	Keeping roll of Freeman	Monitoring Officer
Schedule 12 Para 4(2)(b)	Signature of summons to Council	Monitoring Officer
Schedule 12 Para 4(3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Monitoring Officer
Schedule 14 Para 25(7)	Certification of resolutions - Para 25	Monitoring Officer
S191	Functions in respect of Ordnance Survey	Head of Highways, Transport and Recycling

Local Government Act 1974:

Section	Provision	Proper Officer
S30(5)	Notice of Local Government Ombudsman report	Monitoring Officer

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Local Government (Miscellaneous Provisions) Act 1976

Section	Provision	Proper Officer
S41	Certification of copies of resolutions, Minutes, other documents	Monitoring Officer

Local Government and Housing Act 1989:

Section	Provision	Proper Officer
S2	Receipt of list of Politically Restricted Posts	Chief Executive
S15, 16, 17	Receipt of notices relating to Political Groups	Monitoring Officer
S19	Members interests - notification	Monitoring Officer

Local Government Finance Act 1988:

Section	Provision	Proper Officer
S114	Powers to prevent unlawful expenditure and an unbalanced budget	Chief Financial Officer

National Assistance Act 1948

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

National Assistance (Amendment) Act 1951:

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

Proceeds of Crime Act 2002, Part 7 (Money Laundering):

Section	Provision	Proper Officer
S331	Money Laundering Reporting Officer	Head of Finance (Section 151 Officer)

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Public Health (Control of Diseases) Act 1984 (as amended by the Social Care Act 2008 and associated regulations):

Section	Provision	Proper Officer
All	Control of Diseases (various)	Head of Property, Planning and Public Protection

Registration Services Act 1953:

Section	Provision	Proper Officer
S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Monitoring Officer
	Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Monitoring Officer

Weights and Measures Act 1985:

Section	Provision	Proper Officer
Section 72	Chief Inspector (Weights and Measures)	Such other person(s) with the relevant qualification under the Act as nominated by the Chief Executive.

SECTION 11 – OFFICERS

Conduct

- 11.41 Officers will comply with the Code of Conduct for Employees (Section 20) and the Protocol on Officer/Member Relations (Section 21) set out in this Constitution.

Employment

- 11.42 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out below and the relevant employment policies contained on the Council's intranet..

Indemnities for Officers

- 11.43 The former Board and the County Council⁹ has under the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 approved a form of indemnity for both Members and officers as set out in Section 26 of this Constitution.

Officer Employment Procedure Rules

Recruitment and Appointment

Declarations

- 11.44.1 A candidate for an appointment as an Officer must state in writing whether they have any relationship with any Councillor or Senior Officer (i.e. Senior Management Grade or above) of the Council.
- 11.44.2 No candidate so related to a Councillor or a Senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him / her.

Seeking Support for Appointment

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

Recruitment and Appointment (Including Shortlisting) of Chief Executive, other Chief Officers,

- 11.46 Subject to Rule 11.58 below, the Full Council will appoint the Chief Executive and any other Chief Officer as defined in Rule 11.2 above, from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.
- 11.47.1 Where it is proposed to pay an Officer a remuneration of £100,000 or more per annum, the Full Council will determine the level, and any change in the level, of remuneration of such an Officer.

⁹ Board Meeting 11th October, 2006 and Council Meeting 26th October, 2006.

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- 11.47.2 Rule 11.47.1 above does not apply if the Authority proposes to appoint an Officer for a period of no longer than 12 months.
- 11.48 Subject to Rule 11.47.2 above, where the Council proposes to appoint an Officer and the remuneration it proposes to pay is £100,000 or more per annum the Full Council must–
- 11.48.1 draw up a statement specifying:
 - (i) the duties of the officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - 11.48.2 make arrangements for the post to be publically advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - 11.48.3 make arrangements for a copy of the statement mentioned in Rule 11.48.1 to be sent to any person on request.
- 11.49 Where a post has been advertised as provided in Rule 11.48.2, the Full Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub- Committee of that committee as referred to in Rule 11.45 above.
- 11.50 Where no qualified person has applied, or if the Council decide to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with Rule 11.48.2.
- 11.51 The power to approve the appointment of the Chief Executive must be exercised by the Full Council and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the exercise of that power.

Recruitment and Appointment (Including Shortlisting) of non-Executive Directors

- 11.52 Subject to Rule 11.58 below, the Employment and Appeals Committee will appoint the non-Executive Director from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.
- 11.53 Where the Employment and Appeals Committee proposes to appoint the non-Executive Director and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:
- 11.53.1 draw up a statement specifying:
 - 11.53.1.1 the duties of the officer concerned, and
 - 11.53.1.2 any qualifications or qualities to be sought in the person to be appointed;
 - 11.53.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

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- 11.53.3 make arrangements for a copy of the statement mentioned in Rule 11.53.1 to be sent to any person on request.
- 11.54 Where a post has been advertised as provided in Rule 11.55.2, the Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub-Committee of that committee as referred to in Rule 11.45 above.
- 11.55 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.53.2.

Recruitment and Appointment (Including Shortlisting) of Heads of Service.

- 11.56 Subject to Rule 11.59 below, the Employment and Appeals Committee will appoint Heads of Service from a shortlist of one or more candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.

Recruitment and Appointment (including Shortlisting) of Joint Appointments with other organisations.

- 11.5 In respect of recruitment and employment of joint appointments with other organisations, Rules 11.45 to 11.57 shall not apply and the method and process of recruitment and appointment (including shortlisting) shall be agreed between the Chief Executive and the Chair of the Employment and Appeals Committee so as to ensure that a post appropriate process is achieved.
- 11.58 The recruitment process agreed pursuant to Rule 11.59 shall be reported for information purposes to the next meeting of the Employment and Appeals Committee.

Recruitment and Appointment (Including Shortlisting) of the Monitoring Officer and Section 151 Officer (if not to be appointed under Rules 11.47 to 11.51 above)

- 11.59 The relevant Chief Officer or Deputy Chief Officer will appoint the Monitoring Officer and / or Section 151 Officer and Members must not be involved.
- 11.60 Where the relevant Chief Officer or Deputy Chief Officer proposes to appoint the Monitoring Officer and / or Section 151 Officer and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:
- 11.61.1 draw up a statement specifying:
- 11.61.1.1 the duties of the officer concerned, and
 - 11.61.1.2 any qualifications or qualities to be sought in the person to be appointed;

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- 11.61.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 11.61.3 make arrangements for a copy of the statement mentioned in Rule 11.61.1 to be sent to any person on request.
- 11.62 Where a post has been advertised as provided in Rule 11.61.2, the Authority must interview those qualified candidates included on a short list prepared by the relevant Chief Officer or Deputy Chief Officer.
- 11.63 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.61.2.

Recruitment and Appointment (Including Shortlisting) of staff below Head of Service (other than Monitoring Officer and Section 151 Officer)

- 11.64 The function of the recruitment and appointment (including shortlisting) of officers below Heads of Service are the responsibility of the relevant Head of Service or his/her nominee and Members must not be involved.

Dismissals of Chief Officers and Deputy Chief Officers

- 11.65 In Rules 11.656 to 11.734 and in Appendices A and B:

“the Investigatory Committee”	means the Chief Officers’ Investigating and Disciplinary Sub-Committee of the Employment and Appeals Committee as constituted in accordance with Appendix B; and
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- 11.66 The dismissal of the Chief Executive, Chief Finance Officer (Section 151 Officer), Monitoring Officer and Head of Democratic Services is the responsibility of the Full Council and the procedures set out in Appendix A to this Section of the Constitution shall apply.
- 11.67 The dismissal of the Chief Officers as defined in Rule 11.2 (with the exception of those identified in Rule 11.67 above) and Deputy Chief Officers as defined in Rule 11.34 is the responsibility of the Investigatory Committee and the procedures set out in Appendix B to this Section of the Constitution shall apply.
- 11.68 Notice of the dismissal of an officer named in Rule 11.64 and / or Rule 11.65 above must not be given by the Employment and Appeals Committee or the Investigatory Committee or Full Council (as appropriate) until the Authority has complied with Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.

Other Officers

- 11.69 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive, Chief Executive or his / her nominee, and may not be undertaken by Councillors.
- 11.70 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council’s disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Councillors.

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Disciplinary Action

11.71 In Rules 11.65 to 11.73 and in Appendices A and B “disciplinary action” includes proposed dismissal for any reason other than redundancy, permanent ill health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

Written Procedures

- 11.72.1 Disciplinary action against the Chief Executive, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with Appendix A.
- 11.72.2 Disciplinary action against all other Officers will be taken in accordance with the Disciplinary Policy (or such other document which supersedes the Disciplinary Policy).

Appeals

11.73 None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal in accordance with Appendices A and / or B.

APPENDIX A.

Procedure for dismissal of the Chief Executive, Chief Finance Officer (Section 151 Officer), Monitoring Officer and the Head of Democratic Services.

1. No disciplinary action (other than suspension under paragraphs 2 and 3) in respect of the Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services, may be taken by the Full Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct).
2. Suspension of officers to which this Appendix applies (other than the Chief Executive) for the purpose of investigating alleged misconduct may be undertaken by the Chief Executive or Monitoring Officer (as appropriate) in conjunction with the Head of Workforce and Organisational Development, and such suspension (subject to an extension in accordance with paragraph 4(6)(a)(ii) below) must terminate no later than the expiry of two months beginning on the day on which the suspension takes effect and will be on full pay¹⁰.
3. Suspension of the Chief Executive (Chief Executive) may be undertaken only by the Chair or Vice Chair of the Employment and Appeals Committee following consultation with the Leader.¹¹
4.
 - 4(1) Where it appears to the Authority that an allegation of misconduct which may lead to disciplinary action has been made against:
 - (a) the Chief Executive; or

¹⁰ Paragraph 3 of Schedule 4 of the Local Authority (Standing Orders) (Wales) Regulations 2006

¹¹ County Council decision 4th March, 2013.

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- (b) the Monitoring Officer; or
- (c) the Chief Finance Officer; or
- (d) the Head of Democratic Services.

the Full Council must appoint an Investigation Committee to consider the alleged misconduct.

4(2) The Investigation Committee must:

- (a) consist of a minimum of 3 Councillors; and
 - (b) be politically balanced in accordance with section 15 of the 1989 Act; and
- must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

4(3) For the purpose of considering the allegation of misconduct, the Investigation Committee:

- (a) may make such enquiries of the officer under investigation or any other person it considers appropriate; and / or
- (b) may request the officer under investigation or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and / or
- (c) may receive written or oral representations from the officer under investigation or any other person it considers appropriate.

4(4) Where it appears to the Investigation Committee that an allegation of misconduct by the officer under investigation should be further investigated, the Investigation Committee must appoint a person ("the designated independent person") for the purposes of paragraph 1 above.

4(5) The designated independent person who is appointed:

- (a) must be such person as may be agreed between the Investigation Committee and the officer under investigation within 1 month of the date on which the requirement to appoint the designated independent person arose; or
- (b) where there is no such agreement, must be such person as is nominated for the purpose by the Welsh Government.

4(6) Subject to paragraph 4(7) below, the officer under investigation and the Investigation Committee must consult with the designated independent person, and attempt to agree a timetable within which the designated independent person is to undertake the investigation.

4(7) Where there is no agreement under paragraph 4(6) above, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

4(8) The designated independent person:

- (a) may direct:

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- (i) that the Authority terminate any suspension of the officer under investigation; or
 - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 2¹².; or
 - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction of the designated independent person; or
 - (iv) that no steps (whether by the Full Council) by way of disciplinary action or further disciplinary action against the officer under investigation, (other than steps taken in the presence, or with the agreement, of the designated independent person), are to be taken before a report is made under sub-paragraph (d) below;
- (b) may inspect any documents relating to the conduct of the officer under investigation which are in the possession of the Authority, or which the Authority has power to authorise the designated independent person to inspect;
 - (c) may require any Member or member of staff of the Authority to answer questions concerning the conduct of the officer under investigation;
 - (d) must make a report to the Full Council:
 - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the officer under investigation; and
 - (ii) recommending any disciplinary action which appears appropriate for the Full Council to take against the officer under investigation, and
 - (e) must no later than the time at which the report is made under sub-paragraph (d) above, send a copy of the report to the officer under investigation.

4(9) The Full Council must consider the report prepared under paragraph 4(8) (d) above within 1 month of receipt of that report.

Pre-Disciplinary Hearing Procedure

- 5.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the officer under investigation. This shall be accompanied by a written indication if any further action is to be taken, and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 5.2 The officer under investigation shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.

¹² Regulation 9(6)(ii) of the Local Authority (Standing Orders) (Wales) Regulations 2006

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- 5.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within five working days or such other time as appropriate in the circumstances
- 5.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 5.3 above, the Chief Executive or a nominee shall give the officer under investigation not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
- 5.4.1 the time (date) and place of the Disciplinary Hearing;
 - 5.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee, including any witnesses;
 - 5.4.3 a copy of the Investigator's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
 - 5.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal (where appropriate) ;
 - 5.4.5 confirmation that the officer under investigation may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague or professional representative ("Companion");
 - 5.4.6 confirmation that the officer under investigation may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or witness statements are provided to the Chief Executive, or his nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.
- 5.5 Within two working days of receipt of the notice under paragraph 9.4, the officer under investigation shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the officer under investigation's Companion. If the officer under investigation requests a postponement, the Chief Executive or a nominee and the officer under investigation (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 5.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the officer under investigation if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the officer under investigation.

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- 5.7 The officer under investigation and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the officer under investigation fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 5.8 At least five working days before the date of the Disciplinary Hearing the officer under investigation shall give to the Chief Executive, or a nominee:-
- 5.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the officer under investigation to arrange for the attendance of their witnesses via the contact officer) ; and
 - 5.8.2 Copies of any documents which they wish to refer to in support of their response; and
 - 5.8.3 Any written statements or submissions which they wish to submit; and
 - 5.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the officer under investigation's choice of Companion is unreasonable, the Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 5.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

The Investigating and Disciplinary Committee Hearing

- 6.1 The procedure for the Disciplinary Hearing will be as follows:-
- 6.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
 - 6.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;
 - 6.1.3 the officer under investigation or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;
 - 6.1.4 the officer under investigation or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
 - 6.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the officer under investigation and/or their Companion, including direct questions to any witnesses;
 - 6.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.

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- 6.2 The Companion can address the hearing, put and sum up the officer under investigation's case, make representations on behalf of the officer under investigation to any views expressed at the Disciplinary Hearing and confer with the officer under investigation during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation's behalf.
- 6.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The officer under investigation will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 6.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:-
- 6.4.1 taking no further action;
 - 6.4.2 recommending informal resolution or other appropriate procedures be followed;
 - 6.4.3 referring back to the Investigator for further investigation and a further report;
 - 6.4.4 taking disciplinary action against the officer under investigation in accordance with paragraph 6.5.
- 6.5 In the case of disciplinary action, this can include the following:-
- 6.5.1 a recorded or oral warning;
 - 6.5.2 a final written warning;
 - 6.5.3 a final written warning accompanied by:-
 - (a) suspension on half pay or no pay for a specified period; and/or
 - (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
 - (c) demotion;
 - 6.5.4 dismissal (whether summary dismissal or on notice); and
 - 6.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is vacant) where there are issues relating to capability or loss of trust and confidence in the officer under investigation in their current role.
- 6.6 For the avoidance of doubt, the actions set out in paragraph 6.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.

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- 6.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
 - 6.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
 - 6.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.
 - 6.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).
7. The Authority must pay reasonable remuneration to a designated independent person appointed by the Investigation Committee and any costs incurred by, or in connection with, the discharge of functions under this regulation.

APPENDIX B

Procedure for the dismissal of the Chief Officers and Deputy Chief Officers with the exception of those identified in Appendix A.

DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS

Scope of Procedure

- 1.1 This procedure applies to all Chief Officers and Deputy Chief Officers of the Authority other than the Chief Executive, the Monitoring Officer, the Chief Finance Officer (Section 151 Officer) and the Head of Democratic Services.
- 1.2 This procedure has been adopted by the Full Council for the purpose of dealing with disciplinary, capability and other similar issues in relation to an officer under investigation of the Authority under Appendix B.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this procedure is to:-
 - 1.4.1 encourage employees to achieve and maintain acceptable standards of behaviour;
 - 1.4.2 provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - 1.4.3 minimise disagreements about disciplinary matters; and
 - 1.4.4 reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Chief Executive and the officer under investigation the steps set out in this

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procedure should be followed. It is recognised that it may be necessary to depart from the procedure, from time to time, according to particular circumstances of a case. In such circumstances, the Chief Executive and the officer under investigation involved will give fair consideration to reasonable proposals to modify the procedure accordingly, and such modifications will be recorded in writing.

- 1.6 This procedure does not form part of a officer under investigation's contract of employment and it may be amended at any time.
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Roles and Responsibilities

- 2.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a officer under investigation, the Chief Executive shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 5 below. The Chief Executive may choose to appoint another Chief Officer or an independent person to carry out the preliminary investigation on his behalf and whosoever undertakes that role shall be referred to as the "Preliminary Independent Investigator" in this procedure.
- 2.2 The Chief Executive or nominee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration the Chief Executive will decide whether or not the investigation can be carried out by an officer of the same grade or above or by an independent person ("Investigating Officer").
- 2.3 Save where the Chief Executive is satisfied, following a preliminary investigation, that the issue requires no further action or can be resolved informally, the matter must be referred to an Investigating and Disciplinary Committee consisting of no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation. The Leader shall appoint the Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee. The Investigating and Disciplinary Committee shall be responsible for determining the matter.

Timescale

- 3.1 The procedure does not incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

Suspension

- 4.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where, in the opinion of the Chief Executive, it is believed that the officer under investigation's continuing presence

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- at work might compromise the investigation or otherwise impair the efficient exercise of the Authority’s functions.
- 4.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
 - 4.3 Prior to imposing suspension in any case, the Chief Executive shall inform the officer under investigation in writing, of the reason for the proposed suspension and the officer under investigation shall have the opportunity to make written representations before a decision is taken.
 - 4.4 The necessity for the officer under investigation to remain suspended should be reviewed at monthly intervals and where possible lengthy periods of suspension should be avoided. Further specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the officer under investigation r’s suspension, whilst avoiding any compromise to the investigation or to the efficient exercise of the Authority’s functions.
 - 4.5 Absence due to suspension shall be on full pay.
 - 4.6 The Chief Executive will allocate a contact officer for the officer under investigation. The contact officer should be another Chief Officer, with no direct relationship to the officer under investigation being suspended, and be someone whom the officer under investigation should use as a point of contact for accessing any witnesses etc.

Preliminary Investigation

- 5.1 The Chief Executive will be responsible for informing the officer under investigation, in writing, of the nature of the allegations or other issues under investigation. The date of this notification shall be the “commencement date” for the purpose of this procedure.
- 5.2 The Chief Executive shall be responsible for determining the arrangements for conducting a preliminary investigation, as set out in paragraph 2.2 above.
- 5.3 The Chief Executive shall, when appointing another to conduct the preliminary investigation on their behalf, determine the terms of appointment of the Preliminary Independent Investigator, agree any remuneration payable to the Preliminary Independent Investigator (if appropriate), provide facilities and all available information regarding allegations or other issues under investigation as are necessary to enable the Preliminary Independent Investigator to fulfil their role.
- 5.4 The Preliminary Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Authority’s email, internet, and other IT systems, including the accounts of the officer under investigation in line with GDPR Guidance. The officer under investigation shall fully cooperate with the Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Preliminary Independent Investigator deems necessary.
- 5.5 The officer under investigation shall be given reasonable facilities and access to the Authority’s premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Preliminary Independent Investigator.

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- 5.6 The Preliminary Independent Investigator shall prepare a short report following their investigation which, save where the investigation is conducted by the Chief Executive, shall be submitted to the Chief Executive for consideration (“Preliminary Investigation Report”). A copy of the Preliminary Investigation Report shall be provided to the officer under investigation within seven working days of receipt by the Chief Executive or where completed by the Chief Executive within seven working days of its completion.
- 5.7 The officer under investigation shall, if they so wish, make written representations in relation to the Preliminary Investigation Report, within five working days of receipt by the officer under investigation of the Preliminary Investigation Report.
- 6.1 The Chief Executive will give careful consideration to the allegations or other issues, the Preliminary Investigator’s Report, supporting evidence and any written representations put forward by the officer under investigation before taking further action.
- 6.2 The Chief Executive shall decide whether:
- 6.2.1 The issue requires no further formal action under this procedure (in which case they will consider what other steps, if any, should be taken) and would ordinarily lift any suspension immediately; or
 - 6.2.2 The issue should be referred to the Investigating and Disciplinary Committee, in which case paragraphs 7 to 11 shall apply.
- 6.3 The Chief Executive shall inform the officer under investigation of the decision, in writing, as soon as practicable.

The Role of the Investigating and Disciplinary Committee and appointing an Investigator

- 7.1 If the Chief Executive decides that the matter should be referred to the Investigating and Disciplinary Committee, the Chief Executive shall appoint another Chief Officer, or an independent person, to carry out any further investigation required into the allegations or other issues as soon as practicable (“ the Investigator”). The Investigator can be the same person who carried out the preliminary investigation.
- 7.2 The Chief Executive shall determine the terms of appointment of the Investigator, agree the Investigator’s remuneration (if appropriate), procure the necessary facilities and provide all available information about the allegations or other issues under investigation as shall be necessary to enable them to fulfil their role.
- 7.3 The officer under investigation will be informed that the matter has been referred to the Investigating and Disciplinary Committee, the members of the Committee and that an Investigator has been appointed who, subject to availability, may be the same person who carried out the preliminary investigation.
- 7.4 The Investigating and Disciplinary Committee should include no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation. The Leader shall appoint the Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.

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- 7.5 The Investigating and Disciplinary Committee shall appoint a chair person to oversee the function of the Committee (“Chair”).
- 7.6 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Authority, (“the Independent Adviser”) who shall ordinarily be accompanied by a member of the Council’s HR or Legal Teams, save in cases where a conflict of interest could arise, in which case the Chief Executive shall appoint a nominee.

Responsibilities of the Investigator

- 8.1 It will be the responsibility of the Investigator to carry out a further investigation into the allegations or other issues under investigation and to prepare a report (“Investigation Report”):
 - 8.1.1 stating in his/her opinion whether (and if so, the extent to which) the evidence they have obtained supports any allegation of misconduct, or incapability or supports a need for action under this procedure for some other substantial reason; and
 - 8.1.2 recommending what, if any, disciplinary action or range of actions appears to be appropriate for the Authority, through its Investigating and Disciplinary Committee, to take against the officer under investigation having regard to all the circumstances of the case.

Pre-Disciplinary Hearing Procedure

- 9.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the officer under investigation. This shall be accompanied by a written indication if any further action is to be taken, and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 9.2 The officer under investigation shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.
- 9.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within seven working days or such other time as appropriate in the circumstances.
- 9.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 9.3 above, the Chief Executive or a nominee shall give the officer under investigation not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
 - 9.4.1 the time and place of the Disciplinary Hearing;
 - 9.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
 - 9.4.3 a copy of the Investigator’s Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;

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- 9.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal (where appropriate) ;
 - 9.4.5 confirmation that the officer under investigation may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague (“Companion”);
 - 9.4.6 confirmation that the officer under investigation may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or witness statements are provided to the Chief Executive, or his nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.
- 9.5 Within two working days of receipt of the notice under paragraph 9.4, the officer under investigation shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the officer under investigation’s Companion. If the officer under investigation requests a postponement, the Chief Executive or a nominee and the Relevant Chief Officer (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 9.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the officer under investigation if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the Relevant Chief Officer.
- 9.7 The officer under investigation and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the officer under investigation fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 9.8 At least five working days before the date of the Disciplinary Hearing the officer under investigation shall give to the Chief Executive, or a nominee:
- 9.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the officer under investigation to arrange for the attendance of their witnesses via the contact officer) ; and
 - 9.8.2 Copies of any documents which they wish to refer to in support of their response; and
 - 9.8.3 Any written statements or submissions which they wish to submit; and
 - 9.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the officer under investigation’s choice of Companion is unreasonable, the

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Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.

- 9.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

The Investigating and Disciplinary Committee Hearing

- 10.1 The procedure for the Disciplinary Hearing will be as follows:
- 10.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
 - 10.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;
 - 10.1.3 the officer under investigation or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;
 - 10.1.4 the officer under investigation or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
 - 10.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the officer under investigation and/or their Companion, including direct questions to any witnesses;
 - 10.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.
- 10.2 The Companion can address the hearing, put and sum up the officer under investigation's case, make representations on behalf of the Relevant Chief Officer to any views expressed at the Disciplinary Hearing and confer with the officer under investigation during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation's behalf.
- 10.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The officer under investigation will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 10.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:
- 10.4.1 taking no further action;

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- 10.4.2 recommending informal resolution or other appropriate procedures be followed;
 - 10.4.3 referring back to the Investigator for further investigation and a further report;
 - 10.4.4 taking disciplinary action against the officer under investigation in accordance with paragraph 10.5.
- 10.5 In the case of disciplinary action, this can include the following:
- 10.5.1 a recorded or oral warning;
 - 10.5.2 a final written warning;
 - 10.5.3 a final written warning accompanied by:
 - (a) suspension on half pay or no pay for a specified period; and/or
 - (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
 - (c) demotion;
 - 10.5.4 dismissal (whether summary dismissal or on notice); and
 - 10.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is vacant) where there are issues relating to capability or loss of trust and confidence in the officer under investigation in their current role.
- 10.6 For the avoidance of doubt, the actions set out in paragraph 10.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
- 10.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 10.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 10.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.
- 10.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).

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Appeal Process

- 11.1 The officer under investigation shall have the right to appeal the Investigating and Disciplinary Committee's decision, to an Appeals Committee consisting of no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation or the Disciplinary Hearing. The Leader shall appoint a Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.
- 11.2 Any appeal must be made in writing to the Chief Executive or his / her nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal ("Notice of Appeal").
- 11.3 Within five working days of submitting a Notice of Appeal the officer under investigation must inform the Chief Executive of the following details in relation to the Notice of Appeal and provide the following information:
 - 11.3.1 whether the officer under investigation is to be accompanied at the appeal hearing by a Companion and if so by whom;
 - 11.3.2 whether they wish to call witnesses and if so, their names and copies of their statements if not already supplied for the purposes of the original Disciplinary Hearing;
 - 11.3.3 copies of any additional documents or information relevant to the appeal that was not provided at the Disciplinary Hearing;
- 11.4 Having considered the Notice of Appeal, the Appeals Committee in its absolute discretion will determine whether the appeal hearing will take the form of a full re-hearing or a review of the decision taken by the Investigating and Disciplinary Committee and will notify the officer under investigation of their decision in writing.
- 11.5 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an appeal hearing:
 - 11.5.1 the officer under investigation, who may be accompanied by a Companion; and
 - 11.5.2 the Chair of the Investigating and Disciplinary Committee or another members of the Committee if so nominated by the Chair, to explain their reasons for their decision and to answer any questions; and
 - 11.5.3 the Investigating Officer.
- 11.6 The procedure for convening the Appeal Hearing and the procedure at the Appeal Hearing will follow that set out above in relation to the Disciplinary Hearing.
- 11.7 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same adviser who advised the Investigating and Disciplinary Committee.
- 11.8 The Appeals Committee in its absolute discretion shall decide the extent to which (if any) it will take into account any additional information which has become available in relation to the allegations or other issues under investigation since the Disciplinary Hearing.

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- 11.9 The Appeals Committee may decide to uphold/dismiss the original decision of the Investigating and Disciplinary Committee or impose a different sanction within the range of penalties as set out in paragraphs 10.4 and 10.5.
- 11.10 Where practicable, the decision of the Appeals Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Appeal Hearing. However, in order to ensure that the Appeal Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation in writing within five working days of the Appeal Hearing, or as soon thereafter as is reasonably practicable.
- 11.11 The letter will outline the decision and the action, if any, to be taken.
- 11.12 The decision reached will be final and there is no further right of appeal.

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SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

Financial Management

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

Contracts

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

Legal Proceedings

12.3.1 The Head of Legal Services and Monitoring Officer is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Head of Legal Services and Monitoring Officer considers that such action is necessary to protect the Council's interests;

12.3.2 The Head of Legal Services and Monitoring Officer has delegated powers to authorise Officers to appear in court on the Council's behalf.

Authentication of Documents

12.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services and Monitoring Officer or other person authorised by him/her in writing, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority, to some other person to do so;

12.4.2 Every contract shall be made or confirmed in writing and signed by all parties concerned in accordance with Rules 17.50 and 17.51;

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

12.4.3.1 the Chief Executive;

12.4.3.2 the Head of Legal Services and Monitoring Officer;

12.4.3.3 any Chief Officer or Deputy Chief Officer of the Council concerned with the matter to which the document relates;

12.4.3.4 any Officer authorised in writing by such Chief Officer, Deputy Chief Officer, or Head of Legal Services and Monitoring Officer.

Common Seal of the Council

Common Seal

12.5.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services and Monitoring Officer.

12.5.2 The Common Seal may be affixed to those documents which in the opinion of the Head of Legal Services and Monitoring Officer should be sealed.

Sealing and Execution of Documents

12.5.3 The Head of Legal Services and Monitoring Officer, or such other officer authorised in writing to do so by the Head of Legal Services and Monitoring

SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

Officer, shall have authority to affix the Common Seal and execute under Seal any deed or document.

- 12.5.4 The Head of Legal Services and Monitoring Officer (or such other officer appointed by the Head of Legal Services and Monitoring Officer in writing) shall have authority to execute any deed or document not required by law to be under seal.

Record of Sealing of Documents

- 12.5.5 An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Head of Legal Services and Monitoring Officer and consecutively numbered in a book to be provided for the purpose.

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

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

Who can be Decision Makers?

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

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

Principles of Decision Making

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

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

13.3 Functions fall into the following categories:

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Index:

Section	Pages
Schedule 1 – Functions NOT to be the responsibility of the Cabinet	Pages 3 - 40
Schedule 2 – Council functions may be delegated to the Executive and other Member Bodies pursuant to Regulation 4 of the 2007 Regulations	Pages 41 - 68
Schedule 3 – Functions Not to be the Sole Responsibility of Cabinet	Pages 69 - 78
Schedule 4 – Circumstances in Which Functions are not to be the responsibility of Cabinet	Pages 78 - 81
Delegation to Officers	Pages 82 - 85
Delegation to Cabinet Portfolio Holders	Pages 85 - 87

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Committee / Council / Cabinet	Pages
Planning, Taxi Licensing and Rights of Way Committee	Schedule 1 – Pages 4 – 11; 14 – 24; Schedule 2 – Pages 57 – 67;
Full Council	Schedule 1 – Pages 12; 25 – 26; 27 – 28; 29 – 30; 36 – 40 Schedule 2 – Pages 41 – 43; Schedule 3 – Pages 69 – 75; 77 - 78; Schedule 4 – Pages 79 - 81
Licensing Act 2003 Committee	Schedule 1 – Page 13; Schedule 2 – Pages 54 – 56;
Officers	Schedule 1 – Pages 26 - 27; 36;
Pensions and Investment Committee	Schedule 1 – Page 28;
Governance and Audit Committee	Schedule 1 – Pages 31 – 34;
Democratic Services Committee	Schedule 1 – Page 34;
Employment and Appeals Committee	Schedule 1 – Page 35;
Cabinet	Schedule 2 – Pages 44 – 54; 67 - 68 Schedule 3 – Page 76;

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Schedule 1 – Functions NOT to be the responsibility of the Cabinet.

For the sake of clarity, the functions set out in Column 1 of the Schedule below include:

- the imposition of any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted, and the determination of any other terms to which any approval, consent, licence, permission or registration is to be subject (Regulation 3(2)(a) and 3(2)(b)).
- the determining whether, and in what manner, to enforce
 - any failure to comply with an approval, consent, licence, permission or registration granted in the exercise of a function specified in this column.
 - any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or
 - any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority. (Regulation 3(3))
- the amending, modifying or varying any such approval, consent, licence, permission or registration granted or any condition, limitation, restriction or term or the suspension or the revoking any such approval, consent, licence, permission or registration (Regulation 3(4))

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
A Functions relating to town and country planning and development control				
A1 Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c 8).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Head of Property, Planning and Public Protection and / or the Lead Professional – Development Management (together called “Relevant Planning Officer”) with the ability to further sub-delegate.	<p>In the following circumstances the responsibility will lie with the Planning, Taxi Licensing and Rights of Way Committee and not the Relevant Planning Officer.</p> <p>A. Where the Relevant Planning Officer considers that the planning function should be dealt with by the Planning, Taxi Licensing and Rights of Way Committee and not by a Relevant Planning Officer.</p> <p>B. Where the planning application in question constitutes a material departure from the Development Plan and the view of the Relevant</p>
A2 Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate .	
A3 Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A4 Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	

¹ Regulation 3 of the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)Regulations 2007

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
A5 Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made there under.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	<p>Planning Officer is that the planning application should be approved;</p> <p>C. Where the planning application is made by or on behalf of the County Council or relates to or affects Council land or premises (whether or not actually occupied by the Council) ;</p>
A6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town Country Planning General Regulations 1992 (SI 1992/1492).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer	<p>With the exception of the following which are delegated to the Relevant Planning Officer:</p> <ul style="list-style-type: none"> • Any application other than those designated as a major application in accordance with the definition set out in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012
A7 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	<ul style="list-style-type: none"> • Discharge of conditions applications; • Non-material amendment application; • Application and notifications relating to
A8 Power to enter into planning obligation, regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	<p>Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate</p> <p>PROVIDED ALWAYS that when exercising this power the Relevant Planning</p>	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			Officer (and the Planning, Rights of Way and Taxi Licensing Committee in the event of that committee exercising that power) shall stipulate the time limit within which such agreement shall be concluded. In the event that it is not concluded within such time limit, the Relevant Planning Officer (or as the case may be the Planning, Rights of Way and Taxi Licensing Committee) shall refuse any related Planning Application, unless satisfied that the delay is unavoidable and that there is sufficient evidence for him / her / the committee to conclude that the matter will be concluded within a further reasonable time period, whereupon a fresh time limit shall be imposed.	<p>Trees</p> <ul style="list-style-type: none"> • Prior notifications as specified in Part 6, 7, 11 & 31 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended); • Hedgerow notifications; • Applications for pre-application advice • Land which forms part of the highway verge <p>D. Where the planning application is submitted by or on behalf of any Member or any member of staff employed in Development Management, the Chief Executive, Directors, Heads of Service, or officers who are in regular contact with Development Management.</p> <p>E. Where a Councillor registers a request in</p>
A9 Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A10 Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			ability to further sub-delegate	<p>accordance with the Planning Call-In Procedure set out in the Planning Protocol in Section 19 that a planning application be referred to the Planning, Taxi Licensing and Rights of Way Committee for decision and not determined by the Relevant Planning Officer;</p> <p>(See conditions at the top of the column)</p>
A11 Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A12 Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A13 Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
A14 Power to serve a planning contravention notice, breach of condition notice or stop notice, enforcement warning notice and temporary stop notice.	Sections 171C, 171E, 173ZA, 187A and 183(1) of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	<p>Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate</p> <p>PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power shall have appropriate discussions with the Local Representative for the electoral division affected so that the Councillor may be fully appraised and have a proper opportunity of making his / her views</p>	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			known.	(See conditions at the top of the column)
A15 Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	<p>Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate</p> <p>PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power shall have appropriate discussions with the Councillor for the electoral division affected so that the Local Representative may be fully appraised and have a proper opportunity of making his / her views known.</p>	(See conditions at the top of the column)
A16 Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	<p>Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate.</p> <p>PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power shall have appropriate discussions with the Local Representative for the</p>	(See conditions at the top of the column)

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			electoral division affected so that the Councillor may be fully appraised and have a proper opportunity of making his / her views known.	(See conditions at the top of the column)
A17 Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c 10).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	(See conditions at the top of the column)
A18 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c 25) and paragraph 6(5) of Schedule 14 to that Act.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power shall have appropriate discussions with the Councillor for the electoral division affected so that the Local Representative may be fully appraised and have a proper opportunity of making his / her views known.	(See conditions at the top of the column) (See conditions at the top of the column)
A19 Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-	(See conditions at the top of the column)

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			delegate	(See conditions at the top of the column)
A20 Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c 9).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate.	(See conditions at the top of the column)
A21 Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A22 Duties relating to applications for listed building consent and conservation area consent.	Section 13(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A23 Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	
A24 Power to issue a listed building enforcement notice.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate. PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			shall have appropriate discussions with the Councillor for the electoral division affected so that the Local Representative may be fully appraised and have a proper opportunity of making his / her views known.	(See conditions at the top of the column)
A25 Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	No delegation	(See conditions at the top of the column)
A26 Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate. PROVIDED ALWAYS that the Relevant Planning Officer before and during the exercise of this power shall have appropriate discussions with the Councillor for the electoral division affected so that the Local Representative may be fully appraised and have a proper opportunity of making his / her views known.	(See conditions at the top of the column)
A27 Power to execute urgent works.	Section 54 of the Planning (Listed Buildings	Planning, Taxi Licensing and Rights of Way	Subject to column 5 Delegated to Relevant	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function (including): ¹	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	and Buildings in Conservation Areas) Act 1990.	Committee	Planning Officer with the ability to further sub-delegate.	(See conditions at the top of the column)
A28 Power related to mineral working.	Schedule 9 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	No delegation	(See conditions at the top of the column)
A29 Power related to footpaths and bridleways.	Section 257 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate subject to consultation with Development Management.	(See conditions at the top of the column)
A30 Power as to certification of appropriate alternative development.	Section 17 of the Land Compensation Act 1961 (c 33).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to Relevant Planning Officer with the ability to further sub-delegate	(See conditions at the top of the column)
A31 Duties in relation to purchase notices.	Sections 137-144 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	No delegation	(See conditions at the top of the column)
A32 Powers related to blight notices.	Sections 149-171 of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	No delegation	(See conditions at the top of the column)

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ²	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
B43 Functions in respect of establishing a Licensing Committee.	Section 6 of the Licensing Act 2003 (c 17).	Full Council	No delegation	

² Regulation 3 of the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)Regulations 2007

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

In Sections B1 to B41 below any reference to a power to licence includes the power to set the relevant fees and to approve and amend the relevant policies.

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
B6 Power to register pool promoters.	Gambling Act 2005.	Licensing Act 2003 Committee	No delegation	
B7 Power to grant track betting licences.	Gambling Act 2005.	Licensing Act 2003 Committee	No delegation	
B8 Power to license inter-track betting schemes.	Gambling Act 2005.	Licensing Act 2003 Committee	No delegation	
B9 Power to grant permits in respect of premises with amusement machines.	Gambling Act 2005.	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate	
B10 Power to register societies wishing to promote lotteries.	Gambling Act 2005.	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B11 Power to grant permits in respect of premises where amusements with prizes are provided.	Gambling Act 2005.	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate	
B1(a) Power to issue licences (not the granting of Planning Permission)	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c 62).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	A licence cannot be given before appropriate planning permission has been obtained.

³ Regulation 3 of the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)Regulations 2007

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
authorising the use of land as a caravan site for static holiday homes and touring sites ("site licences").				
B1(b) Power to issue licences (not the granting of Planning Permission) authorising the use of land as a caravan site for residential purposes ("site licences").	Mobile Homes (Wales) Act 2014.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	A licence cannot be given before appropriate planning permission has been obtained.
B2 Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c 49).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	A licence cannot be given before appropriate planning permission has been obtained.
B3 Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict c 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict c 55), and section 15 of the Transport Act 1985 (c 67); and	Planning, Taxi Licensing and Rights of Way Committee	(i) Power to issue hackney carriage and private hire vehicle licences delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	<p>sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c 57);</p> <p>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>		<p>(ii) In respect of unfit vehicles, power is delegated to the relevant Head of Service with the ability to further sub-delegate to suspend the use of the vehicle.</p> <p>(iii) Issues relating to the suitability of a vehicle are to be considered by a Sub-Committee.</p> <p>(iv) Issues relating to the use of a vehicle contrary to the Intended Use Policy for Hackney Carriages are to be considered by a Sub-Committee.</p>	
B4 Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	Planning, Taxi Licensing and Rights of Way Committee	(i) Power to license driver delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			(ii) Where in the officers opinion the applicant does not meet the "Suitability Criteria" and the DVLA medical fitness criteria the matter will be referred to the sub-committee (iii) In respect of licensed drivers who in the officers opinion no longer meet the 'Suitability criteria, and the DVLA medical fitness criteria, power is delegated to the relevant Head of Service with the ability to further sub-delegate to suspend the licence. (iv) Following	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			<p>suspension under (iii) above, for those licensed drivers who in the officers opinion no longer meet the 'Suitability' criteria and the DVLA medical fitness criteria, power is delegated to the sub-committee to revoke the licence.</p> <p>(v) Where the licence holder has been disqualified from driving the licence can be revoked by the relevant Head of Service with the ability to further sub-delegate</p>	
B5 Power to license	Sections 55 to 58, 62 and	Planning, Taxi Licensing	(i) Power to	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including:³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
operators of private hire vehicles.	79 of the Local Government (Miscellaneous Provisions) Act 1976.	and Rights of Way Committee	license operator delegated to the relevant Head of Service with the ability to further sub-delegate. (ii) Where in the officers opinion the applicant does not meet the “Suitability Criteria” in general and in particular to the Council’s Policy on Treatment of Convictions, Cautions and Charges the matter will be referred to the sub-committee (iii) In respect of licensed operators who in the officers opinion no longer meet the ‘Suitability’ criteria, power	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			(iv) is delegated to the relevant Head of Service with the ability to further sub-delegate to suspend the licence. Following suspension under (iii) above, for those licensed operators who in the officers opinion no longer meet the 'Suitability' criteria, power is delegated to the sub-committee to revoke the licence	
B12 Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c 12)	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B13 Power to license sex	The Local Government	Planning, Taxi Licensing	Uncontested applications	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
shops and sex cinemas.	(Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	and Rights of Way Committee	delegated to the relevant Head of Service with the ability to further sub-delegate. Contested applications will be considered by a Sub-Committee.	
B14 Power to license performances of hypnotism.	The Hypnotism Act 1952 (c 46).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B15 Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B16 Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c 53).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B17 Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B19 Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c 32); sections 2 to 16 of the Game Licences Act 1860 (c 90), section 4	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	of the Customs and Inland Revenue Act 1883 (c 10), section 27 of the Local Government Act 1894 (c 73), and section 213 of the Local Government Act 1972 (c 70).			
B20 Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c 16).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B21 Power to license scrap yards.	Scrap Metal Dealers Act 2013.	Planning, Taxi Licensing and Rights of Way Committee	Sub-delegation to the relevant Head of Service with the ability to further sub-delegate unless the applicant has relevant convictions under the Scrap Metal Dealers Act 2013 (Prescribed Offences and Relevant Enforcement Action) Regulations 2013 when such applications are to be determined by a Sub-Committee.	
B22 Power to issue, amend or replace safety certificates (whether general or special) for sports	The Safety of Sports Grounds Act 1975 (c 52).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³ grounds.	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
B23 Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c 27).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B25 Power to license premises for the breeding of dogs.	The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B26 Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c 35); section 1 of the Animal Boarding Establishments Act 1963 (c 43); the Riding Establishments Acts 1964 and 1970 (1964 c 70 and 1970 c 70); section 1 of the Breeding of Dogs Act 1973 (c 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B27 Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c 38).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B28 Power to license zoos.	Section 1 of the Zoo	Planning, Taxi Licensing	Delegated to the relevant	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	Licensing Act 1981 (c 37)	and Rights of Way Committee	Head of Service with the ability to further sub-delegate.	
B29 Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c 38).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B30 Power to enforce regulations in relation to animal by-products	Regulation 49 of the Animal By-products (Wales) Regulations 2006 (SI 1292 (W 127))	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B31 Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c 12), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c 37).	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
B32 Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.	Section 46A of the Marriage Act 1949 (c 76), section 6A of the Civil Partnership Act 2004 (c 33) and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (SI 2005/3168).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the Head of Legal and Democratic Services with the ability to further sub-delegate.	
B33 Power to register common land or town or village greens,	Regulation 6 of the Commons Registration (New Land) Regulations	Planning, Taxi Licensing and Rights of Way Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
(a) except where the power is exercisable solely for the purpose of giving effect to-- an exchange of lands effected by an order under section 19(3) or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c 67); or (b) an order under section 7 of the Commons Act 2006.	1969 (SI 1969/1843). The Commons Deregulation and Exchange Orders (Interim Arrangements) (Wales) Regulations 2012			
B34 Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471).	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
B35 Power to issue a permit to conduct charitable collections.	Section 68 of the Charities Act 1992.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B36 Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c 40).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B37 Power to grant a street works licence.	Section 50 of the New Roads and Street Works	Planning, Taxi Licensing and Rights of Way	Delegated to the relevant Head of Service with the	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	Act 1991 (c 22).	Committee	ability to further sub-delegate.	
B38 Duty to register the movement of pigs.	Regulations 21(3) and (4) of the Pigs (Records Identification and Movement) (Wales) Order 2004 (SI 2004/996 (W 104).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B39 Power to enforce regulations in relation to the movement of pigs.	Regulation 27(1) of the Pigs (Records, Identification and Movement (Wales) Order 2004/996 (W 104).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B40 Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (SI 1998/871).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B41 Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c 35).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
B42 Duty to enforce and execute Regulations (EC) No 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene) (Wales)	Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
B Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) including: ³	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Regulations 2006.				

Column 1	Column 2	Column 3	Column 4	Column 5
C Functions relating to health and safety at work	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
C1 Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc Act 1974 (c 37).	Planning, Taxi Licensing and Rights of Way Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
D Functions relating to elections	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
D1 Duty to appoint an electoral registration officer.	Section 8(2A) of the Representation of the People Act 1983 (c 2).	Full Council	No delegation	
D3 Power to dissolve community councils.	Section 28 of the Local Government Act 1972.	Full Council	No delegation	
D4 Power to make orders for grouping communities.	Section 29 of the Local Government Act 1972.	Full Council	No delegation	
D5 Power to make orders for dissolving groups and separating community councils from groups.	Section 29A of the Local Government Act 1972.	Full Council	No delegation	
D6 Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.	Full Council	No delegation	
D7 Duty to provide assistance at European Parliamentary elections.	Section 6(7) and (8) of the European Parliamentary Elections Act 2002.	Full Council	No delegation	
D8 Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.	Full Council	No delegation	
D9 Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.	Full Council	No delegation	
D10 Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.	Full Council	No delegation	
D12 Power to fill vacancies	Section 21 of the	Full Council	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
D Functions relating to elections	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
in the event of insufficient nominations.	Representation of the People Act 1985.			
D15 Power to make temporary appointments to community councils.	Section 91 of the Local Government Act 1972.	Full Council	No delegation	
D17 Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c 2).	Full Council	No delegation	
D2 Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.	Head of Paid Service	No delegation	
D13 Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.	Head of Paid Service	No delegation	
D14 Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.	Head of Paid Service	No delegation	
D16 Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (SI 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986	Head of Paid Service	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
D Functions relating to elections	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	(SI 1986/2215).			
D11 Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.	Section 151 Officer	No delegation	

Column 1	Column 2	Column 3	Column 4	Column 5
E Functions relating to name and status of areas and individuals	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
E1 Power to change the name of a county or county borough.	Section 74 of the Local Government Act 1972.	Full Council	No delegation	
E2 Power to change the name of a community.	Section 76 of the Local Government Act 1972.	Full Council	No delegation	
E3 Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.	Full Council	No delegation	
E4 Power to petition for a charter to confer county borough status.	Section 245A of the Local Government Act 1972.	Full Council	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
F Power to make, amend, revoke or re-enact byelaws	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
F1 Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c 300).	Full Council	No delegation	

Column 1	Column 2	Column 3	Column 4	Column 5
G Power to promote or oppose private Bills.	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
G1 Power to promote or oppose private Bills	Sections 52 and 53 of the Local Government (Democracy)(Wales) Act 2013.	Full Council	No delegation	

Column 1	Column 2	Column 3	Column 4	Column 5
H Functions relating to pensions etc	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
H1 Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c 11).	Pensions and Investment Committee	No delegation	
H2 Functions relating to pensions, allowances and gratuities.	Regulations under section 18 (3A) of the Local Government and Housing Act 1989 (c 42).	Pensions and Investment Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
I5 Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.	Full Council	No delegation	
I6A Appointment and dismissal of Chief Executive, Head of Paid Service, Strategic Directors.	Section 112 of the Local Government Act 1972 and sections 7 and 8 of the Local Government and Housing Act 1989.	Full Council	No delegation	The exercise of functions relating to the recruitment, appointment and dismissal of, and taking disciplinary action against staff must be undertaken in accordance with Section 11 (Officers).
I7 Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.	Full Council	No delegation	
I8 Power to consider reports from the Public Services Ombudsman for Wales.	Section 19 of the Public Services Ombudsman (Wales) Act 2005 (c 10).	Full Council	No delegation	
I9 Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c 16).	Full Council	No delegation	
I10 Powers in respect of registration of motor salvage operators.	Part 1 of the Vehicles (Crime) Act 2001 (c 3).	Full Council	No delegation	
I11 Power to appoint officers for particular purposes (appointment of	Section 270(3) of the Local Government Act 1972 (c 42).	Full Council	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	
I	Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	"proper officers").				
I12	Duty to designate an officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c 42).	Full Council	No delegation	
I13	Duty to designate an officer as the monitoring officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.	Full Council	No delegation	
I14	Duty to determine affordable borrowing limit.	Section 3 of the Local Government Act 2003 (c 22).	Full Council	No delegation	
I15	Approval of annual investment strategy in accordance with guidance.	Section 15 of the Local Government Act 2003.	Full Council	No delegation	
I17	Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006 (c 38).]	Full Council	No delegation	
I19	Duty to make arrangements for holding meetings of a principal council or its executive	Section 47(1) of the Local Government and Elections (Wales) Act 2021	Full Council	No delegation	
I1	Duty to approve authority's statement of accounts, income and expenditure and	The Accounts and Audit (Wales) Regulations 2005.	Governance and Audit Committee ⁴	No delegation	

⁴ Regulation 9(3) of the The Accounts and Audit (Wales) Regulations 2005

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
balance sheet or record of receipts and payments (as the case may be).				
Risk and Control I19A Ensure the risk management strategy guides the programme of internal and external work, to address the controls and risk related issues identified I19B Oversee the production of the annual governance statement, recommend its adoption to County Council and ensure appropriate action is taken to address the issues raised	County Council meeting 16 th May, 2013	Governance and Audit Committee	No delegation	
Internal Audit I20A (i) To consider and approve the annual audit opinion on internal control and the level of assurance given to the corporate governance arrangements (ii) Approve the annual audit plan, ensuring	County Council meeting 16 th May, 2013	Governance and Audit Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	
I	Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	<p>there is sufficient and appropriate coverage, with a strong emphasis on risk management and resources are available to implement the plan.</p> <p>(iii) Receive and review internal audit reports and ensure officers respond promptly to the findings. Where necessary recommendations to other committees and portfolio holders will be made, to ensure action plans are implemented</p>				
	<p>External Audit</p> <p>I21A (i) Consider and approve the annual letter, regulatory plan and specific reports as agreed.</p> <p>(ii) Where necessary ensure action is taken by officers to address those issues raised, and if necessary recommendations to other committees and portfolio holders will</p>	County Council meeting 16 th May, 2013	Governance and Audit Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
be made to address findings and deliver clear conclusions (iii) Comment on the scope and depth of the external audit work, to ensure it gives value for money				
Other I22A (i) Assess and approve the annual statement of accounts, external audit opinion and management representation in relation to annual audit findings (ii) Promote effective relationships between external and internal audit, inspection agencies and other relevant bodies to ensure the value of audit and inspection is enhanced and actively promoted (iii) regularly monitor treasury management reports	County Council meeting 16 th May, 2013	Governance and Audit Committee	No delegation	
I23A Duty to: (a) review and scrutinise the authority's	Local Government Measure 2011 (Section 81) as amended by the	Governance and Audit Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I	Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation
		Conditions and / or Limitations on Delegation and Sub-Delegation		
(b)	financial affairs, make reports and recommendations in relation to the authority's financial affairs,	Local Government and Elections (Wales) Act 2021 (Section 115)		
(c)	review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the authority,			
(d)	make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,			
(da)	review and assess the authority's ability to handle complaints effectively			
(db)	make reports and recommendations in relation to the authority's ability to handle complaints effectively			
(e)	oversee the authority's internal and external audit arrangements, and			
(f)	review the financial			

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
statements prepared by the authority				
I23B Duty to review the Council's draft performance self assessment report and may make recommendations for changes to the conclusions or to anything included in the draft.	Local Government and Elections (Wales) Act 2021 (Section 91)	Governance and Audit Committee	No delegation	
I23C Duty to review the Council's draft response of the panel performance assessment and may make recommendations for changes to the statements made.	Local Government and Elections (Wales) Act 2021 (Section 93)	Governance and Audit Committee	No delegation	
I23D Duty to consider the report of the Auditor General following a special inspection.	Local Government and Elections (Wales) Act 2021 (Section 95)	Governance and Audit Committee	No delegation	
I23E Duty to review the Council's draft response to the report of the Auditor General and may make recommendations for changes to the statement made.	Local Government and Elections (Wales) Act 2021 (Section 96)	Governance and Audit Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
I Miscellaneous functions	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
I18 Functions relating to family absence of Local Authority Members	The Family Absence for Members of Local Authorities (Wales) Regulations 2013	Democratic Services Committee	No delegation	
I6D For the purposes of the JNC Conditions of Service for Chief Officers and for the Local Authorities (Standing Orders)(Wales) Regulations 2006,to discharge all relevant functions associated with the disciplinary and grievance processes and procedures in respect of all the Council's Chief and Deputy Chief Officers other than the Head of Paid Service, Monitoring Officer and Chief Financial Officer, Head of Democratic Services (as these 4 statutory officers are dealt with in Section 11 (Officers)	County Council meeting 16 th May, 2013	Employment and Appeals Committee	Delegated to the Investigating and Disciplinary Committee	
I6E Hearing and determining appeals by officers in respect	County Council meeting 16 th May, 2013	Employment and Appeals Committee	Delegated to the appropriate Sub-Committee	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

	of, dismissals arising out of disciplinary, capability or redundancy issues; and grievances.				
I16	Duty to make arrangements for proper administration of financial affairs.	Section 151 of the Local Government Act 1972 (c 11).	Section 151 Officer	No delegation	

Column 1	Column 2	Column 3	Column 4	Column 5	
J	Functions Relating to Highways	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
J1	Power to consent to temporary deposits or excavation in streets.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J2	Power to dispense with obligation to erect hoarding or fence.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J3	Power to consent to construction of cellars etc. under street.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J4	Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J5	Powers relating to the removal of things so deposited on highways as to be a nuisance.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J6	Power to license	County Council meeting	Full Council	Delegated to the relevant	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
J Functions Relating to Highways	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
planting, retention and maintenance of trees etc. in part of metalled highway.	15 th July, 2015		Head of Service with the ability to further sub-delegate.	
J7 Power to license works in relation to buildings etc. which obstruct the metalled highway.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J8 Power to restrict the placing of rails, beams etc. over metalled highways.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
J9 Duty to assert and protect the rights of the public to use and enjoyment of metalled highways.	County Council meeting 15 th July, 2015	Full Council	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

Column 1	Column 2	Column 3	Column 4	Column 5
K. Regulation 3 Matters	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
3(5) The functions of making any scheme authorised or required by regulations under (schemes for basic, attendance and special responsibility allowances for local authority members), or of amending,	section 18 of the Local Government and Housing Act 1989	Full Council	No delegation - Section 101 of the Local Government Act 1972 (Discharge by Committee, Sub-Committee, Officer or other Local Authority etc) shall not apply to this function.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
K. Regulation 3 Matters	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
revoking or replacing any such scheme is not to be the responsibility of an executive of the authority.				
3(6) (a) the amount of any allowance payable under:		Full Council	No delegation - Section 101 of the Local Government Act 1972 (Discharge by Committee, Sub-Committee, Officer or other Local Authority etc) shall not apply to this function.	
(i) chairman's expenses; (ii) vice-chairman's expenses; (iii) financial loss allowance; (iv) allowances for attending conferences and meetings;	(i) subsection (5) of section 22 of the Local Government Act 1972 (ii) subsection (4) of section 24 of the Local Government Act 1972 (iii) subsection (4) of section 173 of the Local Government Act 1972 (iv) section 175 of the Local Government Act 1972	Full Council	No delegation - Section 101 of the Local Government Act 1972 (Discharge by Committee, Sub-Committee, Officer or other Local Authority etc) shall not apply to this function.	
(b) the rates at which payments are to be made under (travelling and subsistence	section 174 of the Local Government Act 1972	Full Council	No delegation - Section 101 of the Local Government Act 1972 (Discharge by Committee, Sub-	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
K. Regulation 3 Matters	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
allowances);			Committee, Officer or other Local Authority etc) shall not apply to this function.	
(c) the amount of any allowances payable pursuant to a scheme under or regulations made under, or the rates at which payments by way of any such allowances are to be made;	section 18 of the Local Government and Housing Act 1989 section 100 of the Local Government Act 2000	Full Council	No delegation - Section 101 of the Local Government Act 1972 (Discharge by Committee, Sub-Committee, Officer or other Local Authority etc) shall not apply to this function.	
(d) whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the authority; and e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge.		Full Council	Delegation to the appropriate Committee on an individual basis.	
3(8) The function of making arrangements for the discharge of functions by a committee or officer	section 101(5) of the Local Government Act 1972	Full Council	No delegation possible pursuant to Regulation 3(8).	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
K. Regulation 3 Matters	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
under (2 or more local authorities discharging functions jointly)	Section 20 of the Local Government Act 2000.			
3(9) The functions of making appointments under (appointment of committees)	section 102 of the Local Government Act 1972	Full Council	No delegation possible pursuant to Regulation 3(9)	
3(10) Unless otherwise provided by the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended), a function of a local authority which, by virtue of any enactment (past or made before the 16 th February, 2007) must not be discharged by the Cabinet.		Full Council	No delegation possible pursuant to Regulation 3(10)	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Schedule 2 – Council functions may be delegated to the Executive and other Member Bodies pursuant to Regulation 4 of the 2007 Regulations.

For the sake of clarity, Full Council has delegated the functions set out in Column 1 of Schedule 2 to the Member Body set out in Column 3. Full Council reserves the right to remove such delegation.

Pursuant to Regulation 4(2), the functions in Column 1 so delegated may also be exercised by Full Council.

Nothing in this Schedule prevents the exercise of functions delegated to the Cabinet under Column 1 of this Schedule being sub-delegated by the Executive Leader under Rule 5.9.

For the purposes of this Schedule 2 “Rights of Way Officer” means either the Strategic Director, or the Director or the Head of Service responsible for the rights of way functions.

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
1	Any function under a local Act other than a function specified or referred to in Schedule 1.	Full Council	No delegation	
7	The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Full Council	No delegation	
8	The making of appointments under paragraphs 2 to 4	Full Council	No delegation	
	Paragraphs 2 to 4 (appointment of members by relevant Councils) of			

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	(appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.			
13	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Full Council	No delegation	
19	The appointment of any individual:	Full Council	No delegation	Also exercisable by the Cabinet.
	(a) to any office other than an office in which he is employed by the authority;			
	(b) to any body other than- (i) the authority; (ii) a joint committee of two or more authorities; or			
	(c) to any committee or sub-committee of such a body,			

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
and the revocation of any such appointment.				
21 The discharge of any function by an authority acting as a harbour authority.		Full Council	No delegation	
2 The determination of an appeal against any decision made by or on behalf of the authority.		Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	This does not extend to determining any dismissal or grievance appeal by an employee which are to be determined by the Employment and Appeals Committee.
3 Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000.	Section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (c.19)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
4 The making of arrangements in relation to appeals against the exclusion of pupils in maintained	Section 52 of the Education Act 2002.	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
schools under section 52 of the Education Act 2002.				
5 The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).	Section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
6 The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
9 The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Section 5 (Best Value Reviews) of the Local Government Act 1999 (c.27)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
10 Any function relating to contaminated land.	Part 11A of the Environmental Protection	Cabinet	The Executive Leader may delegate the function to the	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5	
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation	
	Act 1990 (c.43) and subordinate legislation.		appropriate Portfolio Holder.		
11	The discharge of any function relating to the control of pollution or the management of air quality.	Pollution and Prevention Control Act 1999 (c.24); Part IV of the Environment Act 1995 (c.25); Part 1 of the Environment Act 1990 (c.43) and the Clean Air Act 1993 (c.11)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
12	The service of an abatement notice in respect of a statutory nuisance.	Section 8 of the Noise and Statutory Nuisance Act 1993 (c.40)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
14	The inspection of the authority's area to detect any statutory nuisance.	Section 79 of the Environmental Protection Act 1990.	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
15	The investigation of any complaint as to the existence of a statutory nuisance.		Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
16	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Section 330 of the Town and Country Planning Act 1990 (c.8)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
17	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57)	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c.57)	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Provisions) Act 1976.				
18 Any of the following functions in respect of highways:				
(a) the making of agreements for the execution of highways works;	Section 278 of the Highways Act 1980 (c.66) was substituted by Section 23 of the New Roads and Street Works Act 1991 (c.22)	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate..	
(d) the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets):		Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(i) section 130-- protection of public rights;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 130	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(ii) sections 139- -control of builders' skips;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 139	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(iii) section 140-- removal of builders'	Part IX of the Highways Act 1980 (lawful and unlawful interference with	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
skips;	highways and streets) – Section 140		delegate.	
(iv) section 140A--builders' skips: charges for occupation of the highway;	New Roads and Street Works Act 1991 (c.22) (Section 168 and Part 1 of Schedule 8)	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(v) section 142--licence to plant trees, shrubs etc in a highway;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 142	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(vi) section 147--power to authorise erection of stiles etc on footpath or bridleway;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 147	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(vii) section 147ZA--agreements relating to improvements for benefit of persons with mobility problems;	Section 69(3) of the Countryside and Rights of Way Act 2000 (c.37)	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(viii) section 149--removal of things so deposited on	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) –	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
highways as to be a nuisance etc;	Section 149			
(ix) section 169- control of scaffolding on highways;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 169	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(x) section 171- control of deposit of building materials and making of excavations in streets;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 171	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(xi) section 171A and regulations made under that section-- works under s169 or s171: charge for occupation of the highway;	New Roads and Street Works Act 1991 (c.22) (Section 168 and Part 1 of Schedule 8)	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(xii) section 172- hoardings to be set up during building etc;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 172	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(xiii) section 173-	Part IX of the Highways	Cabinet	Delegated to the relevant	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
hoardings to be securely erected;	Act 1980 (lawful and unlawful interference with highways and streets) – Section 173		Head of Service with the ability to further sub-delegate.	
(xiv) section 178-- restriction on placing of rails, beams etc over highways;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 178	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(xv) section 179- control of construction of cellars etc under street;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 179	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(xvi) section 180- control of openings into cellars etc under streets, and pavement lights and ventilators;	Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) – Section 180	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
20 Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.	Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
22 Functions in respect of the calculation of council tax base in accordance with any of the following:		Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
(a) the determination of an for item T in section 33(1) and 44(1) of the Local Government Finance Act 1992;	Sections 33(1) and 44(1) of the Local Government Finance Act 1992	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
(b) the determination of an amount for item TP in sections 34(3), 45(3) 48(3) and 48(4) of the Local Government Finance Act 1992;	Sections 34(3), 45(3), 48(3) and 48(4) of the Local Government Finance Act 1992	Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
(c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.		Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
2B.(1) The making of Temporary Traffic Regulation Orders relating to all highways other than those specified in 2B(2) below.	Road Traffic Regulation Act 1984	Cabinet	The Head of Highways, Transportation and Recycling and the Service Manager or persons authorised to act on their behalf.	Subject to: (i) The period of the temporary traffic regulation order not exceeding 18 months. (ii) Any extensions to the time limit for a Traffic Regulation Order require the consent of the relevant Welsh Government Minister.

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
2B (2) The making of Temporary Traffic Regulation Orders relating to cycle tracks, footpaths, bridleways, restricted byways and byways open to all traffic.	Road Traffic Regulation Act 1984 – Section 14	Cabinet	The Leisure and Recreation Services Manager or persons authorised to act on their behalf.	Such temporary orders can be given by the Authority for up to 6 months and extensions require the consent of the relevant Welsh Government Minister.
4. Provision, operation and maintenance of on-street and off-street car parking, including charging.		Cabinet	The Executive Leader may delegate the function to the appropriate Portfolio Holder.	
5. All matters relating to Municipal Services, namely : (a) street cleaning and litter; (b) verge maintenance; (c) markets (livestock, produce and street), other than regulatory aspects; (d) land drainage; (e) allotments; (f) other minor miscellaneous municipal services		Cabinet	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
6. Miscellaneous functions relating to Local Grants				

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
(i)	the determination of Built Heritage Grants funded from the town specific allocations of Local Regeneration Fund and Basic Credit Approval in accordance with policy and budget set by the Executive.	Cabinet		
(ii)	administering Built Heritage Grants for Montgomeryshire to the Montgomeryshire Area (Shire) Committee.	Cabinet		
23	Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.	Licensing Act 2003 Committee	<p>(i) Where the application is contested, the application will be determined by a 3 Member Sub-Committee under the Licensing Act 2003</p> <p>(ii) Where the application is uncontested the application will be determined by the relevant Head of Service with the ability to further sub-delegate</p> <p>(iii) Where there is an application to review an existing licence the application will be determined by a 3 Member</p>	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			Sub-Committee under the Licensing Act 2003	
24	Functions in respect of gambling under the following provisions of the Gambling Act 2005:	Licensing Act 2003 Committee		
	(a) section 29--licensing authority information;	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
	(b) section 30--other exchange of information;	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
	(c) section 166--resolution not to issue casino licences;	Licensing Act 2003 Committee	No delegation	
	(d) section 212 and regulations made under that section--fees;	Licensing Act 2003 Committee	No delegation	
	(e) section 284--removal of exemption;	Licensing Act 2003 Committee	The Licensing Committee has authority to appoint 3 Member Sub-Committees to hear and determine applications under the Licensing Act 2003 (.	
	(f) section 304--authorised persons;	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
	(g) section 346--	Licensing Act 2003	Delegated to the relevant	

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
prosecutions by licensing authority;	Section 346	Committee	Head of Service with the ability to further sub-delegate.	
(h) section 349-- three-year licensing policy and other relevant policies;	Gambling Act 2005 – Section 349	Licensing Act 2003 Committee	No delegation	
(i) section 350-- exchange of information;	Gambling Act 2005 – Section 350	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
(j) Part 5 of Schedule 11-- registration with local authority.	Gambling Act 2005 – Part 5 of Schedule 11	Licensing Act 2003 Committee	Delegated to the relevant Head of Service with the ability to further sub-delegate.	
18 Any of the following functions in respect of highways:				
(b) the functions contained in the following provisions of Part III of the Highways Act 1980 (creation of highways):	Part III of the Highways Act 1980 (c.66)	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
(i) section 25-- creation of footpath, bridleway or restricted byway by agreement;	Part III of the Highways Act 1980 (creation of highways) – Section 25	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee):

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
				(a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(ii) section 26--compulsory powers for creation of footpaths, bridleways or restricted byways;	Part III of the Highways Act 1980 (creation of highways) – Section 26	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc):				
(i) section 116-- power of magistrates' court to authorise stopping up or diversion of highway;	Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) – Section 116	Planning, Taxi Licensing and Rights of Way Committee	No delegation	

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
(ii) section 117-- application for order under section 116 on behalf of another person;	Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) – Section 117	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
(iii) section 118-- stopping up of footpaths, bridleways and restricted byways;	Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) – Section 118	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(iv) section 118ZA-- application for a public path extinguishment order;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(v) section 118A-- stopping up of	Section 47 of, and Schedule 2 to, the	Planning, Taxi Licensing and Rights of Way	Head of Housing and Community Development	Conditions for Sub-Delegation (failing which

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
footpaths, bridleways and restricted byways crossing railways;	Transport and Works Act 1992 (c.42)	Committee	with the ability to further sub-delegate	<p>matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee):</p> <p>(a) consent of local member(s);</p> <p>(b) consent of community council;</p> <p>(c) consent of landowner;</p>
(vi) section 118B--stopping up of certain highways for purposes of crime prevention etc;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	Head of Housing and Community Development with the ability to further sub-delegate.	<p>Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee):</p> <p>(a) consent of local member(s);</p> <p>(b) consent of community council;</p> <p>(c) consent of landowner;</p>
(vii) section 118C--application by proprietor of school for special extinguishment order;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	<p>Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee):</p> <p>(a) consent of local member(s);</p> <p>(b) consent of community</p>

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
				council; (c) consent of landowner;
(viii) section 119-- diversion of footpaths, bridleways and restricted byways;	Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) – Section 119	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(ix) section 119ZA-- application for a public path diversion order;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(x) section 119A-- diversion of footpaths, bridleways and restricted byways	Section 47 of, and Schedule 2 to, the Transport and Works Act 1992 (c.42)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
crossing railways;				Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(xi) section 119B--diversion of certain highways for purposes of crime prevention etc;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(xii) section 119C--application by proprietor of school for special diversion order;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;

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Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
(xiii) section 119D-- diversion of certain highways for protection of sites of special scientific interest;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	Conditions for Sub-Delegation (failing which matter must be referred to the Planning, Taxi Licensing and Rights of Way Committee): (a) consent of local member(s); (b) consent of community council; (c) consent of landowner;
(xiv) section 120-- exercise of powers of making public path extinguishment and diversion orders;	Part VIII of the Highways Act 1980 (consultation with other authorities on cross boundary stopping up and diversion of highways etc) – Section 120	Planning, Taxi Licensing and Rights of Way Committee	The Head of Housing and Community Development with the ability to further sub-delegate.	
(xv) section 121B-- register of applications;	Section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of way Act 2000 (c.37)	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
(e) exercising functions under section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders); and	Section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders) (c.69) as amended by paragraph 83 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16); by Section	Planning, Taxi Licensing and Rights of Way Committee	No delegation	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
	27AA of the 1981 Act Section 34 has effect as if references to Natural England were references to the Countryside Council for Wales.			
(f) exercising functions under section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review).	Section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review) as amended by the Countryside and Rights of Way Act 2000 (c.37) (Section 51 and Part 1 of Schedule 5) and the Natural Environment and Rural Communities Act 2006 (c.16) (Section 70)	Planning, Taxi Licensing and Rights of Way Committee	No delegation	
Miscellaneous Functions:				
Cycle Track Conversion Orders	Cycle Tracks Act 1984 Cycle Tracks Regulations 1984	Cabinet	Planning, Taxi Licensing and Rights of Way Committee.	
Powers relating to trees	Sections 197 to 214D of the Town and Country Planning Act 1990 & Town and Country Planning (Trees) Regulations 1999 (as amended).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)
Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1999/1892)	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-	(See conditions set out on pages 5- 7 above)

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			delegate	
Powers to issue Screening and Scoping Opinions.	Sections 5, 7, 9 , 10, 13 & 15 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	((See conditions set out on pages 5- 7 above)
Power to determine applications for non-material amendments.	Sections 96A of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)
Power to respond to consultation from other Local Planning Authorities on development proposals	Regulation 14 of the Town and Country (General Development Management Procedure) Order (Wales 2012 (S.I. 2012/808 (W.110))).	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer in consultation with the Chair of the Planning, Taxi Licensing and Rights of Way Committee	(See conditions set out on pages 5- 7 above)
Powers to modify or discharge planning obligations regulating development or use of land.	Section 106A and 106B of the Town and Country Planning Act 1990	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)
Powers to determine applications for pre-application advice.	Section 61Z1 of the Town and Country Planning Act 1990	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)
Powers to issue a notice that application is not valid.	Section 62ZA of the Town and Country Planning Act 1990.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Powers to provide pre-application services	Part 2 of The Developments of National Significance (Wales) Regulations 2016	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer	(See conditions set out on pages 5- 7 above)
Powers to submit a local impact report	Section 62I of the Town and Country Planning Act 1990	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer in consultation with the Chair of the Planning, Taxi Licensing and Rights of Way Committee	(See conditions set out on pages 5- 7 above)
Power to determine discharge of condition applications	Section 71ZA of the Town and Country Planning Act 1990 and Part 23 of the Town and Country Planning (General Development Procedure) Order (Wales) 2012.	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)
Powers to object to the grant of an application for an operator's licence	Section 12 of the Goods Vehicles (Licensing of Operators) Act 1995	Planning, Taxi Licensing and Rights of Way Committee	Subject to column 5 Delegated to the Relevant Planning Officer with the ability to further sub-delegate	(See conditions set out on pages 5- 7 above)

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Column 1	Column 2	Column 3	Column 4	Column 5
J	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Miscellaneous functions relating to Highways				
Within a framework agreed by the Executive, and within an annual budget to be allocated by the		Cabinet		

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
J	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Executive, and subject to an individual project limit of £50,000 :				
1. All decisions in relation to highway maintenance within the overall plans determined by the Executive relating to : (a) Local Improvement Programmes; (b) The general Highway Maintenance Programme; (c) Non-structural Bridge Maintenance.		Cabinet		
2A. The making of Permanent Traffic Regulation Orders		Cabinet		
3. Promoting and developing local road safety initiatives.		Cabinet		

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Schedule 3 – Functions Not to be the Sole Responsibility of Cabinet.⁵

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
Children and Young People's Plan (part of the One Powys Plan)	Regulations made under section 26 of the Children Act 2004.	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.⁶</p>
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c 27).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

⁵ Schedule 3 – Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended).

⁶ Regulation 5(4) of the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)Regulations 2007

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
Community Strategy (part of the One Powys Plan)	Section 4 of the Local Government Act 2000 (c 22).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.</p>
Crime and Disorder Reduction Strategy (part of the One Powys Plan)	Sections 5 and 6 of the Crime and Disorder Act 1998 (c 37).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
Health and Well Being Strategy (part of the One Powys Plan)	Section 24 of the National Health Service Reform and Health Care Professions Act 2002 (c 17).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.</p>
Local Transport Plan	Section 108 of the Transport Act 2000 (c 38).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
Plans and alterations which together comprise the Development Plan	Section 10A of the Town and Country Planning Act 1990 (c 8).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.</p>
Welsh Language Scheme	Section 5 of the Welsh Language Act 1993 (c 38).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c 37).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.</p>
Powers to approve a Young Peoples Partnership Strategic Plan and a Children and Young Peoples Framework Partnership	Section 123, 124 and 125 of the Learning and Skills Act 2000 (c 21).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
Housing Strategy	Section 87 of the Local Government Act 2003 (c 26).	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer, or another local authority.</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p> <p>(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.</p>
Rights of Way Improvement Plan	Section 60 of the Countryside and Rights of Way Act 2000.	Full Council	<p>Cabinet is hereby instructed to prepare draft plan, scheme or strategy (or amendment thereof) for Full Council to approve.</p> <p>N.B. Pursuant to Regulation 5(8), this function cannot be delegated to a committee, sub-committee, an officer,</p>	<p>N.B. Amendments, modifications, variations or revocations to the plan, scheme or strategy can be made by the Cabinet only if either:</p> <p>(i) they are required by the National Assembly for Wales or a Minister of the Crown; or</p>

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
			or another local authority.	(ii) Full Council has delegated such power to the Cabinet at the time when arrangements for the approval of the plan, scheme or strategy were made.
<p>5(5) An application for:</p> <p>(a) under sub-section (5) of section 135 of the leasehold Reform, Housing and Urban development Act 1993 (programmes for disposal); or</p> <p>(b) under section 32 (power to dispose of land held for the purposes of Part II or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985:</p> <p>Is the responsibility of an executive of the authority.</p>	See Column 1	Cabinet	No Sub-delegation possible pursuant to Regulation 5(5)	N.B. Full Council must first authorise Cabinet to make the application.
5(9) In connection with the	See Column 1	Full Council	No Sub-delegation	

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Column 1	Column 2	Column 3	Column 4	Column 5
Plans, schemes and strategies	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
<p>discharge of the function of:</p> <p>(a) subject to the provisions in respect of calculations of council tax base in paragraph 22 of Schedule 2 making a calculation in accordance with any of sections 32 to 37, 43 to 51, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992, whether originally or by way of substitute; or</p> <p>(b) Issuing a precept under Chapter IV of Part 1 of that Act,</p> <p>the actions designated by paragraph (11) (“the designated actions”) are the responsibility of an executive of the authority.</p>		<p>N.B. The Cabinet is responsible for preparation of the submission to Full Council in relation to these matters.</p>		

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Miscellaneous:				
Consultation responses in relation to Windfarm issues.		Full Council	Cabinet	
Responses in relation to consultations received under Section 37 of the Electricity Act 1989	Electricity Act 1989 – Section 37	Full Council	The Head of Property, Planning and Public Protection in consultation with the Portfolio Holder for Regeneration and Planning.	

Schedule 4 – Circumstances in Which Functions are not to be the responsibility of Cabinet.

The functions set out in Column 1 below shall not be undertaken by the Cabinet unless:

- (i) circumstances render the making of that determination urgent, and
- (ii) it is not reasonably practicable to call an extraordinary meeting of Full Council within the required timeframe, and
- (iii) the Chair(s) of the relevant Scrutiny Committee(s) or in his / her / their absence the Chair of Council or in the absence of the Chair of Council the Vice-Chair of Council has agreed in writing that the determination needs to be made as a matter of urgency; and
- (iv) at the next meeting of Full Council after the making of the determination, the Cabinet submits to the Council a report which shall include particulars of:
 - (a) the determination;
 - (b) the emergency or other circumstances in which it was made; and
 - (c) the reasons for the determination; and
- (v) pursuant to Rule 7.38.2 the Cabinet submits to the relevant Scrutiny Committee(s) a report which shall include particulars of:
 - (a) the determination;
 - (b) the emergency or other circumstances in which it was made; and
 - (c) the reasons for the determination.

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
<p>1 The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy for the control of the authority's borrowing or capital expenditure or referred to in Schedule 3 where Full Council determines that the decision should be adopted or approved should be taken by Full Council.</p>	<p>Regulation 6(1) and Schedule 4 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended)</p>	<p>Full Council</p>	<p>No delegation</p>	
<p>2 Where the Cabinet:</p> <p>(i) is minded to determine a matter, plan or strategy which is not wholly in accordance with the Council's budget; or the plan or strategy for the time being approved or adopted by the Council in relation to its borrowing or capital expenditure; and</p> <p>(ii) is not authorised</p>	<p>Regulation 6(1) and Schedule 4 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended)</p>	<p>Full Council</p>	<p>No delegation</p>	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Column 1	Column 2	Column 3	Column 4	Column 5
Function	Provision of Act or Statutory Instrument	Delegated to	Sub-Delegation	Conditions and / or Limitations on Delegation and Sub-Delegation
<p>by the Council's executive arrangements, financial procedure rules, its Constitution or other rules or procedures to make a determination in those terms such a decision must be made by Full Council.</p>				
<p>3 Where the Cabinet is minded to determine a matter, plan or strategy which is not wholly in accordance with a plan or strategy for the time being approved or adopted by the Council, such a decision must be made by Full Council.</p>	<p>Regulation 6(1) and Schedule 4 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended)</p>	<p>Full Council</p>	<p>No delegation</p>	

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

DELEGATION TO OFFICERS

Management Structure – Section 11

- 13.4 Section 11 contains details of the Council’s management structure in relation to Chief Officers and Deputy Chief Officers including broad outlines of their functions and areas of responsibility and the allocation of Statutory and Proper Officer Posts and their functions.
- 13.5 The following provisions contains more detailed provisions relating to the general and specific delegation of functions to officers by the County Council.

Specific Delegation to Officers

- 13.6 The Council, each committee, the Leader, the Cabinet, and an individual Cabinet Member where appropriate shall have authority to delegate to an officer full power to exercise and perform on behalf of the Council, Committee, Leader, the Cabinet, or an individual Cabinet Member, (as the case may be), any powers and duties exercisable by the Council, Committee or Leader, the Cabinet, and an individual Cabinet Member respectively under this Constitution but subject always to the constraints contained in legislation or this Constitution, and to any conditions or limitations which the Council, Committee, Leader, the Cabinet, and an individual Cabinet Member may impose when delegating the power or duty to the officer.

General Delegation to the Council’s Chief Officers and Deputy Chief Officers

- 13.7 The Council’s Chief Officers and Deputy Chief Officers are authorised to act and take any step or decision relating to any matter within the remit of their functions and areas of responsibility **PROVIDED ALWAYS** that such act, step or decision is :

13.7.1 in accordance with any legal requirement;

13.7.2 not a matter specifically reserved for full Council or a committee of the Council, the Cabinet Leader, the Cabinet, an individual Member of the Cabinet, or a Statutory Officer (unless they are that Statutory Officer);

13.7.3 in accordance with this Constitution including:

13.7.3.1 the Financial Procedure Rules contained in Section 16 of this Constitution;

13.7.3.2 the Contracts Procedure Rules contained in Section 17 of this Constitution;

13.7.3.3 the Budget and Policy Framework Procedure Rules set by the Council (subject to the regulations relating to the taking of urgent decisions as set out in Section 15 of the Constitution);

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- 13.7.3.4 the Code of Conduct for Employees in Section 20, and
- 13.7.3.5 the Protocol on Member and Officer Relations in Section 21.

13.7.3.6 taken following consideration whether the act, step or decision is of such a nature that it ought to be referred to the Council, the Leader, Cabinet, individual Cabinet Member or appropriate committee, sub-committee or other officer.

- 13.8.1 Any Chief or Deputy Chief Officer may further sub-delegate in writing any of the functions referred to above to another officer. The Chief or Deputy Chief Officer may authorise further sub-delegation in writing on such terms as he or she sees fit. It is the duty of each Chief Officer and Deputy Chief Officer to keep and maintain a Scheme of Delegation (in a format to be approved by the Monitoring Officer) in respect of the functions for which they are responsible, and to provide the Monitoring Officer with copies of the Scheme of Delegation as and when amended.
- 13.8.2 In the absence of an authorised officer, , any officer designated in writing to deputise for that officer in his / her absence may exercise those functions of the absent officer.

General Delegations – Employment

- 13.9 The Council's Chief Officers and Deputy Chief Officers are authorised to act in relation to the appointment, dismissal, discipline and determination of all other matters relating to the employment of staff subject to the individual's terms and conditions of employment, the Officer Employment Procedure Rules as set out in Section 11 of this Constitution, the Management of Change Process and the relevant employment policies of the Council contained on the Powys County Council Intranet.
- 13.10 The Council's Chief Officers and Deputy Chief Officers hereby authorise appropriate line managers in his / her service area to exercise those powers set out in Rule 13.9 above.
- 13.11 The Council's Chief Officers and Deputy Chief Officers may authorise in writing staff to exercise such powers of entry, inspection and survey of land, buildings or premises and may issue any necessary evidence or authority as may be appropriate to the execution of their duties and in respect of which the Council has statutory powers.
- 13.12 Where such delegation to an officer has occurred the Chief Officer or Deputy Chief Officer making the delegation shall keep a register of such delegations and send a copy to the Monitoring Officer.

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

General Delegations – Property

- 13.13 Where either the capital sum does not exceed £100,000 or the annual rental does not exceed £10,000, provided that such sums are within the approved budget and relevant policies:
- 13.13.1 the Council's Chief Officers and Deputy Chief Officers may, subject to the approval of a business case by the relevant Portfolio Holders, authorise and approve the acquisition or disposal of land and the taking of leases, licences, dedications and easements of or over any land (including buildings) whether by way of valuable consideration or exchange; and / or
 - 13.13.2 Save as provided in Rules 13.13.3. and 13.13.4 the Council's Chief Officers and Deputy Chief Officers may authorise and approve the granting or variation in granting of leases, licences, or dedications of or over any land, where the annual payment does not exceed £10,000; and / or
 - 13.13.3 in the case of the grant of tenancies of smallholdings, the Head of Highways, Transportation and Recycling will exercise the power referred to in Rule 13.13.2.
 - 13.13.4 in the case of the grant of tenancies of workspace premises the Head of Regeneration, Property and Commissioning will exercise the power referred to in Rule 13.13.2.
- 13.14 The Council's Chief Officers and Deputy Chief Officers may arrange for the session lettings of premises for periods of less than twenty-four hours.
- 13.15 The Head of Housing is authorised to issue and sign documents in relation to both secure tenancies and the right to buy provisions of the Housing Act 1985.

General Delegations – Legal and Procedural

- 13.16 The Head of Legal and Democratic Services is authorised:-
- 13.16.1 to serve statutory notices;
 - 13.16.2 to institute, defend or settle legal proceedings (either in the name of the Council or an individual officer of the Council), at common law or under any enactment, statutory instrument, order or bye-law conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any decision affecting the Council. For the avoidance of doubt, this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter-notices and notices to quit and to compromise and settle disputes involving the Council which are not yet the subject of legal or other formal proceedings;

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13.16.3 to authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.

13.17 Without prejudice to the generality of the powers of the Head of Legal and Democratic Services to institute proceedings, the Council's Chief Officers and Deputy Chief Officers, shall have power to institute proceedings either in the name of the Council or in the name of an officer under those statutory provisions which relate to their respective service areas, a list of which enabling statutory provisions shall be supplied to and recorded by the Head of Legal and Democratic Services.

DELEGATION TO CABINET PORTFOLIO HOLDERS.

SPECIFIC RESPONSIBILITY FOR CABINET FUNCTIONS (PORTFOLIOS)

General Provisions

- 13.18 As indicated in Schedule 1 of Rule 13.3 above certain functions cannot be undertaken by the Cabinet or can only be undertaken to a limited extent or in specified circumstances.
- 13.19 Subject to this, any relevant provisions in other legislation, and any contrary provisions in this Constitution, all other functions of the Local Authority are to be the responsibility of the Cabinet and the Leader is responsible for the delegation of those functions to other Cabinet members.
- 13.20 The Leader has determined that the individual Cabinet Members (including the Leader) are to have responsibility for specific functions (portfolios) allotted to them as amended from time to time and published on the Council's website.
- 13.21 The Leader has authorised the individual Cabinet Members allocated the portfolios amended from time to time and published on the Council's website to take decisions personally (or may sub-delegate in accordance with Rule 5.13) in respect of such portfolios subject to any provision in legislation or this Constitution requiring functions to be undertaken by the Council or any of its committees and subject to the powers, duties and responsibilities of officers in the exercise of functions pursuant to their Statutory and Proper Officer posts and the general and specific delegation of functions to officers above. It is to be expected that as many decisions as possible are taken by Cabinet Members with only strategic and important decisions to be made at Cabinet meetings.

Decision-Making by Cabinet Members.

- 13.22 In taking such decisions personally Executive (Cabinet) Members must comply with:

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

- 13.22.1 Any legal or statutory restrictions;
- 13.22.2 Any specific provisions or limitations in this Constitution including:
- 13.22.2.1 powers delegated to officers;
 - 13.22.2.2 the Financial Procedure Rules;
 - 13.22.2.3 the Contracts Procedure Rules;
 - 13.22.2.4 the Policy and Budget Framework set by the Council (subject to the regulations relating to the taking of urgent decisions);
 - 13.22.2.5 the Access to Information Rules;
- 13.22.3 The Members' Code of Conduct. The advice of the Monitoring Officer should always be sought in cases of doubt;
- 13.22.4 The requirement to consult with the local member(s) if the issue being considered is of a local nature;
- 13.22.5 The requirement to consider whether referral to one or more scrutiny committees where the issue, in the view of the Leader and the Joint Chairs Steering Group, is one which warrants a pre-decision review by such a committee or committees;
- 13.22.6 Advice given by the Chief Executive, Monitoring Officer, Section 151 Officer, Strategic Director, Director or Head of Service ;
- 13.22.7 The requirement to consult with another Cabinet Member(s) where the issue involves two or more portfolio areas and / or those Cabinet Members share responsibility;
- 13.22.8 The requirement always to consider whether in all the circumstances the decision should be one for the Cabinet as a whole to take.
- 13.23 An individual member of the Cabinet in taking any decision within his/her portfolio shall:
- 13.23.1 ensure that wherever possible and appropriate the subject matter is included within the forward work programme approved by the Cabinet;
 - 13.23.2 comply fully with the Access to Information Rules with respect to the preparation of written reports, recording and implementing decisions.
- 13.24 Nothing in this Scheme of Delegation prevents the Cabinet from exercising functions which under this Scheme would otherwise be exercised by an individual Member of the Cabinet.

SECTION 13 – RESPONSIBILITY FOR FUNCTIONS

Decision Notices.

13.25 A Decision Notice cannot be made unless an individual Cabinet Member has received a report in accordance with Rules 14.34 and 14.35 and where ever practicable the Decision Notice should be published within 2 working days of the decision being taken. Decision Notices will be circulated to all Members of the County Council in accordance with the Council's current practice and will be published on the Council's Internet Site save where they contain confidential or exempt information.

Call-in

13.26 Decisions taken by an individual Cabinet Member are subject to the same provisions relating to call in as apply to ordinary Cabinet decisions as set out Section 7 (Scrutiny Committees).

Cabinet Committees.

13.27 The Leader has not established any Cabinet Committees.

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SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Scope

- 14.1 These Rules apply to all meetings of a Member Body.
- 14.2 The Monitoring Officer shall be the proper officer for the purposes of all statutory and regulatory provisions relating to the identification listing and availability of background papers for any report where such report is within the scope of these Rules.
- 14.3 The Monitoring Officer shall be responsible for securing compliance with the requirements of the Data Protection Act 1998 and of the Freedom of Information Act 2000 in relation to the data and information within the purview of those Acts appearing in agendas, reports and minutes to which these Rules apply.

Additional Rights to Information

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

Rights to Attend Meetings

- 14.5 Members of the public and the press may attend all meetings subject only to the exceptions set out in Rule 14.14. Save for meetings or parts of meetings which are held in confidential session pursuant to Section 14 filming, audio recording and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting, and provided that children and / or vulnerable adults are not participating in the debate by way of a presentation. The right to attend meetings is subject to the Council's right to exclude persons if their conduct is disorderly or if they misbehave at the meeting.

Notices of Meeting

- 14.6 Unless a meeting is convened at short notice in accordance with Rule 14.7, the Council will give at least 3 clear days' notice of any meeting by posting details of the meeting at County Hall Llandrindod Wells Powys LD1 5LG and on its website. Where a meeting is held other than in County Hall the Council will also give at least 3 clear days' notice of that meeting by posting details at the venue.
- 14.7 If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide three clear days notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the meeting, the Monitoring Officer may call a meeting at short notice, subject to the agenda and reports being available to the public on the same day that they are made available to Members.

Access to Agenda and Reports Before the Meeting

- 14.8 The Council will make copies of the agenda and reports open to the public available for inspection at County Hall and on its website at least 3 clear days before the meeting. If an item is added to the agenda later, or where reports are prepared after the summons has been sent out, the

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Monitoring Officer shall make each revised agenda or report available to the public as soon as the agenda or report is completed and sent to Members.

Supply of Copies

14.9 The Council will publish on the website:

- 14.9.1 any agenda;
- 14.9.2 any report connected with an agenda which are not exempt pursuant to Rules 14.15 to 14.24 below
- 14.9.3 if the Monitoring Officer thinks fit, copies of any other documents supplied to Members in connection with a decision
- 14.9.4 Where a member of the public is not able to access documents published on the website, those document will be available for inspection or copies provided upon payment of a charge for postage and any other printing and handling costs.

Access to Minutes etc after the Meeting

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

- 14.10.1 the minutes of the meeting or record of decisions taken by the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public because Exempt or Confidential Information was being considered;
- 14.10.2 a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 14.10.3 the agenda for the meeting; and
- 14.10.4 reports relating to items when the meeting was open to the public.

Background Papers

List of Background Papers

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

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

but does not include published works or those which disclose Exempt or Confidential Information as defined in Rule 14.16.

Retention of Background Papers

14.12 Any background papers published on the website will remain accessible electronically by members of the public for a period of six years.

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

14.13 Where it is not reasonably practicable to publish a background paper on the website, those papers shall be retained and be available for inspection by members of the public for a period of six years beginning with the date on which the decision, to which the background papers relate, was made.

Exclusion of Access by the Public to Meetings

Confidential Information – Requirement to Exclude Public

14.14 The public must be excluded from those parts of meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that Confidential Information would be disclosed.

Exempt Information – Discretion to Exclude Public

14.15.1 The public may be excluded from those parts of meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that Exempt Information would be disclosed.

14.15.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in article 6. Due regard will be had to the wishes of the individual should they elect that the hearing be held in private where the law so permits.

Meaning of Confidential Information

14.16 Confidential Information means information given to the Council by a Government Department (including Welsh Government) on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

Meaning of Exempt Information

14.17 Exempt Information means information falling within the following eight categories (subject to any condition):

NOTE: Information is not Exempt Information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.¹

Category No.	Category of Exempt Information	Condition
1.	Information relating to any individual. ²	Public interest test applies (see below).

¹ Paragraph 20 of Schedule 12A – Local Government Act 1972 (as amended)

² Paragraph 12 of Schedule 12A – Local Government Act 1972 (as amended)

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Category No.	Category of Exempt Information	Condition
2.	Information which is likely to reveal the identity of an individual. ³	Public interest test applies (see below).
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information). ⁴	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"> • The Companies Act 1985; • The Friendly Societies Act 1974; • The Friendly Societies Act 1992; • The Industrial and Provident Societies Acts 1965 to 1978; • The Building Societies Act 1986; or • The Charities Act 1993. Public interest test applies (see below).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. ⁵	Public interest test applies (see below).
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. ⁶	
6.	Information which reveals that the authority proposes: ⁷ <ul style="list-style-type: none"> • to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or 	Public interest test applies (see below).

³ Paragraph 13 of Schedule 12A – Local Government Act 1972 (as amended)

⁴ Paragraphs 14 and 19 of Schedule 12A – Local Government Act 1972 (as amended)

⁵ Paragraph 15 of Schedule 12A – Local Government Act 1972 (as amended)

⁶ Paragraph 16 of Schedule 12A – Local Government Act 1972 (as amended)

⁷ Paragraph 17 of Schedule 12A – Local Government Act 1972 (as amended)

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Category No.	Category of Exempt Information	Condition
	<ul style="list-style-type: none"> • to make an order or direction under any enactment. 	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. ⁸	Public interest test applies (see below).
8.	<p>In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000:</p> <ul style="list-style-type: none"> • Information which is subject to any obligations of confidentiality. • Information which relates in any way to matters concerning national security. • The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.⁹ 	Public interest test applies (see below).

Public Interest Test

14.18 Information which:

14.18.1 falls within any category numbers 1 to 4, 6,7 and 8 of the table in Rule 14.10.4 above; and

14.18.2 is not prevented from being exempt by virtue of the “qualifications” in the table in Rule 14.10.4 above,

⁸ Paragraph 18 of Schedule 12A – Local Government Act 1972 (as amended)

⁹ Local Government Act 1972 as amended by the Local Authorities (Executive Arrangements)(Decisions, Documents and Meetings) and the Standards Committees (Wales) (Amendment) Regulations 2007

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

is Exempt Information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Assessment of Public Interest.

- 14.19 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.
- 14.20 There is a distinction between public interest and what merely interests the public.
- 14.21 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:
- 14.21.1 further the understanding of and participation in debating issues of the day;
 - 14.21.2 facilitate transparency and accountability in and enhance scrutiny of decisions taken by the Council;
 - 14.21.3 facilitate transparency and accountability in the spending of public money;
 - 14.21.4 help individuals understand the decisions made by the Council affecting their lives;
 - 14.21.5 bring to light information affecting public safety or danger to the environment;
 - 14.21.6 contribute to the administration of justice and enforcement of the law, or the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - 14.21.7 protect the public from unsafe products or rogue traders or practices.
- 14.22 In making such an assessment the following factors shall be regarded as irrelevant:
- 14.22.1 possible embarrassment to the Council or its officers;
 - 14.22.2 possible loss of confidence in the Council or another public body;
 - 14.22.3 the seniority of persons involved in the subject matter;
 - 14.22.4 the risk of the public misinterpreting the information.
- 14.23 Account may be taken of whether disclosure would breach any obligation of confidence, or the rights of any individual under the Data Protection Act 1998 or the Human Rights Act 1998.

Exclusion of Access by the Public to Reports

- 14.24 If the Head of Legal Services and Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 14.14, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and, if applicable, why it is considered in the public interest

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

it is that the information should not be disclosed. After the meeting access to the report is subject to Rule 14.10.

The Forward Work Programmes

Period of Forward Work Programmes

14.25 The Forward Work Programmes will be prepared by the Head of Legal Services and Monitoring Officer to cover a period of 4 months.

Contents of Forward Work Programmes

14.26 The Forward Work Programmes will contain matters which the Cabinet, Scrutiny Committees and Full Council are likely to consider. It will contain information on:

- 14.26.1 the timetable for considering the budget and any plans forming part of the Policy Framework and requiring Council approval, and which body is to consider them;
- 14.26.2 the timetable for considering any plans which are the responsibility of the Cabinet;
- 14.26.3 any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- 14.26.4 the work programmes of the Scrutiny Committees .

14.27 The Forward Work Programmes will be published on the website at least 14 days before the start of the period covered.

Consultation on Proposals to be Considered by the Cabinet

14.28 Each item in the Cabinet's Forward Work Programme will contain details as to the consultation (if any) which will be undertaken prior to a decision being taken.

Record of Decisions

The Decision Record

14.29 A written record will be made of every decision made by the Full Council, Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.

14.30 This decision record will include a statement, for each decision, of:

- 14.30.1 the decision made;
- 14.30.2 the date the decision was made;
- 14.30.3 the reasons for that decision;
- 14.30.4 any personal interest declared;
- 14.30.5 any dispensation to speak granted by the Standards Committee;
- 14.30.6 any consultation undertaken prior to the decision.
- 14.30.7 a record of the name or names of the members of the decision making body who attended the meeting and of any apologies for absence

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Preparing the Decision Record

- 14.31 The Head of Legal Services and Monitoring Officer or his or her representative shall attend any meeting of the Full Council, Cabinet, a committee of the Cabinet or a Joint Committee or joint sub-committee where all its Members are Members of a local authority executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.
- 14.32 Where an individual Cabinet Member has made a Cabinet decision:
- 14.32.1 that Member shall as soon as reasonably practicable instruct the Head of Legal Services and Monitoring Officer to produce a decision record; and
- 14.32.2 subject to Rule 14.33 below, the decision shall not be implemented until the provisions of Rule 7.37.2 (Call-In) have been complied with (the expiry of 5 clear days after the date of publication of the decision notice) and that decision record has been produced.
- 14.33 Where the urgency of the implementation of the decision makes compliance with Rule 14.32.2 impracticable, the decision may be implemented provided that the provisions of Rule 7.38 have been complied with (exclusion of Call-In for urgency).

Decisions by An Individual Member of the Cabinet

Reports Must Be Taken Into Account

- 14.34 Where an individual Member of the Cabinet intends to make any decision, then s/he will not make the decision until taking into account the contents of an officer report.
- 14.35.1 Where an individual member of the Cabinet receives a report which s/he intends to take into account in making any decision, then s/he will not make the decision until at least 3 clear days after publication of that report.
- 14.35.2 Where a report contains confidential or Exempt Information as set out in these Rules, the report must be published to Councillors (but not to the public) at least 3 clear days before the decision can be made.
- 14.35.3 An individual member of the Cabinet can take an urgent decision as set out in Rule 7.38.

Record of Individual Decision by Cabinet Members

- 14.36 Rules 14.29 to 14.33 will apply. Wherever practicable the Head of Legal Services and Monitoring Officer shall publish a decision of an individual Member of the Cabinet within two days of it being made.

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

Members Access to Documents

Rights of Access

14.37 Subject to Rules 14.38 to 14.39 below, Members will be entitled to access to any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- 14.37.1 any business transacted at a meeting of the Cabinet or its Committees; or
- 14.37.2 any decision taken by an individual Member of the Cabinet.

Limit on Rights

14.38 Members will not be entitled to any part of a document that contains advice provided by a political advisor or assistant unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of the Scrutiny Committee.

14.39 No Member shall be entitled to a document if to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person's rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Council or Government policy, Rule or procedure.

Nature of Rights

14.40 The rights of Members under Rule 14.37 are additional to any other right s/he may have, including:

14.40.1 the common law right to inspect documents where this is necessary for a Member to perform his or her duties. Any Member asserting a 'need to know' in relation to documents not otherwise available under these Rules should request the documents from the appropriate Head of Service only and not individual officers, and should take into account the reasonableness of an individual request and of cumulative requests and the impact upon officer time.

14.40.2 the statutory rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2005.

14.40.3 Members' right, under Section 228 of the Local Government Act 1972, to inspect the accounts of the Council and of any proper officer of the Council.

14.41 In exercising rights of access to information Members shall have regard to any guidance issued by the Head of Legal Services and Monitoring Officer .

Information Given in Confidence

Disclosure

SECTION 14 – ACCESS TO INFORMATION PROCEDURE RULES

- 14.42 Exempt or Confidential Information supplied to a Member in accordance with Rule 14.37 remains exempt or confidential.
- 14.43 Under Part 2, paragraph 5 of the Members' Code of Conduct Members must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so.
- 14.44 Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Member or officer entitled to know it unless otherwise authorised by law.

SECTION 15 – BUDGET PROCEDURE RULES

The Framework for Executive Decisions on Implementing the Budget.

- 15.1 Full Council will be responsible for the adoption of its Budget and Policy Framework as set out in Section 4. Once a Budget is in place, it will be the responsibility of the Cabinet to implement it.

Process for Developing the Budget Framework

- 15.2.1 The Cabinet, following detailed reports from respective Chief Officers, (following appropriate consultation with stakeholders) will present to Council, proposed plans, policies and the associated annual budgets. Detailed reports may take the form of sections within the overall budget proposal. This will be done in accordance with the indicative timetable set out in Rule 15.3 below There will be a separate Council meeting to set Council Tax.
- 15.2.2 Alternative budgets may be presented to the Council for consideration in accordance with the indicative timetable set out in Rule 15.3 below. Any alternative budget must be submitted to the Section 151 Officer in accordance with the indicative timetable set out in Rule 15.3 below and must comply with relevant legislation.
- 15.2.4 The Council's decision will be publicised and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- 15.2.5 If the Leader objects to the decision of the Council, s/he shall give written notice to the Chief Executive to that effect, prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- 15.2.6 The Council meeting must take place within 5 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

Process for Developing the Budget (including Alternative Budgets)

- 15.3 The Section 151 Officer will by 31st July each year publish a timetable for the publication of the draft budget, alternative budgets and the scrutiny of both.

Virement

- 15.4 Steps taken by the Cabinet, a committee of the Cabinet, individual Members of the Cabinet or officers or joint arrangements discharging Executive Functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or

SECTION 15 – BUDGET PROCEDURE RULES

desirable, it shall be carried out in accordance with the Financial Procedure Rules in Section 16 of this Constitution.

Decisions Outside the Budget or Policy Framework

- 15.5.1 Subject to the provisions of Rule 15.6 (Virement) the Cabinet, committees of the Cabinet, individual Members of the Cabinet or any Officers or joint arrangements discharging Executive Functions may only take decisions which are in line with the Budget and Policy Framework as set out in Section 4. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to Rule 15.6 below.
- 15.5.2 If the Cabinet, committees of the Cabinet, individual Members of the Cabinet or any Officers or joint arrangements discharging Executive Functions want to make a decision outside of Budget and / or the Policy Framework, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget.
- 15.5.3 If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 15.6 (urgent decisions outside the Budget and Policy Framework) shall apply.

Urgent Decisions Outside the Budget or Policy Framework

- 15.6.1 The Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or officers or joint arrangements discharging Executive Functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
- 15.6.1.1 if it is not practical to convene a quorate meeting of the Full Council; and
- 15.6.1.2 if the Chair(s) of the relevant Scrutiny Committee(s) agree that the decision is a matter of urgency.
- 15.6.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair(s) of the relevant Scrutiny Committee(s) consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair(s) of the relevant Scrutiny Committee(s), the consent of the Chair of the Council or the Vice Chair will be sufficient.
- 15.6.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

SECTION 15 – BUDGET PROCEDURE RULES

In-Year Changes to Budget and / or Policy Framework

- 15.7 The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or officers or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy or strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:
- 15.7.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
 - 15.7.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
 - 15.7.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
 - 15.7.4 which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change; or
 - 15.7.5 for which provision is made within the relevant budget or policy.

Call-In of Decisions Outside the Budget or Policy Framework

- 15.8 Where a Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, it may utilise the Call-In Procedure set out in Rules 7.36 and 7.37

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SECTION 16 – FINANCIAL PROCEDURE RULES

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Introduction

- 16.1 This document contains 2 Parts:
 - 16.1.1 Financial Regulations which provide the framework for managing the authority's financial affairs.
 - 16.1.2 Financial Procedures which provide more detailed guidance on various aspects of process.
- 16.2 Further advice on this section can be obtained from the Section 151 Officer (Section 151 Officer).
- 16.3 Authority is delegated to the Deputy Head of Finance to act as Deputy Section 151 Officer on behalf of the Section 151 Officer in all respects in the absence of the Section 151 Officer or if requested by the Section 151 Officer to do so.
- 16.4 Section 151 of the Local Government Act 1972 requires that:

'Every local authority shall make arrangements for the proper administration of their financial affairs.'

The Financial Procedure Rules give effect to this requirement and control the way the Council manages its finances and safeguards its assets.
- 16.5 Good, sound financial management is a key part of the Council's corporate governance framework. Good financial management secures value for money, controls spending, ensures probity of transactions and demonstrates to the wider public that there is effective use of public money.
- 16.6 Financial Regulations provide the overall framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 16.7 Financial Procedures should not be seen in isolation as they are part of the overall framework of the Council.
- 16.8 Financial Procedures must also strike a balance between oversight of financial resources and allowing the day to day running of the Council in a business-like fashion.

SECTION 16 – FINANCIAL PROCEDURE RULES

Financial Regulations (“The Regulations”)

Status of Financial Regulations

- 16.9 The Regulations identify the financial responsibilities of the Full Council, Cabinet and scrutiny members, the Chief Executive, the Chief Legal Officer (the Monitoring Officer), the Section 151 Officer (the Section 151 Officer) and Directors / Heads of Service.
- 16.10 Heads of Service should maintain a written record where decision making has been delegated to members of staff, including seconded staff.
- 16.11 Where decisions have been delegated or devolved to other responsible officers or individuals, such as school governors, references to the Heads of Service in the Regulations should be read as referring to them.
- 16.12 All members and staff have a general responsibility for taking appropriate action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, in accordance with Council policies, is properly authorised, provides value for money and achieves best value.
- 16.13 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Regulations. The Section 151 Officer will submit any additions or changes necessary to the Full Council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet members. The breach of Financial Regulations is grounds for disciplinary action in its own right.
- 16.14 Heads of Service are responsible for ensuring that all relevant staff in their Service areas are aware of the existence and content of the authority’s Financial Regulations and other internal regulatory documents and that they comply with them. They must also ensure that all staff know where they can view an up to date copy of Financial Regulations.
- 16.15 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Members, officers and others acting on behalf of the authority are required to follow. The Section 151 Officer may delegate this requirement to the Deputy Section 151 Officer if required.
- 16.16 These Financial Regulations apply to schools except where Regulations issued by the Welsh Assembly Government take precedence and apply to the Powys Pension Fund except where separate legislation exists, e.g. Local Government Investment Regulations.
- 16.17 Nothing in these Financial Regulations shall prevent expenditure required to meet immediate needs caused by a sudden emergency to which Section 138 of the Local Government Act 1972 applies, provided that such expenditure shall be reported as soon as possible to the Cabinet and, if appropriate, to the Council.

SECTION 16 – FINANCIAL PROCEDURE RULES

A: Financial Management

Introduction

16.18 Financial management covers all financial responsibilities in relation to the running of the authority, including the policy framework and budget. The responsibilities of the Council, its Committees, the Cabinet and specified officers are set out in Sections 11 and 13.

Governance and Audit Committee

16.19 The Council has established a Governance and Audit Committee. The Governance and Audit Committee will have the function set out in Section 13. It may also take on other Council functions as required by Welsh Government.

Strategic Directors / Directors / Heads of Service

16.20 Directors / Heads of Service are responsible for:

16.20.1 ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer

16.20.2 signing contracts on behalf of the authority in accordance with Section 17 – Contract Procedure Rules.

16.20.3 ensuring that delegated decisions are within policy and budget.

16.21 It is the responsibility of Strategic Directors / Directors / Heads of Service to consult with the Section 151 Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

Other financial accountabilities

Treatment of year-end balances

16.22 All year-end balances are viewed as corporate rather than departmental. However, if appropriate, and on the advice of the Section 151 Officer, the Cabinet may agree the carry forward of departmental underspends of up to, and including, £500,000 and Full Council may agree to carry forward departmental underspends of £500,001 and above provided always that there is an overall underspend on the Council's reserve budget.

16.23 All requests to carry forward underspends in accordance with Rule 16.21 will need to be supported by a business case set out in a framework established by the Section 151 Officer in consultation with the Chief Executive and Directors. The decision to carry forward any underspend will take account of the need to support the Council's reserves compared with the service requirements to access any carry forward. In reaching any decision the Cabinet or Council will be supported by advice from the Section 151 Officer. Any decision to carry forward will be part of the report outlining the Council's annual financial performance as part of the closedown of accounts.

Maintenance of reserves

16.24 It is the responsibility of the Section 151 Officer to advise the Cabinet and the Full Council on prudent levels of reserves for the authority. If the Cabinet and Full Council do not follow the advice of the Section 151 Officer the reasons must be clearly indicated and recorded.

SECTION 16 – FINANCIAL PROCEDURE RULES

Accounting policies

16.25 The Section 151 Officer is responsible for determining accounting policies and ensuring that they are applied consistently.

Accounting records and returns

16.26 The Section 151 Officer is responsible for determining the accounting procedures and records for the authority.

The Annual Statement of Accounts

16.27 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) (Chartered Institute of Public Finance and Accountancy / Local Authority (Scotland) Accounts Advisory Committee). The Council is responsible for approving the annual statement of accounts. It may do this by delegating this function to the Governance and Audit Committee.

16.28 The Section 151 Officer shall operate within the statutory timetable that includes any certification requirements prior to approval of the annual statement of accounts.

B: Financial Planning

Introduction

16.29 The Full Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Cabinet and, where appropriate, the relevant Scrutiny Committees. In terms of financial planning, the key elements are:

16.29.1 The Council's overall strategic vision and the funding needed to deliver it

16.29.2 the short and medium term revenue budget

16.29.3 the capital and treasury management strategy

16.29.4 the Medium Term Financial Strategy.

Policy framework

16.30 Full Council is responsible for approving the policy framework and budget.

16.31 Full Council is also responsible for approving procedures based on the advice of the Section 151 Officer for agreeing variations to approved budgets (in accordance with the Scheme of Virement set out in Rules 16.87 to 16.99), plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.

16.32 The Cabinet is responsible for taking in-year decisions on resources and priorities to deliver the budget policy framework within the financial limits set by the Council.

Preparation of the Corporate Improvement Plan

16.33 The Chief Executive is responsible for proposing the Council's overarching strategic plan to the Cabinet for consideration before its submission to the Full Council for approval.

SECTION 16 – FINANCIAL PROCEDURE RULES

Budgeting

Budget format

16.34 The format of the budget is a matter delegated to the Section 151 Officer who will use guidance and best practice to ensure sufficient detail is included. The budget will include allocations to services and projects, proposed Council Tax levels and contingency funds. It will also detail any adjustments being made to meet the statutory requirement to set a balanced budget.

Budget preparation

16.35 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a medium term financial strategy for both revenue and capital on (at least) a rolling three-yearly basis for consideration by the Cabinet, before submission to Full Council. Full Council may amend the budget or ask the Cabinet to reconsider the budget before approving it. When considering the budget Full Council must consider the advice of the Section 151 Officer.

16.36 It is the responsibility of Directors / Heads of Service to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

Budget monitoring and control

16.37 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor overall expenditure against budget allocations and independently report to the Cabinet on the overall position on a regular basis.

16.38 It is the responsibility of Heads of Service to control income and expenditure within their service and to monitor performance against approved budget and relevant business plans taking account of financial information provided by the Section 151 Officer. They should report to the Cabinet on significant variances within their own service. They must engage with the Section 151 Officer and finance officers before reporting to the Cabinet. They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any problems and indicate to the Section 151 Officer any corrective action to stay within the overall budget e.g. in meeting targets for income or expenditure over-runs.

Resource allocation

16.39 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Full Council's policy framework.

Preparation of the capital programme

16.40 The Section 151 Officer is responsible for ensuring that (as a minimum) a 3 year rolling capital strategy is prepared on an annual basis for consideration by the Cabinet before submission to the Full Council. The strategy must also include the funding to deliver the projects put forward for consideration. The impact on the Council's revenue position must be included.

SECTION 16 – FINANCIAL PROCEDURE RULES

Guidelines

- 16.41 Guidelines on budget preparation are issued by the Cabinet following agreement with the Section 151 Officer. The guidelines will take account of:
- 16.41.1 legal requirements
 - 16.41.2 medium-term planning prospects
 - 16.41.3 the Powys strategic vision
 - 16.41.4 available resources
 - 16.41.5 spending pressures and cost reduction plans
 - 16.41.6 value for money and other relevant government guidelines
 - 16.41.7 other internal policy documents
 - 16.41.8 cross-cutting issues (where relevant).

C: Risk Management and Control of Resources

Introduction

- 16.42 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

Risk Management

- 16.43 The Cabinet is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- 16.44 The Section 151 Officer is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority and for advising the Cabinet on proper insurance cover where appropriate. The Section 151 Officer will have access to sufficient resources to carry out this function.

Internal Control

- 16.45 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- 16.46 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. He or she should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 16.47 It is the responsibility of Directors / Heads of Service to establish sound arrangements for business planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets. Internal Audit will evaluate and report on how effectively these arrangements are operating.

SECTION 16 – FINANCIAL PROCEDURE RULES

Audit Requirements

- 16.48 The Section 151 Officer is responsible for providing an adequate and effective Internal Audit function. The Section 151 Officer will have access to sufficient resources to provide the function.
- 16.49 The Accounts and Audit (Wales) Regulations 2014 require every local authority to maintain an adequate and effective internal audit in accordance with audit practice which are defined in CIPFA's "Code of Practice for Internal Audit in Local Government in the UK".
- 16.50 Audit Wales are responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by the Public Audit (Wales) Act 2004.
- 16.51 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, Welsh Government and the European Union who have statutory rights of access.

Preventing Fraud and Corruption

- 16.52 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud, money laundering and anti-corruption policy and the publicity of this policy. The Section 151 Officer will have access to sufficient resources to carry out this function.

Assets

- 16.53 Directors / Heads of Service should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Treasury Management

- 16.54 The authority has adopted CIPFA's Code of Practice for Treasury Management in the Public Services.
- 16.55 The Cabinet is responsible for approving the treasury management policy statement setting out the matters detailed in CIPFA's Code of Practice for Treasury Management in the Public Services. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.
- 16.56 All money in the hands of the authority is controlled by the Section 151 Officer. This will include grant funding and any bids for such resources must have the agreement of the Section 151 Officer who will require information on any on-going financial commitment that will have to be met by the revenue budget.
- 16.57 The Section 151 Officer is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- 16.58 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services and the Welsh Government Guidance on Local Government Investments 2010 The Section 151 Officer will have access to sufficient resources to carry out this function.

SECTION 16 – FINANCIAL PROCEDURE RULES

16.59 The Section 151 Officer is responsible for reporting to Cabinet an annual report on the activities of the treasury management operation and the exercise of their delegated treasury management powers

D: Systems and Procedures

Introduction

16.60 Sound systems and procedures are essential to an effective framework of accountability and control.

General

16.61 The Section 151 Officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors / Heads of Service which impact on the existing financial systems or the establishment of new systems must be approved by the Section 151 Officer. However, Directors / Heads of Service are responsible for the proper operation of financial processes in their own departments.

16.62 Any changes to agreed procedures by Directors / Heads of Service to meet their own specific service needs must be agreed with the Section 151 Officer.

16.63 Directors / Heads of Service should ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer.

16.64 Directors / Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation and the Council's own data protection policies. Heads of Service must ensure that staff are aware of their responsibilities under freedom of information and data protection legislation and seek the advice of the Information Management Unit when in doubt.

Income and expenditure

16.65 It is the responsibility of Directors / Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Directors / Heads of Service's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control (See Rule 16.381). These procedures are contained within Rules 16.377 to 16.397.

Payments to employees and members

16.66 The Head of Workforce and Organisational Development is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

Taxation

16.67 The Section 151 Officer is responsible for advising Directors / Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

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16.68 The Section 151 Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

Trading accounts/business units

16.69 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units and to approve the accounting arrangements.

16.70 It is the responsibility of Directors / Heads of Service to monitor the performance, financial and otherwise, of trading units and to take remedial action to ensure that financial objectives are met.

E: External Arrangements

Introduction

16.71 The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

Partnerships

16.72 The Cabinet is responsible for approving delegations in respect of Cabinet functions, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

16.73 The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation in Rule 5.9. Where functions are delegated, the Cabinet remains accountable for them to the Full Council.

16.74 The Section 151 Officer will promote and seek to maintain the same high standards of conduct about financial administration in partnerships that apply throughout the authority.

16.75 The Section 151 Officer, in conjunction with the Monitoring Officer, must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

16.76 Directors / Heads of Service are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. The Section 151 Officer shall maintain a list of all officers able to commit the Council to work for external bodies.

External funding

16.77 The Section 151 Officer, in conjunction with Directors / Heads of Service, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

SECTION 16 – FINANCIAL PROCEDURE RULES

Financial Procedures

A: Financial Management

Financial Management Standards

16.78 All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues and the use of the public's money. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

Key controls

16.79 The key controls and control objectives for financial management standards are:

16.79.1 their promotion throughout the authority

16.79.2 a monitoring system to review compliance with financial standards.

Responsibilities of the Section 151 Officer

16.80 To ensure the proper administration of the financial affairs of the authority.

16.81 To set the financial management standards and to monitor compliance with them.

16.82 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.

16.83 To advise on the key strategic controls necessary to secure sound financial management.

16.84 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators. The Section 151 Officer will be provided with sufficient resources to carry out this activity.

Responsibilities of Directors / Heads of Service

16.85 To promote the financial management standards set by the Section 151 Officer in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.

16.86 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

SECTION 16 – FINANCIAL PROCEDURE RULES

Managing expenditure

Scheme of virement

Why is this important?

- 16.87 The scheme of virement (that is, switching resources between approved estimates or heads of expenditure) is intended to enable the Cabinet, Directors / Heads of Service and their staff to manage budgets with flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources. Any income or expenditure at variance from the approved budget and without virement authorisation shall be regarded as over or under spending for which the Head of Service of the service is responsible.
- 16.88 Where expenditure or income not in the approved budget is introduced it will be covered by the virement rules except when the Authority receives an allocation of funding from another public body or other external source for a specified purpose, cabinet will be informed, and that sum shall be incorporated into the revenue budget or capital programme as appropriate.
- 16.89 The scheme of virement applies to the revenue budget and the capital programme.
- 16.90 For the avoidance of doubt, the re-profiling of capital budgets between financial years (provided always that the overall project budget remains the same) is not a Virement to which Rules 16.91 to 16.99 below apply. Such re-profiling of budgets will be subject of approval of the Section 151 Officer and will be reported to Cabinet within the budget monitoring reports.

Key controls

- 16.9 Key controls for the scheme of virement are:
- 16.91.1 it is administered by the Section 151 Officer within guidelines set by Full Council. Any variation from this scheme requires the approval of the Full Council
- 16.91.2 the overall budget is proposed by the Cabinet and approved by Full Council. Directors / Heads of Service and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement. For the purposes of this scheme, a budget heading is a line in the approved Budget Book.
- 16.91.3 Where a virement funds capital expenditure from revenue or reserves then the capital virement form constitutes authorisation for the corresponding entries in the revenue budget
- 16.91.4 the overall budget must stay in balance and virement does not create additional overall budget liability. Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Heads

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of Service must plan to fund such commitments from within their own budgets.

Virement Responsibilities of the Section 151 Officer

16.92 To prepare jointly with the Head of Service a report to the Cabinet and/or Council where virements are required in accordance with Rule 16.93 below.

Virement Responsibilities of / Directors / Heads of Service.

16.93 A Head of Service may exercise virement on budgets under their control for amounts in aggregate:

Value	Notification and Approval
Up to and including £25,000	A Head of Service may approve virements on budget headings under their control for amounts in aggregate up to £25,000 during the year, following notification to the Section 151 Officer
£25,001 - £100,000	Notification to the Section 151 Officer and approval from the appropriate Cabinet Member/ Portfolio Holder
£100,001 - £500,000	Require the approval of the Cabinet, set out in an appropriate report which contains the approval of the Section 151 Officer. The report must also specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year
Greater than £500,000	Require the approval of the Full Council, set out in an appropriate report which contains the approval of the Section 151 Officer. The report must also specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year

16.94 Where it is proposed to vire between budgets of different service areas, the following virement limits shall apply

Value	Notification and Approval
Up to and including £100,000	Notification to the Section 151 Officer and approval from the appropriate Heads of Service
£100,001 - £500,000	Require the approval of the Cabinet, set out in an appropriate report which contains the approval of the relevant Heads of Service. The report must also specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year
Greater than £500,000	Require approval of the Full Council set out in an appropriate report which contains the approval of the relevant Heads of Service. The report must also specify the proposed expenditure and the source of

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	funding, and must explain the implications in the current and future financial year
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- 16.95 Virements that are likely to impact on the level of service activity of another Head of Service should be implemented only after agreement with the relevant Head of Service and Portfolio Holder(s).
- 16.96 No virement relating to a specific financial year should be made after the production of the year end outturn report (likely to contain the virement request) or 31 March in that year, whichever is the latter.
- 16.97 A school's governing body may authorise transferring budget provision above £10,000 or 1.5% of the delegated school budget, whichever is greater, between budget headings within the delegated school budget following notification to the relevant Head of Education and the Head of Finance.
- 16.98 Where an approved budget is a lump-sum budget (for example major improvements in schools) or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- 16.98.1 the amount is used in accordance with the purposes for which it has been established
- 16.98.2 the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations more than the financial limits should be reported to the Cabinet.
- 16.99 The Cabinet shall be notified where the Authority receives an allocation of funding from another public body or other external source for a specified purpose, and that sum shall be incorporated into the revenue budget or capital programme as appropriate. For Capital projects, an amount of Council funding equal to the grant funding will be removed from the scheme, unless specified in the grant terms.

Treatment of year-end balances

Why is this important?

- 16.100 Rules 16.101 to 16.103 below cover arrangements for the transfer of resources between accounting years, i.e. a carry-forward. For the purposes of this scheme, a budget heading is a line in the Budget Book.

Key controls

- 16.101 Net underspends on service budgets may only be carried forward with the approval of the Section 151 Officer, and subject to the following conditions:
- 16.101.1 the amount carried forward cannot exceed 5% of the annual service net expenditure; and
- 16.101.2 the carrying forward of underspends will only be considered if the overall position of the Council at year end is an underspend, and in determining whether this is the case the Section 151 Officer will consider the Council's overall financial balances including the General Reserve.
- 16.101.3 Specific exceptions to Rules 16.101.1 and 16.101.2 above, may be agreed by the Cabinet from time to time e.g. the Winter Maintenance Reserve.

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- 16.102 Internal trading unit surpluses may be retained by the Service area in which the trading unit resides provided that the overall position of the Council at year end is an underspend, and in determining whether this is the case the Section 151 Officer will consider the Council's overall financial balances including the General Reserve.
- 16.103 Delegated schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet, following evaluation by the Chief Education Officer and the Section 151 Officer. Schools will normally be expected to agree a plan to recover the deficit within a defined period. The Scheme for the Financing of Schools is the framework covering school funding. Within this overall approach it is appropriate that unless a surplus above the policy guideline has a clear and demonstrable link to the School Improvement Plan, clawback arrangement of surplus amounts (as covered by School Funding (Wales) Regulations 2010) should be triggered.

Responsibilities of the Section 151 Officer

- 16.104 To administer the scheme of carry-forward in accordance with Rules 16.101.1 to 16.103 above.
- 16.105 To report any carried forward position to the Cabinet.

Responsibilities of Directors / Heads of Service

- 16.106 The underlying position is that overspending is not permitted. However, where an overspend is approved and of a recurrent nature, it is the Head of Services responsibility to include this pressure in their budget setting plans to ensure it is considered as part of the overall budget setting process.

Maintenance of reserves

Why is this important?

- 16.107 Corporate Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Key controls

- 16.108 To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) and agreed accounting policies.
- 16.109 For each reserve and provision established, the purpose, usage and basis of transactions should be clearly identified. All reserves will be corporate.
- 16.110 Authorisation of expenditure from reserves is led by the Section 151 Officer in consultation with Directors.

Responsibilities of the Section 151 Officer

- 16.111 To advise the Cabinet and/or the Full Council on prudent levels of reserves and provisions for the authority, so they can make the appropriate decision on use of the reserves

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Directors / Heads of Service

16.112 To ensure that resources are used only for the purposes for which they were intended.

Accounting policies

Why is this important?

16.113 The Section 151 Officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC), for each financial year ending 31 March.

Key controls

16.114 The key controls for accounting policies are:

- 16.114.1 systems of internal control are in place that ensure that financial transactions are lawful
- 16.114.2 suitable accounting policies are selected and applied consistently
- 16.114.3 proper accounting records are maintained
- 16.114.4 financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

Responsibilities of the Section 151 Officer

16.115 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts.

16.116 To provide financial information to individuals and external organisations upon request, subject to any statutory constraints and to comply with statutory requirements to publicise the availability of the statement of accounts and the rights of inspection.

Responsibilities of Directors / Heads of Service

16.117 To adhere to the accounting policies and guidelines approved by the Section 151 Officer and to consult with the Section 151 Officer before divulging financial information to third parties.

Accounting Records and Returns

Why is this important?

16.118 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

Key controls

16.119 The key controls for accounting records and returns are:

- 16.119.1 all Cabinet members and officers operate within the required accounting standards and timetables

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- 16.119.2 all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- 16.119.3 procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- 16.119.4 reconciliation procedures are carried out to ensure transactions are correctly recorded
- 16.119.5 prime documents are retained in accordance with legislative and other requirements
- 16.119.6 procedures are documented.

Responsibilities of the Section 151 Officer

- 16.120 To determine the accounting procedures, systems and records for the authority and to ensure that staff are aware of them.
- 16.121 To arrange for the compilation of all accounts and accounting records under their direction on a timely basis.
- 16.122 To comply with the following principles when allocating accounting duties:
 - 16.122.1 separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
 - 16.122.2 employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 16.123 To make proper arrangements for the audit of the authority's accounts in accordance with the relevant Accounts and Audit Regulations
- 16.124 To ensure that all claims for funds including grants are made by the due date in a timely manner.
- 16.125 The Section 151 Officer must sign and date the statement of accounts and certify that it presents a true and fair view of the year to which it relates and of the income and expenditure and have the accounts approved by the Governance and Audit Committee within the statutory deadlines.
- 16.126 The prepared and audited accounts must be published each financial year, in accordance with the statutory timetable and relevant legislation for that year.
- 16.127 To administer the authority's arrangements for under- and overspendings to be carried forward to the following financial year.
- 16.128 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule (see Rule 16.413).

Responsibilities of Heads of Service

- 16.129 To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.
- 16.130 To comply with the principles outlined in Rule 16.119 when allocating accounting duties.
- 16.131 To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.

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- 16.132 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Section 151 Officer.
- 16.133 To ensure that all claims for funds including grants are made by the due date.

The Annual Statement of Accounts

Why is this important?

- 16.134 The authority has a statutory responsibility to prepare its own accounts to fairly present its operations during the year. The Governance and Audit Committee is responsible for approving the statutory annual statement of accounts in accordance with Section 13.

Key controls

- 16.135 The key controls for the annual statement of accounts are:
- 16.135.1 the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Section 151 Officer.
 - 16.135.2 the authority's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).

Responsibilities of the Section 151 Officer

- 16.136 To select suitable accounting policies and to apply them consistently.
- 16.137 To make judgements and estimates that are reasonable and prudent.
- 16.138 To comply with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).
- 16.139 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.
- 16.140 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

Responsibilities of Strategic Directors / Directors / Heads of Service

- 16.141 To comply with accounting guidance provided by the Section 151 Officer and to supply the Section 151 Officer with information when required and in the form required.

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B: Financial Planning

Performance Plans

Why is this important?

16.142 Each local authority has a statutory responsibility to publish various performance plans, including Improvement Plans. The purpose of performance plans are to explain overall priorities and objectives, current performance, and proposals for further improvement. The authority is required to publish annually the Corporate Improvement Plan, which summarises its performance and position in relation to continuous service improvement. It is a key element in the authority's programme of engaging with the public. External audit is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of the Corporate Improvement Plan.

Key controls

16.143 The key controls for performance plans are:

16.143.1 to ensure that all relevant plans are produced and that they are consistent

16.143.2 to produce plans in accordance with statutory requirements

16.143.3 to meet the timetables set

16.143.4 to ensure that all performance information is accurate, complete and up to date

16.143.5 to provide improvement targets which are meaningful, realistic and challenging

16.143.6 to ensure all plans are consistent with the Performance Management Framework.

Responsibilities of the Section 151 Officer

16.144 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

16.145 To contribute to the development of corporate and service targets and objectives and financial performance information.

16.146 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.

Responsibilities of the Directors

16.147 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

16.148 To provide an external challenge to service plans.

16.149 To review performance management systems to ensure they are sufficiently robust.

Responsibilities of Heads of Service

16.150 To contribute to the development of performance plans in line with statutory requirements.

16.151 To contribute to the development of corporate and service targets and objectives and performance information.

16.152 To comply with the Performance Management Framework.

16.153 To ensure that robust systems exist to gather performance indicators.

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Budgeting

Format of the budget

Why is this important?

16.154 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

Key controls

16.155 The key controls for the budget format are:

16.155.1 the format complies with all legal requirements

16.155.2 the format reflects the accountabilities of service delivery.

16.155.3 the format complies, as far as possible, with CIPFA's Service Reporting Code of Practice for Local Authorities.

Responsibilities of / Directors / Heads of Service

16.156 To comply with accounting guidance provided by the Section 151 Officer.

Revenue budget preparation, monitoring and control

Why is this important?

16.157 Budget management ensures that once the budget has been approved by the Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary management is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

16.158 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

16.159 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the / Directors / Heads of Service's scheme of delegation.

Key controls

16.160 The key controls for managing and controlling the revenue budget are:

16.160.1 budget managers should be accountable only for income and expenditure for which they have responsibility.

16.160.2 there is a nominated budget manager for each cost centre heading

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- 16.160.3 budget managers are accountable for their budgets and the level of service to be delivered and understand their financial responsibilities
- 16.160.4 budget managers follow an approved certification process for all expenditure
- 16.160.5 income and expenditure are properly recorded and accounted for
- 16.160.6 performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

Responsibilities of the Section 151 Officer

- 16.161 To establish an appropriate framework of budgetary management and control that ensures that:
 - 16.161.1 budget management is exercised within annual cash limits unless the Full Council agrees otherwise
 - 16.161.2 each / Directors / Heads of Service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
 - 16.161.3 expenditure is committed only against an approved budget head
 - 16.161.4 all officers responsible for committing expenditure comply with relevant guidance, and the Financial Regulations
 - 16.161.5 each cost centre has a single named manager, determined by the relevant Heads of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
 - 16.161.6 significant variances from approved budgets are investigated and reported by budget managers regularly to their line managers or the Cabinet, as appropriate.
- 16.162 To administer the authority's scheme of virement.
- 16.163 To submit reports to the Cabinet and to the Full Council, in consultation with the relevant Directors Heads of Service are unable to balance expenditure and resources within existing approved budgets under their control.
- 16.164 To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Heads of Service

- 16.165 To maintain budgetary control within their departments, in adherence to the principles in Rule 16.61, and to ensure that all income and expenditure are properly accounted for, regardless of the budget provision.
- 16.166 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Heads of Service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 16.167 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the

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- budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 16.168 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 16.169 To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer.
- 16.170 To ensure prior approval by the Full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
- 16.170.1 create financial commitments in future years
 - 16.170.2 change existing policies, initiate new policies or cease existing policies
 - 16.170.3 materially extend or reduce the authority's services.
- 16.171 To ensure compliance with the scheme of virement.
- 16.172 To agree with the relevant Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Head of Service's level of service activity.

Budgets and medium-term planning

Why is this important?

- 16.173 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighted priorities. The budget is the financial expression of the authority's plans and policies.
- 16.174 The revenue budget and capital programme must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Full Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- 16.175 Medium-term planning (or as a minimum three year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

Key controls

- 16.176 The key controls for budgets and medium-term planning are:
- 16.176.1 specific budget approval for all expenditure
 - 16.176.2 budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered
 - 16.176.3 a monitoring process is in place to regularly review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

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Responsibilities of the Section 151 Officer

- 16.177 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 16.178 To determine the detailed form of revenue and capital estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Cabinet and Directors / Heads of Service.
- 16.179 To prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 16.180 To advise on the medium-term implications of spending decisions.
- 16.181 To encourage the best use of resources and value for money by working with Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 16.182 To advise the Full Council on Cabinet proposals in accordance with their responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of Heads of Service

- 16.183 To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, to be submitted to the Cabinet.
- 16.184 To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Section 151 Officer in accordance with the Full Council's general directions.
- 16.185 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 16.186 In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- 16.187 When drawing up draft budget requirements, to have regard to:
 - 16.187.1 spending patterns, cost reductions and pressures revealed through the budget monitoring process
 - 16.187.2 legal requirements
 - 16.187.3 policy requirements as defined by the Full Council in the approved policy framework
 - 16.187.4 initiatives already under way
 - 16.187.5 specific external funding
 - 16.187.6 revenue implications of capital schemes
 - 16.187.7 income from fees and charges.

Resource allocation

Why is this important?

- 16.188 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not

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adequate to fulfil need. It is therefore imperative that needs are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, finance, equipment, goods and materials.

Key controls

- 16.189 The key controls for resource allocation are:
- 16.189.1 resources are acquired in accordance with the law and using an approved authorisation process
 - 16.189.2 resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
 - 16.189.3 resources are securely held for use when required
 - 16.189.4 resources are used with the minimum level of waste, inefficiency or loss for other reasons.

Responsibilities of the Section 151 Officer

16.190 To advise on methods available for funding, such as grants from central government and borrowing requirements.

16.191 To assist in the allocation of resources to budget managers.

Responsibilities of Strategic Directors / Directors / Heads of Service

16.192 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.

16.193 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

Capital programmes

Why is this important?

- 16.194 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 16.195 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

Key controls

- 16.196 The key controls for capital programmes are:
- 16.196.1 the capital programme will be submitted for approval by the Full Council as part of the capital and treasury management strategy together with its impact on the revenue budget.
 - 16.196.2 requests for schemes to be included in the capital programme can be made at any point during the year All schemes must be approved through the relevant stages of the Capital Governance Framework which uses the HM Treasury's 5-case business model to ensure new schemes are tested in terms of prudence, sustainability and affordability, allowing both strategic and technical direction to be provided.

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- 16.196.3 The limits outlined in the Scheme of Virement section above will dictate the level of approval required for a scheme to be included in the capital programme.
- 16.196.4 the development and implementation of asset management plans
- 16.196.5 accountability for each proposal is accepted by a named manager
- 16.196.6 monitoring of progress in conjunction with expenditure and comparison with approved budget. Where a scheme is complete any unutilised funding will be removed from the capital programme.

Responsibilities of the Section 151 Officer

- 16.197 To prepare capital estimates jointly with / Directors / Heads of Service and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Full Council. Cabinet member approval is required where an Directors / Heads of Service proposes to bid for, or exercise prudential borrowing approval not anticipated in the capital programme. This is because the extra borrowing will create future revenue commitments to financing costs.
- 16.198 To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- 16.199 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements.

Responsibilities of Heads of Service

- 16.200 To comply with guidance concerning capital schemes and controls issued by the Section 151 Officer.
- 16.201 To ensure that all capital proposals have undergone a project appraisal and where appropriate a post completion audit undertaken, in accordance with guidance issued by the Section 151 Officer.
- 16.202 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer.
- 16.203 To ensure that adequate records are maintained for all capital contracts.
- 16.204 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer, where required.
- 16.205 To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, of any variation in contract costs greater than the approved limits.
- 16.206 To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- 16.207 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Section 151 Officer

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and, if applicable, approval of the scheme through the capital programme.

- 16.208 To consult with the Section 151 Officer and to seek Cabinet approval where the Directors / Heads of Service proposes to bid for capital grants issued by government departments to support expenditure that has not been included in the current year's capital programme.

C: Risk Management and Control of Resources

Risk Management

Why is this important?

- 16.209 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objective is to support the delivery of the Council's strategic goals by ensuring the continued financial, operational and reputational well-being of the organisation. In essence it is, therefore, an integral part of good business practice.
- 16.210 Risk management is concerned with defining the position on risk appetite i.e. the amount of risk the Council is willing to accept, evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 16.211 It is the overall responsibility of the Cabinet to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

Key controls

- 16.212 The key controls for risk management are:
- 16.212.1 managers know that they are responsible for managing relevant risks and are provided with a framework to allow risk management to be embedded as part of business operations
 - 16.212.2 robust integrated systems are developed and maintained for identifying, evaluating and managing all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
 - 16.212.3 a reporting and monitoring process is in place to regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
 - 16.212.4 the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources, in accordance with the Civil Contingencies Act 2004.

Responsibilities of the Section 151 Officer

- 16.215 To prepare and promote the authority's risk management policy statement and strategy.

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16.216 To collate and report collective risk registers to Directors, , Heads of Service and the Cabinet/Governance and Audit Committee.

Responsibilities of / Directors / Heads of Service

16.217 To take responsibility for risk management, having regard to advice from the Section 151 Officer and other specialist officers (e.g. crime prevention, fire prevention, health and safety).

16.218 To ensure that there are regular reviews of risk within their departments, including the assessment of fraud risk.

16.219 To notify the Section 151 Officer promptly of all new risks, and any mitigating measures that have been implemented to reduce risk.

Insurance

Why is this important?

16.210 The Council will (where appropriate) make insurance provisions as a way of managing risk by protecting both financial and operational assets against loss, damage or injury from unwanted events.

Key Controls

16.211 The key controls for insurance are:

16.211.1 acceptable levels of risk are determined and insured against where appropriate;

16.211.2 provision is made for losses that might result from the risks that remain;

16.211.3 procedures are in place to investigate claims within required timescales.

Responsibilities of Section 151 Officer

16.212 To effect corporate insurance cover, through external insurance and the Council's internal Insurance Fund, and to negotiate all claims in consultation with other officers, where necessary.

16.213 To operate an internal insurance account(s) for some risks not covered by external insurance policies to charge the various Council Service budgets with the cost of contributions to this account.

16.214 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.

16.215 Offer insurance cover to schools in accordance with Fair Funding arrangements.

Responsibilities of Heads of Service

16.216 Advise the Section 151 Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.

16.217 Notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Section 151 Officer or the authority's insurers.

16.218 Ensure that employees, or anyone covered by the authority's insurances act in such a way so that the Council's interests are protected. This includes being clear that an individual officer cannot admit liability or offer compensation that may prejudice the assessment of liability in respect of any insurance claim.

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- 16.219 In the event of a claim the relevant department must take all reasonable actions to mitigate or avoid a claim being made against the Council's insurance policy.
- 16.220 Consult the Section 151 Officer and the Head of Legal Services and Monitoring Officer on the terms of any indemnity that the authority is requested to give.

Internal controls

Why is this important?

- 16.221 The authority is complex and beyond the direct control of any one individual. It therefore requires internal controls to manage and monitor progress towards achieving strategic objectives.
- 16.222 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 16.223 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 16.224 The system of internal controls is established in order to provide measurable achievement of:
- 16.224.1 efficient and effective operations (including achieving value for money).
 - 16.224.2 reliable financial and performance reporting information.
 - 16.224.3 compliance with laws, regulations and other relevant statements of good practice.
 - 16.224.4 management of risk.

Key controls

- 16.225 The key controls and control objectives for internal control systems are:
- 16.225.1 the provision of an Annual Governance Statement in accordance with the Accounts and Audit (Wales) Regulations 2014. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance. This will require the advice of the Section 151 Officer who will be consulted before the statement is agreed.
 - 16.225.2 managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
 - 16.225.3 financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
 - 16.225.4 an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Public Sector Internal Audit Standards in the United

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Kingdom and the CIPFA Local Government Application Note 2013 with any other statutory obligations and regulations.

Responsibilities of the Section 151 Officer

16.226 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Heads of Service

16.227 Establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.

16.228 Manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

16.229 Removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

16.230 Ensure staff have a clear understanding of the consequences of lack of control.

Audit requirements

Internal audit

Why is this important?

16.231 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit (Wales) Regulations 2014 require the local authority to maintain an adequate and effective system of internal audit of their accounting records and control systems and review its effectiveness on an annual basis.

16.232 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key controls

16.233 The key controls for internal audit are that:

16.233.1 it is independent in its planning and operation.

16.233.2 the Head of Internal Audit has direct access to the Chief Executive, all levels of management and directly to elected members.

16.233.3 the internal auditors comply with the requirements contained within the Public Sector Internal Audit Standards, in the UK 2013 as interpreted by CIPFA’s Local Government Application Note 2013.

Responsibilities of the Section 151 Officer

16.234 To ensure that internal auditors have the authority to:

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- 16.234.1 access authority premises at reasonable times.
 - 16.234.2 access all assets, records, documents, correspondence and control systems.
 - 16.234.3 receive any information and explanation considered necessary concerning any matter under consideration.
 - 16.234.4 require any employee of the authority to account for cash, stores or any other authority asset under their control.
 - 16.234.5 as far as possible, access records belonging to third parties, such as contractors, when required.
 - 16.234.6 directly access the Chief Executive, the Cabinet and the Governance and Audit Committee.
- 16.235 To report annual audit plans prepared by the Head of Internal Audit to Governance and Audit Committee, which are aligned to business objectives and take account of the characteristics and relative risks of the activities involved.
- 16.236 To ensure that effective measures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Heads of Service

- 16.237 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 16.238 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 16.239 To consider and respond promptly in developing action plans to rectify weakness identified in audit reports. The action plans will be provided to the Head of Internal Audit.
- 16.240 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 16.241 To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Heads of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 16.242 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with the Head of Internal Audit prior to implementation.

External audit

Why is this important?

- 16.243 The Public Audit (Wales) Act 2004 requires the Auditor General for Wales to appoint an external auditor to each local government body in Wales. The external auditor has rights of access to all documents and information necessary for the purposes of the audit.
- 16.244 The general duties of the external auditor are specified in Section 17 of Chapter 1 to Part 2 of the Public Audit (Wales) Act 2004.
- 16.245 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts:
- 16.245.1 presents fairly the financial position of the authority and its income and expenditure for the year in question; and

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16.245.2 complies with the legislative and other applicable requirements.

16.246 The Council may from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

Key controls

16.247 Section 16 of the 2004 Act permits the Auditor General for Wales to prepare a code of audit practice, prescribing the way in which external auditors should carry out their functions. The Auditor General's Code of Audit and Inspection Practice, issued in May 2005, sets out the general principles governing the work of auditors as well as specific requirements in relation to:

16.247.1 audit of financial statements; and

16.247.2 evaluation of arrangements for securing economy, efficiency.

Responsibilities of the Section 151 Officer

16.248 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

16.249 To ensure there is effective liaison between external and internal audit.

16.250 To work with the external auditor and advise the Full Council, Cabinet and Directors / Heads of Service on their responsibilities in relation to external audit.

16.251 To report to Governance and Audit Committee and/or Cabinet where appropriate, the findings of any inspections by bodies such as HM Revenues and Customs and to take relevant action to implement recommendations either arising from national judgements or local inspections.

Responsibilities of Directors / Heads of Service

16.252 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

16.253 To ensure that all records and systems are up to date and available for inspection.

Preventing fraud and corruption

Why is it this important?

16.254 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

16.255 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures, practices and expected standards of conduct.

16.256 The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

Key controls

16.257 The key controls regarding the prevention of financial irregularities are that:

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- 16.257.1 the authority has an effective anti-fraud, money laundering and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption.
- 16.257.2 all members and staff act with integrity and lead by example.
- 16.257.3 senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt.
- 16.257.4 high standards of conduct are promoted amongst members by the standards committee.
- 16.257.5 the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded.
- 16.257.6 whistle blowing procedures are in place and operate effectively.
- 16.257.7 legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Section 151 Officer

- 16.258 To develop and maintain an anti-fraud, money laundering and anti-corruption policy.
- 16.259 The Income and Awards Manager / Head of Internal Audit will take whatever steps are considered necessary, on behalf of the Section 151 Officer, to investigate and report upon the potential cases of fraud and corruption.
- 16.260 To ensure that all irregularities are reported to the Governance and Audit Committee.

Responsibilities of / Directors / Heads of Service

- 16.261 To ensure that all suspected irregularities are reported to the Section 151 Officer.
- 16.262 Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.
- 16.263 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 16.264 To ensure that all members of staff declare potential conflicts of interest in their work activities on a continual basis. These interests should be formally recorded by the department and actions should be taken to avoid situations where interests may be compromised.
- 16.265 To make staff aware of the Council's policy on accepting gifts and to maintain a register recording gifts offered and accepted.

Assets

Security (Including Inventories and Stocks and Stores)

Why is this important?

- 16.266 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.

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16.267 An up-to-date asset register of items identified by the service as key to their service delivery or items of a value greater than £10,000, is a prerequisite for proper fixed asset accounting and sound asset management. The function of the asset registers is to provide the authority with information about fixed assets so that they are:

- 16.267.1 safeguarded
- 16.267.2 used efficiently and effectively
- 16.267.3 adequately maintained
- 16.267.4 properly insured

Key controls

16.268 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- 16.268.1 resources are used only for the purposes of the authority and are properly accounted for
- 16.268.2 resources are available for use when required
- 16.268.3 resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- 16.268.4 an asset register is maintained by the Deputy Head of Finance of key or valuable assets (as defined in Rule 16.276) as they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset. The assets recorded on the asset register will be determined by each Service, based upon Rule 16.279.
- 16.268.5 all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- 16.268.6 all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

Responsibilities of the Deputy Head of Finance

16.269 To maintain the asset register in accordance with good practice for all assets with a replacement value in excess of £10,000, or that are deemed essential to service provision, and all land and property, irrespective of value should be recorded. The Section 151 Officer will be responsible for ensuring that Services maintain appropriate inventory registers. This register is to be maintained by each Service area and should be available upon request.

16.270 To receive the information required for accounting, costing and financial records from each Head of Service.

16.271 To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).

Responsibilities of Heads of Service

16.272 To ensure that all land and properties irrespective of value are entered on the corporate database by using the Corporate Property Section for

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- all land and property related transactions, as laid out in the Corporate Asset Policy (CAP).
- 16.273 To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, has been drawn up by the Corporate Property Section and signed by Legal Services, as laid out in the Corporate Asset Policy (CAP).
- 16.274 To ensure the proper security of all buildings and other assets under their control.
- 16.275 To ensure that where land or buildings are surplus to requirements, the Service follows the Corporate Asset Policy (CAP) to ensure the Council's assets are either disposed of in an effective manner or used for an alternative purpose as covered by the Policy.
- 16.276 To arrange for title deeds to be passed to the Head of Legal Services and Monitoring Officer who is responsible for custody of all title deeds.
- 16.277 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 16.278 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 16.279 All plant and machinery and moveable assets currently owned or used by the authority with a replacement value in excess of £5,000 should be recorded by each Service in an inventory register. Any use of property by a department or establishment other than for direct service delivery can only to be agreed by the Corporate Property Section, as laid out in the Corporate Asset Policy (CAP).
- 16.280 To ensure that key work assets, (not including property or land) are identified in the inventory register, their location recorded and that they are appropriately marked and insured.
- 16.281 To ensure cash holdings on premises are kept to a minimum (see also Rule 16.383)
- 16.282 To ensure that keys to safes and similar receptacles are kept safe at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- 16.283 To record all disposal or part exchange of assets. The sale or disposal of all goods belonging to the Authority should follow correct procedure and be recorded. This procedure is covered in the Corporate Asset Policy (CAP) or where covered by external guidance for specific Service items, for example, libraries or museum collections.
- 16.274 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- 16.285 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.
- 16.286 To maintain inventories and record an adequate description of fittings, equipment, plant and machinery above £5,000 in value.

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- 16.287 To carry out an annual check of all items on the Service inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 16.288 To make sure that property is only used in the course of the authority's business, unless the Directors / Heads of Service concerned has given written permission in advance otherwise.
- 16.289 To make arrangements for the care and custody of stocks and stores in the department.
- 16.290 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check and stock records accurately reflect stock transactions. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 16.291 To investigate and remove from the authority's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of the predetermined limit in Rule 16.373.
- 16.292 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Section 151 Officer, the Cabinet decides otherwise in a particular case. Specialist equipment may be disposed of by the service if agreed by the Head of Service and the sale adequately recorded and best value achieved. Sales via online auction sites (e.g. eBay) must be handled by the Corporate Property team on behalf of the service, as well as all internal disposals, via the Corporate Asset Policy (CAP).
- 16.293 To seek the Section 151 Officer's approval to the write-off of redundant stocks and equipment in excess of £1,000 and the Cabinet's approval to the write-off of redundant stocks and equipment in excess of £5,000.
- 16.294 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 16.295 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- 19.295.1 only software legally acquired and installed by the authority is used on its computers
 - 16.295.2 staff are aware of legislative provisions
 - 16.295.3 in developing systems, due regard is given to the issue of intellectual property rights.

Intellectual property

Why is this important?

- 16.296 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

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- 16.297 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.
- 16.298 Partnerships, joint ventures and contractors may create valuable intellectual property or may make use of or build upon the Council's pre-existing intellectual property. The Council's interests in its pre-existing intellectual property must be protected and ownership of new intellectual property must be predetermined by contract and where appropriate protected.

Key controls

- 16.299 If the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.
- 16.300 The Council may make use of intellectual property (such as software and copyright materials) owned by others and must ensure that it does not breach the owners' rights in the intellectual property.
- 16.301 Staff members must be aware of intellectual property issues, including the consequences of breach of copyright or other intellectual property rights by the Council and the need to protect the Council's intellectual property through appropriate contractual arrangements.

Responsibilities of the Section 151 Officer

- 16.302 To develop and disseminate good practice through the authority's intellectual property procedures.

Responsibilities of / Heads of Service

- 16.303 To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

Asset disposal

Why is this important?

- 16.304 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority. Capital receipts are corporate and will be allocated to services subject to the Corporate Asset Policy (CAP).

Key controls

- 16.305 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, in accordance with the Corporate Asset Policy (CAP).
- 16.306 Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of the Deputy Head of Finance

- 16.307 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

Responsibilities of Directors / Heads of Service

- 16.308 To seek advice from Corporate Property on the disposal of surplus or obsolete materials, stores or equipment and to follow the proper procedures as laid out in the Corporate Asset Policy (CAP).

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- 16.309 To ensure that income received for the disposal of non-property asset is properly banked and coded.
- 16.310 When property becomes surplus to operational requirements, Directors / Heads of Service need to consider the Corporate Asset Policy (CAP) and consider the following:
- 16.310.1 Does the item belong to the Council or is it leased or loaned?
 - 16.310.2 How was the asset financed? In particular was the asset financed from a school's delegated budget, a trust fund, a grant or from capital. Many grants require a "clawback" if grant funded assets are disposed of within a given period.
 - 16.310.3 If the asset to be disposed of is capital in nature, the receipt is likely to constitute a capital receipt if it exceeds the de minimus level, currently £10,000. Advice can be sought from the Section 151 Officer on the correct accounting treatment of capital receipts.
 - 16.310.4 Where appropriate, seek professional advice on the likely value of the asset to be disposed of.
 - 16.310.5 If the property was purchased from a school's delegated budget, approval for disposal rests with the school's governing body. In all other circumstances, approval rests with the relevant Directors / Heads of Service, subject to the specific procedures relating to the disposal of land and buildings.
 - 16.310.6 Any Service wishing to make a property surplus will need to follow the Corporate Asset Policy (CAP).
 - 16.310.7 Disposal of property to third parties may well be subject to VAT. Advice on this should be sought from the Section 151 Officer.
 - 16.310.8 Following consideration of tenders, ensure payment is made before release to third parties.
 - 16.310.9 Following the disposal of property, ensure Service asset (non-property) registers are adjusted accordingly.

Treasury Management

Why is this important?

- 16.311 Local authorities deal with significant levels of cash and must operate within codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

Key controls

- 16.312 That the authority's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the authority's treasury management policy statement.

Responsibilities of Section 151 Officer – treasury management and banking

- 16.313 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the authority's treasury management policy statement and strategy.

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- 16.314 To report twice a year on treasury management activities and compliance with prudential indicators to the Cabinet.
- 16.315 To operate bank accounts as are considered necessary, including weekly or monthly reconciliations. Opening or closing any bank account shall require the approval of the Section 151 Officer. Bank accounts shall be in the name of Powys County Council and not in any officer's name or designation.
- 16.316 Council cheques shall bear the signature of the Section 151 Officer or other authorised signatory.
- 16.317 Issuing purchase cards to budget holders in lieu of cheque or BACS (Bank Automated Clearing System) payments.
- 16.318 Act as authorised signatory for Project Bank Accounts, which are contractor bank accounts set up for large capital projects

Responsibilities of Heads of Service – treasury management and banking

- 16.319 To follow the instructions on banking issued by the Section 151 Officer.

Responsibilities of Head of Schools and Inclusion, Governors, and Headteachers – treasury management and banking (Bank accounts operated under the local management of schools' scheme)

- 16.320 All banking arrangements are to be decided by the Governing Body, who may open and operate such bank accounts from the approved list of Institutions included in the annual Treasury Management Policy Statement as are considered necessary, subject to the prior approval of the Head of School and Inclusion and the Section 151 Officer.
- 16.321 All cheques shall be ordered by the Headteacher. He or she shall make proper arrangements for their safe custody, including a proper division of duties in the ordering, custody and issue of cheques and the reconciliation of bank accounts.
- 16.322 All cheques shall be signed by at least two school officers who have been authorised by the school's Governing Body.
- 16.323 A cheque must not be signed by an officer who has either authorised the order(s) or certified the payment.
- 16.324 Cheques shall only be signed after having been completed (i.e., no pre-signed cheques), and any officer signing cheques should ensure that the regulations for Payment of Accounts (see section D below) have been satisfied.
- 16.325 No arrangements shall be made to make payments by Direct Debit, Standing Order or other automatic means without formal approval of the Section 151 Officer.
- 16.326 Use of a debit card as a method of payment on the schools account in lieu of a cheque is permitted. Cards will be held in the name of the headteacher and business manager and will have an appropriate monthly limit. An appropriate invoice will be required for such payments. Cards should be locked in the school safe when not in use.
- 16.327 Cheques must be issued in strict numerical order and counterfoils fully completed.
- 16.328 All cancelled cheques should be marked as such and be retained.
- 16.329 The balance shown on the bank account must be reconciled with the school account every month. This reconciliation should be certified by a person not involved with the reconciliation or payment process.

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- 16.330 The Head of School and Inclusion, the Section 151 Officer, or their representatives, may at any time demand an accounting of money expended from or paid into any school bank account. The Head of School and Inclusion or the Section 151 Officer may instruct the closure of any school bank account.
- 16.331 Surplus amounts may be invested in investment accounts held with approved Institutions (see above) but should have minimal risk, or they may be invested via the Section 151 Officer. In no circumstances should any investment be made via a third party, e.g. a Broker.

Responsibilities of Section 151 Officer – investments and borrowing

- 16.332 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.
- 16.333 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the Chief Legal Officer.
- 16.334 To effect all borrowings in the name of the authority.
- 16.335 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

Responsibilities of Directors / Heads of Service – investments and borrowing

- 16.336 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the Section 151 Officer.

Responsibilities of Directors / Heads of Service – trust funds and funds held for third parties

- 16.337 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Section 151 Officer, unless the deed otherwise provides.
- 16.338 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.
- 16.339 All officers of the Council shall inform their Heads of Service of any involvement in any voluntary fund (as defined above) and state the position that they hold with regard to that fund.
- 16.340 The Heads of Service shall record the name of the officer, the account details, the name of the fund and the purpose for which it has been set up. They shall satisfy themselves that:
- 16.340.1 proper accounts of the fund's activities (separate from those of the Council) are kept,
 - 16.340.2 and that an independent audit is carried out at annual intervals by a competent Auditor appointed by, and reporting to, the fund's controlling body or Cabinet of Governors, and to other interested parties (e.g. parents, clients, etc).
- 16.341 The officer concerned shall supply a copy of the audited accounts and balance sheet for each financial year to their Heads of Service and to Managing Cabinet, Governing Body, etc, where relevant. Such accounts shall also be made available to all interested parties (e.g. parents).

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- 16.342 Bank accounts shall be in the name of the establishment (e.g. school, home, etc) and not in any officer's name or designation.
- 16.343 Money due to the Council shall not be paid into any voluntary fund, permanently or temporarily.
- 16.344 The officer shall keep all money, goods, or property of the voluntary fund, separate from those of the Council.
- 16.345 The financial control of the fund and the physical security of assets shall reflect the standards required of official funds.
- 16.346 The Heads of Service, Section 151 Officer, or their representatives may examine the accounts and records of the fund (where held by an officer), and ask for such records, explanations and information as they may require.
- 16.347 In the event of any loss in respect of voluntary funds the Council accepts no responsibility whatsoever, and no officer has any authority to bind the Council to accept such liability.

Responsibilities of the Section 151 Officer – imprest accounts (petty cash and cash floats)

- 16.348 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 16.349 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 16.350 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

Responsibilities of Heads of Service – imprest accounts

- 16.351 To ensure that employees operating an imprest account:
- 16.351.1 obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
 - 16.351.2 make adequate arrangements for the safe custody of the account
 - 16.351.3 produce upon demand by the Section 151 Officer cash and all vouchers to the total value of the imprest amount
 - 16.351.4 record transactions promptly
 - 16.351.5 reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
 - 16.351.6 provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year
 - 16.351.7 ensure that the imprest account is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the imprest account and change relating to purchases where an advance has been made
 - 16.351.8 on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall

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account to the Section 151 Officer for the amount advanced to them.

D: Financial Systems and Procedures

General

Why is this important?

- 16.352 Departments must keep information that is accurate and supported by systems and procedures that are sound and well administered. They should ensure that transactions are properly processed and errors detected promptly.
- 16.353 The Section 151 Officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes. Many of the following key controls are equally relevant to internal income.

Key controls

- 16.354 The key controls for systems and procedures are:
- 16.354.1 basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
 - 16.354.2 performance is communicated to the appropriate managers on an accurate, complete and timely basis
 - 16.354.3 early warning is provided of deviations from target, plans and budgets that require management attention
 - 16.354.4 operating systems and procedures are secure.

Responsibilities of the Section 151 Officer

- 16.355 To make arrangements for the proper administration of the authority's financial affairs, including to:
- 16.355.1 issue advice, guidance and procedures for officers and others acting on the authority's behalf
 - 16.355.2 determine the accounting systems, form of accounts and supporting financial records
 - 16.355.3 establish arrangements for audit of the authority's financial affairs
 - 16.355.4 approve any new financial systems to be introduced
 - 16.355.5 approve any changes to be made to existing financial systems.

Responsibilities of Heads of Service

- 16.356 To ensure that accounting records are properly maintained and held securely.
- 16.357 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer.
- 16.358 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 16.359 To incorporate appropriate controls to ensure that, where relevant:
- 16.359.1 all input is genuine, complete, accurate, timely and not previously processed
 - 16.359.2 all processing is carried out in an accurate, complete and timely manner

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- 16.359.3 output from the system is complete, accurate and timely.
- 16.360 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice. If required, the Head of Internal Audit will provide advice on this issue if requested to do so by Directors/Heads of Service.
- 16.361 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 16.362 To ensure that all systems are properly documented and relevant staff trained in operations.
- 16.363 To obtain the approval of the Section 151 Officer before changing any existing system or introducing new systems which provide financial data.
- 16.364 To establish a scheme of delegation identifying officers authorised to act upon the Heads of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 16.365 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.
- 16.366 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 16.367 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 16.368 To ensure that relevant standards and guidelines for computer systems issued by Heads of Service, in consultation with the Section 151 Officer - or his/her nominated officer with oversight of ICT systems, are observed.

Income and expenditure

Income

Why is this important?

- 16.369 Effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. Wherever possible income should be obtained in advance of supplying goods or services as this improves the authority's cashflow and avoids the time and cost of administering debts.

Key controls

- 16.370 The key controls for income are:
- 16.370.1 all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
 - 16.370.2 all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery

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- 16.370.3 all money received by an employee on behalf of the authority is paid without delay to the Section 151 Officer or representative or, as they direct, to the authority's bank or National Giro account, and properly recorded by the issue of a receipt or controlled ticket or by direct entry in a receipting system. All methods of receipting must be approved by the Section 151 Officer. The responsibility for cash collection should be separated from that:
- 16.370.4 for identifying the amount due
- 16.370.5 for reconciling the amount due to the amount received
- 16.370.6 effective action is taken to pursue non-payment within defined timescales
- 16.370.7 formal approval for debt write-off is obtained
- 16.370.8 appropriate write-off action is taken within timescales defined
- 16.370.9 appropriate accounting adjustments are made following write-off action
- 16.370.10 all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- 16.370.11 money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the Section 151 Officer

- 16.371 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 16.372 To agree the form of all receipt forms, books or tickets and similar items and to satisfy themselves regarding the arrangements for their control.
- 16.373 To agree the write-off policy for bad debts and levels of delegation to the Recovery department. Delegation levels are set at up to £25,000 approval of write off and statute barred debts in each case by the Section 151 Officer. Debts at a level between £25,001 and £100,000 must have approval of the portfolio holder and to larger sums, over £100,001 to be approved by Cabinet.
- 16.374 To approve all debts to be written off in agreement with the relevant Heads of Service and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit (Wales) Regulations 2014.
- 16.375 To obtain the approval of the Cabinet in consultation with the relevant Heads of Service for writing off debts in excess of £100,000.
- 16.376 To ensure that appropriate accounting adjustments are made following write-off action.

Responsibilities of Directors / Heads of Service

- 16.377 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 16.378 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

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- 16.379 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 16.380 To issue official receipts or to maintain other documentation for income collection.
- 16.381 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 16.382 To hold securely receipts, tickets and other records of income for the appropriate period.
- 16.383 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling. Cash and cheques held in a locked safe or strongroom must not exceed £25,000 during business hours and £10,000 outside of business hours. Other money in the premises out of business hours, and not in a locked safe must not exceed £250. The money held within a safe must never exceed the value recommended by the Euro grade rating of the safe as follows:

Euro Grade	Maximum Value of Money to be held
Grade 0	£6,000
Grade 1	£10,000 *
Grade 2	£10,000 *
Grade 3	£10,000 *

The holding of money in excess of £6,000 should be notified to the Risk and Insurance Unit and Treasury management so that risk control and banking arrangements can be reviewed.

- 16.384 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 16.385 To ensure income is not used to cash personal cheques or other payments.
- 16.386 To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to correctly record the sums due to the authority. To do this, Heads of Service should use established performance management systems to monitor recovery of income and inform the Section 151 Officer of any matters of concern. Directors / Heads of Service have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf.
- 16.387 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 16.388 To recommend to the Section 151 Officer, Heads of Service, Portfolio Holder and Cabinet, as appropriate, all debts to be written off. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be

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issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

- 16.389 To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer and not later than 30 April.

Ordering and paying for work, goods and services

Why is this important?

- 16.390 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements and that articles purchased are fit for purpose and within budget. These procedures should be read in conjunction with the authority's Contract Standing Orders, Procurement Strategy and Purchasing Guide.

General

- 16.391 Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct (refer to Part 5 of the Constitution).
- 16.392 Official orders must be in a form approved by the Section 151 Officer. Official orders or contracts must be issued in advance for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.
- 16.393 Each order must conform to Contract Standing Orders. Standard terms and conditions must not be varied without the prior approval of the Section 151 Officer.
- 16.394 Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the authority shall be by BACS, cheque or other instrument or approved method, drawn on the authority's bank account by the Section 151 Officer. The use of direct debit shall require the prior agreement of the Section 151 Officer.
- 16.395 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

Key controls

- 16.396 The key controls for ordering and paying for work, goods and services are:
- 16.396.1 all goods and services are ordered before the purchase is concluded and invoice received, only by approved persons and are correctly recorded
 - 16.396.2 All goods and services should be ordered using electronic ordering systems whenever possible

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- 16.396.3 all goods and services shall be ordered in accordance with Contract Standing Orders unless they are purchased from sources within the authority
- 16.396.4 goods and services received are checked to ensure they are in accordance with the order. Goods should not be certified as received by the person who authorised the order
- 16.396.5 payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards unless terms of business of supplier require otherwise
- 16.396.6 all payments are made to the correct supplier, for the correct amount (including discounts) and are properly recorded, regardless of the payment method
- 16.396.7 all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- 16.396.8 all expenditure, including VAT, is accurately recorded against the correct expenditure code and any exceptions are corrected
- 16.396.9 In addition, e-business/e-commerce and electronic purchasing (including ordering via the internet, purchasing cards and electronic purchase ordering systems) requires that processes are in place to maintain the security and integrity of data for transacting business. Such processes can only be used with the written prior approval of the Section 151 Officer.

Responsibilities of the Section 151 Officer

- 16.397 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 16.398 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 16.399 To approve the form of official orders and associated terms and conditions.
- 16.400 To make payments from the authority's funds on the Directors's / Heads of Service's authorisation that the expenditure has been duly incurred in accordance with Financial Regulations.
- 16.401 To make payments, whether provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 16.402 To make payments to contractors on the certificate of the appropriate Directors / Heads of Service, which must include details of the value of work, retention money (where appropriate), amounts previously certified and amounts now certified.
- 16.403 To provide advice and encouragement on making payments by the most economical means.
- 16.404 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be considered in budget monitoring reports.
- 16.405 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention

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schedule. The following records should be kept for a minimum of 12 years:

Official orders	Cheque counterfoils/stubs
Signed delivery notes	Paying in stubs & analysis records
Paid invoices	Receipts
Remittance advices	Bank statements
Bank reconciliation statements	Time sheets & payslips

16.406 Insurance records are to be kept indefinitely. Grant files are to be retained in accordance with the retention rules for the grant scheme to which they relate.

Responsibilities of Heads of Service

16.407 To ensure that unique pre-numbered official orders are used for all goods, services, and works other than the exceptions specified in Rule 16.400.

16.408 To ensure that orders are created in advance of the purchase and are only used for goods, services, and works provided to the department. Individuals must not use official orders to obtain goods or services for their private use.

16.409 To ensure corporate contracts are used where appropriate in accordance with the Council's Contract Standing Orders.

16.410 To ensure that only those staff authorised by the Heads of Service sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary and in accordance with the Council's Contract Standing Orders. Best value principles shall underpin the authority's approach to procurement through the application of the Council's Procurement Strategy. Value for money should always be achieved.

16.411 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check shall be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

16.412 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:

16.412.1 receipt of goods or services

16.412.2 that the invoice has not previously been paid

16.412.3 that expenditure has been properly incurred and is within budget provision

16.412.4 that prices and arithmetic are correct and accord with quotations, tenders, contracts, the purchase order or catalogue prices

16.412.5 correct accounting treatment of tax (VAT, Construction Industry Tax, Income Tax)

16.412.6 that the invoice is correctly coded

16.412.7 that discounts have been taken where available

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- 16.412.8 that appropriate entries will be made in accounting records.
- 16.413 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 16.414 To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer.
- 16.415 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Head of Internal Audit. Invoices received electronically (e.g. via email) may be printed off and processed.
- 16.416 To ensure payments are processed promptly and paid by the due date except where there is a genuine matter of dispute.
- 16.417 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Section 151 Officer.
- 16.418 To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, regarding the best practice guidelines issued by the Section 151 Officer, which are in line with best value principles and contained in the Contract Standing Orders, Procurement Strategy and Purchasing Guide.
- 16.419 To utilise the central purchasing procedures established by the Professional Lead (Procurement) in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the code of practice on tenders and contracts and will cover:
- 16.419.1 authorised officers and the extent of their authority
 - 16.419.2 advertisement for tenders
 - 16.419.3 procedure for creating, maintaining and revising a standard list of contractors
 - 16.419.4 selection of tenderers
 - 16.419.5 compliance with UK and EC legislation and regulations
 - 16.419.6 procedures for the submission, receipt, opening and recording of tenders
 - 16.419.7 the circumstances where financial or technical evaluation is necessary
 - 16.419.8 procedures for negotiation
 - 16.419.9 acceptance of tenders
 - 16.419.10 the form of contract documentation
 - 16.419.11 cancellation clauses in the event of corruption or bribery
 - 16.419.12 contract records.
- 16.420 To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).

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- 16.421 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 16.422 To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer and, in any case, not later than 30 April.
- 16.423 Regarding contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Section 151 Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, VAT, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 16.424 To notify the Section 151 Officer immediately of any expenditure to be incurred because of statute/court order where there is no budgetary provision.

Payments to employees and members

Why is this important?

- 16.425 Staff costs are the largest item of expenditure for most local authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the Full Council.

Key controls

- 16.426 The key controls for payments to employees and members are:
- 16.426.1 proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - 16.426.1.1 starters
 - 16.426.1.2 leavers
 - 16.426.1.3 variations
 - 16.426.1.4 enhancementsand that, where appropriate, payments are made based on timesheets or claims
 - 16.426.2 frequent reconciliation of payroll expenditure against approved budget and bank account
 - 16.426.3 all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
 - 16.426.4 that HM Revenues and Customs regulations are complied with.

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Responsibilities of the Head of Workforce and Organisational Development

- 16.427 To arrange and control secure and reliable payment of salaries, wages, allowances and expenses, compensation or other emoluments to existing and former employees, on the due date.
- 16.428 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 16.429 To make arrangements for payment of all travel and subsistence claims.
- 16.430 To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 16.431 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 16.432 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

Responsibilities of Directors / Heads of Service

- 16.433 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 16.434 To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer. The Chief Legal Officer is responsible for notifying changes in the elected membership.
- 16.435 To ensure that adequate and effective systems and procedures are operated, so that:
 - 16.435.1 payments are only authorised to bona fide employees
 - 16.435.2 payments are only made where there is a valid entitlement
 - 16.435.3 conditions and contracts of employment are correctly applied
 - 16.435.4 employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 16.436 To send an up-to-date list of the names of officers authorised to sign records to the relevant Head of Service, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- 16.437 To ensure that payroll transactions are processed only through the payroll system. Directors / Heads of Service should consider the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, as part of IR35 guidance and in cases of doubt, advice should be sought from the Head of Human Resources. Adherence to the policy on IR35 and completing the necessary questionnaire to establish the status of the consultant must be completed.
- 16.438 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Head of Service is informed where appropriate.

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- 16.439 To ensure that the Head of Service is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 16.440 To ensure that all loan documents are signed before payment is made.
- 16.441 To ensure that no member of staff leaves the employ of the Council without all relevant loans and debts being identified and arrangements made for their repayment.
- 16.442 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

Responsibilities of Members

- 16.443 To submit claims for Members' travel and subsistence allowances monthly and claims should be made up to the end of the calendar month only. Claims should be made monthly and will not be paid if more than two months old.

Consultants and External Support

Why is this important?

- 16.444 As new models of working change the operation of Councils, there is a need for a flexible approach to sourcing expertise without employing staff on either fixed term or permanent contracts. As a result, external support is increasingly used to carry out work which would have formerly have been carried by Council employees. It is therefore necessary to control the work and terms and conditions of such people (or companies) to ensure that value for money is obtained and that the Council's services are not compromised.

Key controls

- 16.445 To provide transparency and value for money when using consultants the following will apply:
- 16.445.1 any expenditure above £10,001 will require a delegated decision by the relevant Portfolio Holder and Strategic Directors.
 - 16.445.2 the report of the Portfolio holder in accordance with Rule 16.446 and will contain an assessment by the Section 151 Officer whether the use of the proposed consultant (or consultants) represents value for money.
 - 16.445.3 any expenditure below £10,000 is delegated to the relevant Strategic Directors who will operate within the Contract Procedure Rules in Section 17 covering the required number of quotes for any such work or seek an exemption if appropriate.
 - 16.445.4 rules 16.445.1 to 16.445.3 above do not apply to:
 - 16.445.4.1 situations where an interim staffing position is being covered (this is a management function to ensure service continuity).
 - 16.445.4.2 maintenance and support contracts to which the UK and the Contract Procedure Rules apply.

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Responsibilities of Directors / Heads of Service

16.446 When engaging consultants, Directors / Heads of Service must consider the following:

- 16.446.1 each /Director / Head of Service is to ensure that all individuals who are appointed as "consultants" are either self-employed or the employees of another organisation and that they are not legally employees of the Council. In cases of doubt advice should be sought from the Professional Lead for HR Services.
- 16.446.2 all creditor payments made to self-employed consultants shall be covered by a certificate in a form approved by the Section 151 Officer, certified by the relevant line manager to the effect that the individual is not an employee of the Council.
- 16.446.3 existing contracts which may be in place with other directorates.
- 16.446.4 where consultants (including amongst others: architects, engineers, quantity surveyors, solicitors, accountants, and barristers) are engaged to carry out professional services for the Council, the relevant Directors / Heads of Service shall be responsible for ensuring that a formal agreement or detailed letter of appointment, is sent to the consultant, setting out the terms on which they are engaged.
- 16.446.5 where an existing contract framework is in place for the public sector it may be appropriate to engage external support by this method.
- 16.446.7 amongst other things this formal agreement or letter of appointment shall specify:
 - 16.446.7.1 the precise scope of the commission, including time schedules.
 - 16.446.7.2 cost limits and controls.
 - 16.446.7.3 lines and levels of reporting, responsibility and authority.
 - 16.446.7.4 insurance cover (which must be verified by Council officers).
 - 16.446.7.5 the level of fees to be paid for which services.
 - 16.446.7.6 the criteria for completion of work and payment thereof.
- 16.446.8 it shall be included as a condition of engagement for the services of all consultants that they shall:
 - 16.446.8.1 comply with the Council's Standing Orders and Financial Regulations as though they were an officer of the Council.
 - 16.446.8.2 allow the relevant Directors / Heads of Service, Section 151 Officer, or their representatives, full rights of access always to all records (whether manual or on computer), cash, stores, land, premises and property of the Council.
 - 16.446.8.3 produce for the relevant Directors / Heads of Service, Section 151 Officer, or their

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- representatives' records, cash, stores or any other Council property under their control;
- 16.446.8.4 provide the relevant Directors / Heads of Service, Section 151 Officer, or their representatives any information and explanations considered necessary by them to satisfy the correctness of any matter under examination.
- 16.447 Directors / Heads of Service wishing to engage consultants or other specialisms available within the authority must allow the internal unit the opportunity to bid for the work. If the internal unit is not given the opportunity to bid, this will be a matter for report to the Cabinet.

Taxation

Why is this important?

- 16.448 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key controls

- 16.449 The key controls for taxation are:
- 16.449.1 budget managers are provided with relevant information and kept up to date on tax issues
 - 16.449.2 budget managers are instructed on required record keeping
 - 16.449.3 all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
 - 16.449.4 records are maintained in accordance with instructions
 - 16.449.5 returns are made to the appropriate authorities within the stipulated timescale
 - 16.449.6 changes in legislation are monitored and systems subsequently updated.

Responsibilities of the Section 151 Officer

- 16.450 To complete all Inland Revenue returns regarding PAYE and other taxes due or recoverable.
- 16.451 To complete a monthly return of VAT inputs and outputs to HM Revenues and Customs.
- 16.452 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.
- 16.453 To maintain up-to-date guidance for authority employees on taxation issues in the accounting manual and the tax manual.
- 16.454 To ensure that all payments including member and staff expenses follow relevant HMRC guidance.

Responsibilities of Heads of Service

- 16.455 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenues and Customs.
- 16.456 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

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- 16.457 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 16.458 To follow the guidance on taxation issued by the Section 151 Officer in the authority's accounting manual and VAT manual.
- 16.459 Schools must submit their claim for VAT to the Section 151 Officer within 5 working days of the end of the month in a form approved by the Section 151 Officer.
- 16.460 All payments relating to building works must be paid via the central Creditors Section. It is the responsibility of the Directors / Heads of Service to obtain authenticated VAT receipts.
- 16.461 Schools operating their own bank accounts should send the invoice together with a cheque made payable to Powys Full Council for the total amount to the central Creditors Section with a copy of the invoice being kept on the school's file (marked "copy").

Trading accounts and business units

Why is this important?

- 16.462 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations to the Council's Management Team and Cabinet.

Responsibilities of the Section 151 Officer

- 16.463 To advise on the establishment and operation of trading accounts and business units and to act as an arbiter in the event of a dispute between internal service providers and users.

Responsibilities of Directors / Heads of Service

- 16.464 To consult with the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 16.465 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- 16.466 To ensure that appropriate accounting principles are applied in relation to trading accounts.
- 16.467 To ensure that each business unit prepares an annual business plan, which includes the financial objective.
- 16.468 To monitor performance and to take corrective action where appropriate.

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E: External Arrangements

Partnerships

Why is this important?

- 16.469 Partnerships will play a key role in delivering the Corporate Improvement Plan, and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. The Council continues to deliver some services, but also provides a distinctive leadership role for the community bringing together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 16.470 The Council will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. The Council will be measured by what they achieve in partnership with others.

General

- 16.471 Partnerships can exist in varying forms:
- 16.471.1 Statutory Partnerships
 - 16.471.2 Formal Partnerships
 - 16.471.3 Joint Commissioning
- 16.472 The main reasons for entering into a partnership are:
- 16.472.1 the desire to find new ways to share risk
 - 16.472.2 the ability to access new resources
 - 16.472.3 to provide new and better ways of delivering services
 - 16.472.4 to forge new relationships and strategic alliances.
- 16.473 A partner is defined as either:
- 16.473.1 an organisation (private or public) undertaking, part funding or participating as a beneficiary in a programme or project; or
 - 16.473.2 a body whose nature or status give it a right or obligation to support the programme or project.
- 16.474 Partners participate in projects by:
- 16.474.1 acting as a programme/project deliverer or sponsor, solely or in concert with others
 - 16.474.2 acting as a programme/project funder or part funder
 - 16.474.3 being the beneficiary group of the activity undertaken in a programme/project.
- 16.475 Partners have common responsibilities:
- 16.475.1 to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
 - 16.475.2 to act in good faith at all times and in the best interests of the partnership's aims and objectives
 - 16.475.3 be open about any conflict of interests that might arise
 - 16.475.4 to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors

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16.475.5 to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature

16.475.6 to act wherever possible as ambassadors for the project.

Key controls

16.476 The key controls for authority partners are:

16.476.1 if appropriate, to be aware of their responsibilities under the authority's Financial Regulations and the code of practice on tenders and contracts

16.476.2 to ensure that risk management processes are in place to identify and assess all known risks

16.476.3 to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise

16.476.4 to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences

16.476.5 to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of the Council

16.477 The Council provides the leadership role for the community and the strategic direction forming partnerships with other local, public, private, voluntary and community sector organisations.

16.478 The Council can delegate its functions relating to partnerships to officers.

Responsibilities of the Section 151 Officer

16.479 To advise on effective controls and to ensure that accounting arrangements are adopted relating to partnerships so that resources are not wasted.

16.480 To advise on the key elements of funding a programme or project. They include:

16.480.1 how services should be costed

16.480.2 a scheme appraisal for financial viability in both the current and future years

16.480.3 risk appraisal and best practice on how risks can be shared

16.480.4 resourcing, including taxation issues

16.480.5 audit, security and control requirements

16.480.6 carry-forward arrangements.

16.481 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Directors / Heads of Service

16.482 To ensure adequate governance arrangements are in place for each partnership.

16.483 To develop and maintain a register of partnerships developed, and to maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Section 151 Officer.

16.484 To ensure compliance with all partnership governance arrangements that have been agreed.

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- 16.485 Ensure all services are appropriately costed, and contract lengths agreed do not exceed the duration of the Partnership without agreement of the Cabinet.
- 16.486 Ensure that the Council does not subsidise third parties without approval of Cabinet.
- 16.487 Ensure services have appropriate expertise to undertake partnership commitments.
- 16.488 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer, and VAT and other taxation implications have been considered.
- 16.489 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority, including internal trading units.
- 16.490 To ensure that all agreements and arrangements are properly documented and approved by the Cabinet.
- 16.491 To provide appropriate information to the Section 151 Officer to enable a note to be entered into the authority's statement of accounts concerning material items.
- 16.492 Ensure each Partnership has a clear operational timescale with a clear exit strategy. If exit is not appropriate, a clear continuation strategy.

External funding

Why is this important?

- 16.493 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

Key controls

- 16.494 The key controls for external funding are:
- 16.494.1 to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
 - 16.494.2 to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council
 - 16.494.3 to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

Responsibilities of the Section 151 Officer

- 16.495 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 16.496 To ensure that audit requirements are met.

SECTION 16 – FINANCIAL PROCEDURE RULES

Responsibilities of Directors Heads of Service

- 16.497 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 16.498 To ensure that all claims for funds are made by the due date.
- 16.499 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.
- 16.500 To notify the Section 151 Officer of all external funding applications and approvals.

Work for Third Parties

Why is this important?

- 16.501 Current legislation enables the authority to provide a range of services to other public bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires and in compliance with Contract standing Orders.

Key controls

- 16.502 The key controls for working with third parties are:
- 16.502.1 to ensure that a robust business case exists with proposals that are financially sound.
 - 16.502.2 to ensure that contracts are drawn up using guidance provided by the Head of Legal Services and Monitoring Officer and that the formal approvals process is adhered to.
 - 16.502.3 to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Section 151 Officer

- 16.503 To make insurance provisions to cover services requiring professional indemnity.

Responsibilities of Directors / Heads of Service

- 16.504 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- 16.505 To maintain a register of all contracts entered into with third parties.
- 16.506 To inform the insurance section of all third party work arrangements that require professional indemnity.
- 16.507 To ensure that the authority is not put at risk from any bad debts.
- 16.508 To ensure that no contract is subsidised by the authority.
- 16.509 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 16.510 To ensure that the department/unit has the appropriate expertise and capacity to undertake the contract.
- 16.511 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 16.512 To ensure that all contracts are properly documented.
- 16.513 To provide appropriate information to the Section 151 Officer to enable a note to be entered into the statement of accounts.

R

SECTION 17 – CONTRACT PROCEDURE RULES

Glossary of terms:-

- 17.1.1 "Tender" means a sealed bid or proposal to supply or receive goods, materials or services or for the execution of works.
- 17.1.2 "Contract" means any contract including a Purchase Order or otherwise for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment or for the sale and purchase of any interest in land.
- 17.1.3 "Quotation" means a written offer made by a supplier / contractor in response to a request received from the Council in respect of the supply and / or disposal of goods, materials or services or for the execution of works where the values are below those in Rule 17.46.
- 17.1.4 "Purchase Order" means any order placed on the Council's approved form(s) and signed by an appropriately authorised officer of the Council, which includes the use of approved electronic forms, for supply or disposal of goods, materials or services or for the execution of works.
- 17.1.5 "Commissioning strategy / plan" means the written strategies or plans produced by a Head of Service that detail the medium/long term future plans for the design or commissioning of particular services. The plans should be for a minimum of 3 years
- 17.1.6 "Consideration" means the total value of (whether monetary or otherwise) payable by or to the Council under the Contract or any series or combination of contracts of which it forms a part, the value of which will be aggregated for the purposes of the thresholds specified in Rules 17.45 to 17.47 .
- 17.1.7 "Most Economically Advantageous Tender" means that tender or quotation which when taking into account a number of criteria including but not limited to price, quality, delivery, technical merit and compatibility, functionality, support and overall cost effectiveness, affords the Council the most economically advantageous solution.
- 17.1.8 "Clarification" – Once tenders and / or quotations have been received, there may need to be further contact with potential contractors before they can be fully evaluated. Clarification is either an exchange of documents or a minuted meeting with potential contractors to clarify aspects of a tender and / or quote and correct apparent errors.
- 17.1.9 "Framework Agreement" means an arrangement with one or more suppliers for the provision of goods, materials, works or services and which is in place for a set period of time but with no guarantees of volume of individual orders or of the consideration payable over the period. The commodity / service is acquired as and when it is needed during the Framework/contract period.
- 17.1.10 "The Exemptions Register" means the register maintained by Commercial Services containing decisions taken by the Council's Section 151 officer regarding requests for exemptions from tendering in accordance with Rules 17.60 to 17.64
- 17.1.11 "The Contracts Register" means the register maintained by Commercial Services in accordance with Rule 17.84 recording each and every contract entered into by the Council.
- 17.1.12 "Contractor" means a third party with whom the Council has entered into a contract for the supply or disposal of goods, services or works.
- 17.1.13 "Procurement Plan" means a plan or methodology to ensure larger or more complex procurements are carried out in a manner likely to deliver a best value solution and shall include but not be limited to the following elements:

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- 17.1.13.1 confirmation of budgetary provision
- 17.1.13.2 confirmation that a suitable corporate contract for similar goods, materials, services or works is not already in existence
- 17.1.13.3 a business case (where applicable) for the procurement in terms of its contribution to the work of the relevant department and towards achievement of the Council's corporate objectives
- 17.1.13.4 the procurement methodology (including the applicability of EU and UK law)
- 17.1.13.5 the identification of a lead officer responsible from the service
- 17.1.13.6 the identification of a lead commercial services officer
- 17.1.13.7 the identification of project implementation issues identified (if appropriate)
- 17.1.13.8 identification of evaluators
- 17.1.13.9 identification of contract manager
- 17.1.13.10 arrangements for transition planning / business continuity / mobilisation plans
- 17.1.13.11 an equality impact assessment where appropriate

Overriding principles

- 17.2 These Contract Procedure Rules are not intended to conflict with European Union & UK law. Wider legal requirements shall always take precedence over these rules.
- 17.3 These rules govern organisational behaviour in the conduct of procurement and commercial activity. It is given that such behaviour is undertaken in the support and delivery of the wider policies and objectives of the Council.
- 17.4 Nothing in these rules shall preclude the Council from its duty in spending public money wisely. Officers shall always seek value for money.
- 17.5 The nature and extent of procurement activity must be appropriate to the nature and value of the goods and services being procured.
- 17.6 Procurement management will be optimised to make the most of Council resources; conducted in accordance with the Council's strategic plans.
- 17.7 Utmost probity will be demonstrated at all times.
- 17.8 Strategic Directors / Director / Heads of Service must ensure that the Commercial Services Team are consulted and / or lead on high risk / high value / or sensitive procurements.
- 17.9 For contracts of a strategically important or politically sensitive nature, Strategic Directors / Director / Heads of Service should:
 - 17.9.1 seek a decision from the Cabinet as to whether such tenders are to be invited under the Strategic Directors' / Director's / Heads of Service's recommended strategy; and
 - 17.9.2 ensure that Members are not involved in the tender evaluation process but where appropriate Members can be involved in the service design or commissioning stage prior to the start of a tender process.

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General principles

Extent of Contract Procedure Rules

- 17.10 The objective of these procedures is to ensure that the Council enters into contracts for the supply and / or disposal of goods, materials and services or for the execution of works on the most economically advantageous terms through the application of ethical, consistent and transparent practices and procedures which also comply with the best value requirements and with the Council's Commissioning and Procurement Strategy
- 17.11 Strategic Directors / Director / Heads of Service have delegated powers to enter into contracts on behalf of the Council, subject to these procedure rules provided that prior to so doing the Strategic Director / Director / Head of Service is satisfied that the necessary budgetary provision is in place and that the Council's Financial Procedure Rules as set out in Section 16 will be followed.
- 17.12 Where goods, materials, services or works can be provided by an internal provider or trading unit then the internal provider or trading unit may be used without recourse to these procedure rules. Where there is no internal provision or where there are proper service reasons or circumstances to seek competition, then these procedure rules must be observed on every occasion that the Council procures a contract or if proposing to procure or dispose of goods, materials, services or works.
- 17.13 European Union and UK law must be followed where relevant and any contract or series of contracts which are likely to exceed the EU threshold limits from time to time and contracts (currently £172,514 for services and supplies and £4,322,012 in respect of works) must be reported to the Council's Professional Lead - Commercial Services prior to any action being taken.

Compliance

- 17.14 Every contract entered into by the Council pursuant to or in connection with the Council's functions shall comply with:
- 17.14.1 all relevant statutory provisions
 - 17.14.2 the relevant European procurement rules (i.e. The EC treaty, the general principles of EC law and the EC public procurement directives implemented by the United Kingdom regulations)
 - 17.14.3 the Council's constitution including:
 - 17.14.3.1 these contract procedure rules; and
 - 17.14.3.2 financial procedure rules; and
 - 17.14.3.3 schemes of delegation; and
 - 17.14.3.4 the Council's strategic objectives; and
 - 17.14.3.5 the Council's commissioning and procurement strategy and policies.
- 17.15 Failure by officers to comply with any of the provisions of these contract procedure rules or any associated guidance adopted by the Council from time to time may result in disciplinary action.

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- 17.16 A number of purchasing arrangements are in operation within the Council. Correct use of these arrangements, as advised by the Professional Lead - Commercial Services, is sufficient to ensure officers meet their responsibilities for compliance. Such arrangements include:
- 17.16.1 framework Agreements available for use by the Council,
 - 17.16.2 procurement arrangements undertaken by, or in consultation with the Professional Lead - Commercial Services
 - 17.16.3 electronic systems and catalogues available for use by the Council.
- 17.17 Any procurement carried out on behalf of the Council may only be undertaken by officers authorised to do so by their Head of Service / Director / Strategic Director.
- 17.18 All decisions taken in relation to the commissioning and procurement processes should be documented.

Procurement by consultants

- 17.19 Where the Council uses consultants to act on its behalf in relation to any procurement, then the Strategic Director / Director / Head of Service shall ensure that the consultants carry out any procurement in accordance with these contract procedure rules, including the reporting of any procurement to the Professional Lead – Commercial Services.
- 17.20 No consultant shall make any decision on whether to award a contract or to whom a contract be awarded. Such decisions must be made by the officer of the Council responsible for the procurement within the service. The Strategic Director / Director / Head of Service shall ensure that the consultant's performance in relation to procurement is in accordance with these contract procedure rules and European Union and UK law.
- 17.21 Where the Council uses consultants to act on its behalf in relation to any procurement the consultant must declare any potential conflict of interest that may arise to the Strategic Director / Director / Head of Service prior to the commencement of the procurement process.
- 17.22 Where the Strategic Director / Director / Head of Service considers that such a conflict of interest is significant the consultant shall not be allowed to participate in the procurement process.
- 17.23 When consultants or technical officers are employed to supervise contracts they must similarly follow Contract Procedure Rules and the Council's Financial Procedure Rules. Their contract for service must include this requirement.

Procurement of consultants

- 17.24 For the avoidance of doubt, the appointment of consultants shall be made in accordance with the requirements of these Contract Procedure Rules and Rule 16.453 of the Financial Procedure Rules (reporting of costs).

Declaration of interest

- 17.25 No Member, officer or agent of the Council shall improperly use their position to obtain any personal or private benefit from any contract entered into by the Council.

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- 17.26 Members and officers of the Council shall comply with the requirements of section 117 of the Local Government Act 1972 and the Code of Conduct for Employees set out in Section 20 of the Constitution about the declaration of private interest in contracts with the Council.
- 17.27 Interests declared by Members must be reported to the Monitoring Officer for inclusion in the appropriate register. Interests declared by officers shall be reported to the Head of Service.

Electronic procurement

- 17.28 Any electronic procurement process (e.g. E-tendering) can only be conducted using an electronic system approved by the Professional Lead - Commercial Services and / or Professional Lead - Finance.

Spend Controls

- 17.29 Strategic Directors / Director / Heads of Service must maintain a list of names of officers who can procure or dispose of supplies, goods or works on behalf of the service, specifying a maximum financial limit for each transaction against each name. The list should be updated on a regular basis and any amendments notified to the Professional Lead – Commercial Services who will hold a central register covering this activity.

ICT Procurement.

- 17.30 In order to safeguard the integrity of the Council's Information and Communication Technology infrastructure and the data held on the infrastructure, only the Head of ICT Services and his / her named delegates in the County ICT function may buy ICT hardware or software that connects to or operates on the County ICT infrastructure. In addition all ICT purchases (including services) must comply with County ICT Policy and Standards and must use existing framework agreements where they exist. Where such contracts do not exist all ICT purchases in excess of £25,000 must be directly approved by the Head of ICT Services and his / her named delegates.

Pre-Contract Requirements

- 17.31 Before commencing a high risk / high value / or sensitive procurement process under these procedure rules, the Head of Service should consult with the Professional Lead - Commercial Services to ensure that the following is addressed:
- 17.31.1 whether the appropriate commissioning process has been undertaken with the appropriate sign-off achieved at each milestone;
 - 17.31.2 whether it is likely that similar provision is being proposed or is being currently used by another service area;
 - 17.31.3 the impact of the proposal on other Council Services;
 - 17.31.4 whether there is adequate budgetary provision agreed / in place for the anticipated spend;
 - 17.31.5 a discussion with the Head of ICT Services in respect of any ICT procurement and seek his / her approval for any procurement likely to exceed £25,000;

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- 17.31.6 a Procurement Plan is produced in consultation with the Commercial Services Team for contracts featured in the forward work plan.

Forward Work Plan

- 17.32 The relevant Head of Service shall ensure that in conjunction with the Commercial Services Team all procurement events contained within their service forward work plan includes (but not be limited to), details of the anticipated procurement activity, an appropriate procurement plan, spend and target savings.
- 17.33 The service forward work plan shall be reviewed annually and details outlined in the relevant service plan.

Sustainable procurement

- 17.34 For all contracts of £150,000 or over, over the term, the Council shall take account of social, economic and environmental issues and a return on investment through the adoption of a community benefits approach when making strategic procurement decisions using the Sustainable Risk Assessment (SRA) template.

Data Processing Agreements

- 17.35 Where a procurement involves the disclosure of personal data within the meaning of Section 1 of the Data Protection Act 1988, the relevant Strategic Director / Director / Head of Service shall ensure that where appropriate each procurement includes a Data Processing Agreement.

Contract terms and conditions

- 17.36 All contracts shall be entered into on the Council's terms and conditions and this shall be stated on all requests for quotations and invitations to tender. The Council's terms and conditions will be made available on the Council's internet and a link will be provided on all requests for quotations, invitations to tender and purchase orders.
- 17.37 Exceptions to this rule must be approved in writing by the Council's Monitoring Officer.

Revenue earning contracts

- 17.38 Any contracts relating to revenue earning must be referred to the Head of Legal Services and Monitoring Officer at the earliest possible instance and in any case before the procurement exercise commences.

Regeneration opportunities

- 17.39 The relevant Strategic Director / Director / Head of Service must ensure that each commissioning and / or procurement plan has considered the regeneration opportunities for each proposal.

Quotations & Tenders

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

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- 17.41 Officers are required to take into account the cumulative spend of repeatedly using the same supplier to ensure that the tender thresholds set out in Rules 17.45 to 17.47 are not breached.

Thresholds

- 17.42 Thresholds for procurement do not apply within existing framework agreements available for use by the Council.
- 17.43 The values under Rules 17.45 to 17.47 shall be the total or aggregate value of the contract over the whole contract period and not just the annual amount.
- 17.44 Even if the thresholds in Rules 17.45 and 17.46 are not breached, the Strategic Directors / Director / Heads of Service may still use one of the formal tendering procedures if for proper service reasons this is deemed appropriate.

All goods & services except works

- 17.45 Up to £5,000 it is necessary only to demonstrate that value for money is being achieved following the principles contained in these procedure rules and in the Guidance for Officers document.
- 17.46 From £5,000 to £49,999 the spirit of these procedure rules should be followed and wherever practicable, a minimum of 3 written competitive quotes must be obtained from firms, who, preferably are registered on a national procurement website (currently Sell 2 Wales). Alternatively the requirement may be openly advertised on a national procurement website (currently Sell 2 Wales). Such quotations must be retained for a period of not less than two years from the date of the Contract award.
- 17.47 £50,000 or above must be tendered, and advertised on a national procurement website (currently Sell 2 Wales). Where the European Union threshold has been exceeded the procurement must be tendered and advertised in the official journal of the European Union. The relevant Strategic Director / Director / Head of Service shall ensure that the Commercial Services team are consulted before the advert is placed.
- 17.48 Where the competitive dialogue procedure is adopted a minimum of three tenders must be invited.

Agency / Consortium Contracts

- 17.49 Where an Agency / Consortium arrangement is in force between the Council and Central Government, other Local Authorities or other public body then these procedure rules shall not be deemed to be breached if the Council is required to follow the procedure rules or Codes of Practice of that Agency, Local Authority or public body.

Form of Contracts

- 17.50 Subject to Rule 17.51 below, every contract shall be made or confirmed in writing and signed by all parties concerned. Electronic signatures with an audit trail established via software approved by the Head of Legal Services and Monitoring Officer and the ICT Governance Group will be acceptable. High risk / high value / or sensitive contracts may only be signed by Strategic Directors / Director / Heads of Service or Head of Legal Services and Monitoring Officer . Strategic Directors / Director / Heads of Service may

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delegate the ability to sign all other contracts to other officers PROVIDED THAT the delegation is made in writing and recorded in a register to be kept by each Head of Service.

17.51 Contracts entered into by means of the Council's approved Electronic Purchase Order system are permitted PROVIDED THAT the authorising officer has been appointed in accordance with Rule 16.404.9 (Financial Regulations).

17.52 Unless the Professional Lead - Finance or the Strategic Directors / Director / Heads of Service in consultation with the Head of Legal Services and Monitoring Officer and / or Professional Lead – Commercial Services, consider it to be unnecessary, every contract must include as a minimum the following basic terms and conditions:

17.52.1 a description / specification of the works, goods, materials or services to be provided or carried out;

17.52.2 the price to be paid or other consideration, the method, timing and frequency of payment and the calculation of any variations or increases;

17.52.3 the time by which or term within which the contract is to be performed;

17.52.4 the right for the Council to:

17.52.4.1 recover or withhold payment in the case of default;

17.52.4.2 cancel, suspend or terminate all or part of the contract;

17.52.4.3 perform the services itself or to replace the contractor;

17.52.4.4 recover all related costs.

17.52.5 to obtain an indemnity from the contractor to cover losses or liabilities incurred by the Council as a result of the contractor's action or neglect;

17.52.6 an obligation for the contractor to have sufficient Public and Employers' Liability Insurance and any other cover which is relevant to the contract;

17.52.7 an obligation to comply with all Health and Safety legislation, regulations and code of practices etc. applicable to the contract;

17.52.8 no right for the contractor to assign or sub-let the contract without the prior written consent of the Council;

17.52.9 that the Council can cancel the contract and recover any resulting losses if the contractor or his / her employees or agents with or without his / her knowledge:

17.52.9.1 does anything improper to influence the Council to award the contract. (In this respect the attention of employees of the Council is drawn to the Council's Codes of Conduct for Members and Employees which must be observed);

17.52.9.2 Commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 or the Equality Act 2010. in relation to the contract.

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17.52.10 that it is subject to the Laws of England and Wales.

- 17.53 Consideration must also be given to the inclusion and relevance to clauses relating to the Freedom of Information Act, Data Protection Act, sustainability, retentions, bonds or guarantees and the need to comply with the Welsh Language Act and the Council's own Welsh Language Scheme.
- 17.54 Contractors Standard Terms and Conditions should not be accepted without seeking advice from either the Professional Lead – Commercial Services or the Head of Legal Services and Monitoring Officer .

Tenders

17.55 Except as specified in Rule 17.56 below where the consideration payable under any contract may reasonably be expected:

- 17.55.1 to exceed £100,000 in the case of a contract for the execution of construction or civil engineering schemes; or
- 17.55.2 to exceed £50,000 in the case of any other contract for the supply of goods materials and services or the execution of works (other than construction schemes referred to in Rule 17.55.1 above)

contractors shall be selected by the Strategic Directors / Director / Heads of Service by one of the following methods:

- 17.55.2.1 tendering by advertisement under Rules 17.64 to 17.66;
- 17.55.2.2 selective tendering from an approved contractors' list compiled in accordance with EU and UK procurement laws as set out in Rule 17.67.

Exemptions from tendering

17.56 Subject to Rules 17.57 and 17.58 below contracts with a value below the EU threshold from time to time (but not above the EU threshold from time to time) may be authorised in advance by the Section 151 Officer even if their procurement has not been undertaken in accordance with Rule 17.55 in the following circumstances:

- 17.56.1 for the supply of goods, materials, services or works where there appears in the written opinion of the Strategic Directors / Director / Heads of Service to be only one supplier with no acceptable alternative and complies with Rule 17.58 below;
- 17.56.2 for the supply of goods or materials, services or works where the Council has decided to standardise by buying from only one supplier or where in the written opinion of the Strategic Director / Director / Head of Service the services, goods or specialised materials are required for which there is only a single source of supply and complies with Rule 17.58 below;
- 17.56.3 where in the written opinion of the Strategic Director / Director / Head of Service the extension, addition to or maintenance of existing goods, materials or services where this can only be done

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- satisfactorily by the original contractor or supplier and complies with Rule 17.58 below;
- 17.56.4 for the urgent supply of goods, materials, services or works where the Strategic Directors / Director / Heads of Service has certified in writing that the tender process would prevent the supply within the timescales required. Such urgency should not ordinarily have been created by earlier in-action or lack of forward planning, but where the urgency has been so created the Section 151 Officer may nevertheless approve the request subject to such conditions as s/he considers necessary to ensure future compliance with these procurement rules;
- 17.56.5 for the supply of used or second-hand goods or materials where the Strategic Directors / Director / Heads of Service has certified in writing that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second-hand item;
- 17.56.6 for the supply of goods, materials, services or works in any other circumstances where the Strategic Directors / Director / Heads of Service / Professional Lead - Finance has certified in writing that there are proper service reasons for not tendering for the supply of goods, materials, services or works and that they are satisfied that there will be no economic disadvantage to the Council as a result of not so tendering.
- 17.57 Requests for exemptions under Rules 17.56 must be submitted to the Section 151 Officer for approval via the Professional Lead – Commercial Services. No exemption will be deemed agreed until written consent is obtained from the Section 151 Officer.
- 17.58 When a Strategic Directors / Director / Heads of Service makes a request for an exemption under Rules 17.56.1 to 17.56.3 above s/he must certify in writing on each occasion that the advantages and disadvantages of proceeding with a single supplier are documented.
- 17.59 All exemptions granted by the Section 151 Officer in accordance with Rules 17.56 and 17.57 shall be recorded in the Exemptions Register.
- 17.60 A contract may also be entered into other than in accordance with Rule 17.55:
- 17.60.1 where the contract is awarded through a Consortium, Association or similar body, of which the Council is, for the time being, a member, or is able to use; or .
- 17.60.2 where the Council, or the Cabinet considers that there are special circumstances justifying the waiving of procedure rules and authorises such waiver by resolution.
- 17.61 Subject to Rule 17.58 below, all contracts shall be governed by either the Council's own Conditions of Contract (as varied or amended from time to time, such variations and / or amendments being consistent with and in accordance with the Council's Commissioning and Procurement Strategy)

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or such other forms of contracts as may be approved from time to time by the Head of Legal Services and Monitoring Officer .

- 17.62 The Council may if appropriate use a Contractors' Terms and Conditions with the approval of the Head of Legal Services and Monitoring Officer and provided that they include, or are amended to include, the matters referred to in Rule 17.56.
- 17.63 The Financial Regulations for Schools with Delegated Budgets as set out in the scheme for financing schools may allow for alternative arrangements in respect of Schools with Delegated Budgets provided that those arrangements follow these procedure rules wherever possible and in all cases adhere to the EU and UK procurement laws.

Tendering By Advertisement

- 17.64 Subject to Rules 17.65 and 17.66 below, all tender opportunities must be advertised via a national procurement website (currently Sell 2 Wales) and in accordance with EU and UK procurement laws where appropriate
- 17.65 An advertisement may appear in the local press, where, in the opinion of both the Head of Service and the Professional Lead – Commercial Services there is unlikely to be a satisfactory response having regard to the nature of the goods, materials, services or works being procured.
- 17.66 The advertisement may also appear in an appropriate trade journal and / or national newspaper or such other media where in the opinion of the Head of Service and the Professional Lead – Commercial Services this is likely to be to the advantage of the Council.

Selective Tendering from an Approved Contractors' List

- 17.67 The intention of such lists is to ensure the availability of suitably qualified contractors for work of a recurring nature for which several contracts a year may be issued (for example, highway maintenance work).

Creation of Approved Lists

- 17.68 When for operational reasons a Head of Service believes that the procurement of goods and / or services could best be undertaken by selection of an approved list of contractors, the Head of Service must ensure that the list of contractors is compiled in accordance with the EU and UK procurement laws and only after consultation with the Professional Lead – Commercial Services.

Inviting Tenders

- 17.69 Every Invitation to Tender (ITT) must include as a minimum the following documentation or information or via a Framework Agreement:
- 17.69.1 a description / specification of the works, materials, goods or services to be carried out / supplied together with a required delivery date or term;
 - 17.69.2 applicable Terms and Conditions (including Certificates as to Canvassing and Collusive Tendering) in accordance with Rule 17.61;
 - 17.69.3 Form of Tender specifying the period which the Tender is open for acceptance;

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- 17.69.4 the criteria to be used to evaluate and award the Contract will ordinarily include a reference to the most economically advantageous tender and in the case of contracts to be awarded in accordance with EU thresholds, weighted criteria;
 - 17.69.5 the fact that the Council does not bind itself to accept the lowest or any tender;
 - 17.69.6 a set of Instructions to Tenderers detailing the administration arrangements regarding the procurement process (including the tender deadline).
- 17.70 Every ITT must state that a tender will only be considered if it is received by the due date and time and the means by which the tenders should be returned.
- 17.71 Tenders in paper format may only be invited after prior written approval from the Professional Lead - Commercial Services.

Receipt and Opening of Tenders.

- 17.72 A record of all tenders received must be made on the date of opening and retained for a period of 3 years. Such records shall include the name of the tenderer, the nature of the goods, services, materials or works, the date, the price or consideration (where this is possible), the name of the officer and in respect of a paper tender only the name of the Cabinet Member present.
- 17.72.1 The Head of Professional Services and Commissioning having consulted with the appropriate Strategic Director / or Director / or Head of Service, may at his / her absolute discretion permit consideration of a tender submitted after the tender deadline PROVIDED THAT:
- 17.72.1.1 s/he is satisfied that it is in the best financial interests of the Council to do so; and
 - 17.72.1.2 s/he is satisfied that the tenderer has not secured an advantage over the other tenders by failing to submit a tender before the tender deadline; and
 - 17.72.1.3 the decision to admit the tender is taken before the remaining tenders are opened.
- 17.72.2 A tender which has been properly submitted in accordance with the ITT (or would have been properly submitted but for a fault for which the Council and / or its IT suppliers are responsible) but for some reason has not been recorded shall be dealt with as follows:
- 17.72.2.1 if it is presented to the Head of Legal Services and Monitoring Officer before the other tenders have been opened but after the closing date then it shall be considered along with the rest;
 - 17.72.2.2 if it is presented to the Head of Legal Services and Monitoring Officer after the other tenders have been opened then provided the Head of Legal Services and

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Monitoring Officer is satisfied that the tender was received by the Council in accordance with the ITT it may be considered.

Evaluation of Tenders

- 17.73 For most contracts and for all contracts governed by EU and UK procurement law a tender evaluation procedure based on a price quality ratio should be used. Where a price quality ratio is not used, approval must be obtained from the Professional Lead - Commercial Services
- 17.74 All evaluations shall score tenders objectively using criteria which have been weighted in order of importance, and published in the ITT and will normally include whole life costing where the full cost of maintenance, decommissioning and disposal should be taken into account.
- 17.75 The published criteria and weightings must be strictly observed at all times throughout the evaluation process.
- 17.76 The members of the evaluation panel should be identified by the Service Area and / or support services at the earliest opportunity and wherever possible should be involved in establishing the evaluation criteria, weightings and the questions to be asked of Tenderers.
- 17.77 All evaluators must be appropriately trained in the use of the electronic evaluation process and the application of the relevant scoring regime.

Accepting Tenders

- 17.78 The Strategic Directors / Director / Heads of Service may approve the amendment of a tender after it has been received and before it has been accepted only to enable the correction of a genuine error, but only after consultation with the Head of Legal Services and Monitoring Officer and / or Professional Lead - Commercial Services.
- 17.79 The Strategic Directors / Director / Heads of Service may accept other than the lowest tender where the goods, materials, services or works tendered for are not available for immediate supply by the winning tenderer in breach of contract and where (a) specifically provided for in the tender documentation and (b) in the opinion of the Strategic Director / Director / Head of Service after consultation with the Head of Legal Services and Monitoring Officer and/or the Professional Lead - Commercial Services the contract may awarded to the second placed tenderer

Debriefing

- 17.80 Information must be made available to tenderers via contract award notices. For contracts awarded over the EU threshold the contract award notices must be sent for publication in the Official Journal of the European Communities not later than 30 days after contract award and in the form of notice prescribed in the relevant regulations.
- 17.81 The responsible officer shall ensure that within 15 days of the date on which the Council receives a request in writing from any supplier who was unsuccessful (at either the selection or tender stage) inform that supplier of the reasons for being unsuccessful and, if the supplier was unsuccessful at the tender stage, the responsible officer shall inform him / her of the characteristics and relative advantages of the successful tender as well as the name of the person awarded the contract.

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- 17.82 Requests from losing tenderers for face to face debriefing meetings should be referred to the Commercial Services Team.
- 17.83 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Professional Lead - Commercial Services, taking into account the requirements of any legislation relating to the disclosure of information.

Contracts Register

- 17.84 All contracts over the value of £5,000 over the term must be recorded on the Council's Contracts Register. It is the duty of the Head of Service to ensure that their officers comply with this Rule 17.84.

Record and document retention and control

- 17.85 All tenders, once assessed shall be retained in secure storage (including secure electronic storage). All contracts under seal i.e. Deeds (including Tenders) to be retained for a minimum of 12 years; contracts under hand for a minimum of 6 years; unsuccessful tender documents for 2 years.

Contract management

- 17.86 All high risk / high value / or sensitive contracts must have a named Council contract manager for the duration of that contract. All such contracts are to have regular, documented reviews with the contractor. The reviews should include but not be limited to:

- 17.86.1 business transfer;
- 17.86.2 service implementation;
- 17.86.3 operational issues;
- 17.86.4 compliance with contract terms;
- 17.86.5 compliance with financial terms.

Contract variation

- 17.87 Variation refers to a change to the terms of the agreement that the parties had previously agreed and accepted when the contract was signed.
- 17.88 The relevant Strategic Director / Director / Head of Service is authorised to agree any variations to an existing Contract provided that this still represents the most economically advantageous solution for the Council and does not significantly alter any proposal previously agreed by the Council.
- 17.89 Contract variations should only be approved if they do not amount to a material change to the contract that was originally procured.
- 17.90 Variations must not be confused with claims, which usually arise from unforeseen issues or outside events. The contractors' right to claim arises from general law and does not require the consent of the Council. The term 'claim a variation' is misleading. A contractor either applies for a variation or makes a claim.
- 17.91 The form of all contract variations must be approved by the Head of Legal Services and Monitoring Officer or an officer nominated by him / her.
- 17.92 Agreed variations must be in writing and signed by all parties to the contract and recorded in the Council's Contracts Register. It is the duty of the Head of Service to ensure that their officers comply with this Rule 17.92

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Contract Extensions

- 17.93 A contract extension is a type of variation requiring continuation of a contract after its stated expiration date.
- 17.94 The decision to extend the contract period (term / duration) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original contract and contemplated by the original procurement exercise.
- 17.95 Where the terms of the contract and or original procurement exercise do not expressly provide for extension then such a contract may only be extended in exceptional circumstances, where legislation permits and value for money issues have been addressed. Such decisions shall be made by the relevant Head of Service in consultation with the Professional Lead - Commercial Services and / or Head of Legal Services and Monitoring Officer .
- 17.96 Contract extensions made pursuant to Rule 17.95 and which amount to a material change to the terms of the contract that was originally procured should be strictly time limited to allow a new procurement process to take place.
- 17.97 All extensions must be in writing and recorded in the Council's Contracts Register. It is the duty of the Head of Service to ensure that their officers comply with this Rule 17.97

Financial Limits

- 17.98 Where any financial threshold is specified in these Contract Procedure Rules, that figure is at 15th July 2015 and may be reviewed from time to time as appropriate by the Section 151 Officer and the Monitoring Officer has delegated authority to amend the Constitution accordingly without reference to Full Council.

Disposals

- 17.99 Although the Council will in the majority of cases be acquiring goods, materials, services or works, these Contract Procedure rules equally apply to any disposal or provision by the Council and shall be followed whenever possible and appropriate.
- 17.100 The Council should seek to obtain best value for any item of which it disposes which may mean a competition between interested parties and this may involve the use of an electronic auction site.
- 17.101 Advice should be taken from the Head of Regeneration, Property and Commissioning (or an officer nominated by him / her) and / or the Professional Lead – Commercial Services when disposals are being considered to discuss the appropriate method or process to be used. Reference should also be made to the section on Asset Disposal in the Financial Regulations.
- 17.102 In the case of land disposals (including buildings) reference must be made to the Council's Corporate Asset Policy on disposals with compulsory consultation with the Corporate Property Officer and the Head of Regeneration, Property and Commissioning (or an officer nominated by him / her).
- 17.103 In the case of work carried out or services provided by the Council for third parties, the Local Authorities (Goods and Services) Act 1970 allows this on

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behalf of defined Public Bodies. It is not permitted (apart from some exceptional circumstances) to provide services or carry out work to private individuals or to companies and, where this is being considered, advice must be sought from the Head of Legal Services and Monitoring Officer .

Compliance with Procedure rules

- 17.104 It is an implied condition of employment of all staff of the Council with responsibility for the administration of contracts that they should at all times observe the provisions of these Contract Procedure Rules and the Council's Financial Procedure Rules. Failure to do so may be regarded as a serious disciplinary matter.
- 17.105 Strategic Directors / Director / Heads of Service are responsible for ensuring that all staff in their directorates are aware of the existence and content of these Contract Procedure Rules and that they comply with them.

Review and amendment of contracts procedure rules

- 17.106 The Professional Lead – Commercial Services shall continually review these contract procedure rules and shall undertake a formal review every five years. Any proposed amendments will be reported to Full Council for approval save as otherwise provided in these Contract Procedure Rules.

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SECTION 18 – CODE OF CONDUCT FOR MEMBERS

The section below sets out the text of the Model Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended by the following statutory instruments:

- Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014 – (No. 2014/1815) (“the 2014 Regulations”) – effective from 1 August 2014.
- Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2008 (No. 2016/84) – effective from 1 April 2016.

18.1

Local Government Act 2000

Model Code of Conduct for Members and Co-opted Members with voting rights

Adopted by Powys County Council (amended) at a meeting held on 20th April, 2016.

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—(1) In this code —

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who —

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

"meeting" ("*cyfarfod*") means any meeting —

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

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

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

"registered society" means a society, other than a society registered as a credit union, which is —

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"register of members' interests" ("*cofrestr o fuddiannau'r aelodau*") means the register established and maintained under section 81 of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means—

(a) a county council,

(b) a county borough council,

(c) a community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority; and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

(a) "proper officer" ("*swyddog priodol*") means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) "standards committee" ("*pwyllgor safonau*") means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

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PART 2 GENERAL PROVISIONS

2.—(1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(e) leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by members of the group.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

(e) undertake mandatory training as agreed by Full Council from time to time.

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- (f) in relation to Planning Matters, act in accordance with Rules 19.76 to 19.81 (Role of Decision Maker) and Rules 19.92 to 19.122 (Decision Making by the Planning Committee) of the Planning Protocol.

5. You must not —

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

6.—(1) You must —

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

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —
- (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;

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(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3 INTERESTS

Personal Interests

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

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(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

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

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

[Note: subparagraph (b) is omitted.]

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

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

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

Disclosure of Personal Interests

11.—(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the

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interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

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(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

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13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the

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public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4 THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

15.—(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

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register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

16.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written

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notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

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Conduct of Members – The Principles¹

SELFLESSNESS

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

HONESTY

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

INTEGRITY AND PROPRIETY

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

DUTY TO UPHOLD THE LAW

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

STEWARDSHIP

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

OBJECTIVITY IN DECISION-MAKING

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

EQUALITY AND RESPECT

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

OPENNESS

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

¹ The Conduct of Members (Principles) (Wales) Order 2001 – S.I. 2276

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ACCOUNTABILITY

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

LEADERSHIP

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

Protocol - Standard of Conduct Expected by Members

18.3 This protocol sets out the standards of conduct expected from Members within Powys County Council in dealing with each other. It should be read in conjunction with the Members Code of Conduct ²and the Member-Officer Protocol³. It adds to these documents and does not detract from them.

Members are expected:

PUBLIC BEHAVIOUR

- 18.3.1.1 to show respect to each other;
- 18.3.1.2 not to make personal abusive comments about each other;
- 18.3.1.3 not to publish anything insulting about each other;
- 18.3.1.4 not to make malicious allegations against each other;
- 18.3.1.5 not to publish or spread any false information about each other;
- 18.3.1.6 to show respect to diversity and equality;

BEHAVIOUR IN MEETINGS

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

CONFIDENTIALITY

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

LOCAL MEMBERS

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

² See Section 18.1 above.

³ See Section 21.

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

INTRODUCTION

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

INTERPRETATION

18.4.2 In this procedure:

18.4.2.1 the "Act" means the Local Government Act 2000;

18.4.2.2 the "Council" means Powys County Council;

18.4.2.3 the "Code of Conduct" means the code of conduct for members ⁴adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions;

18.4.2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;

18.4.2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;

18.4.2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;

18.4.2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;

18.4.2.8 the "Monitoring Officer" means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989;

18.4.2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;

18.4.2.10 the "Regulations" means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;

18.4.2.11 the "Standards Officer" means the officer for the time being appointed by the Council to support the work of the Standards Committee.

SUMMARY OF THE PROCEDURE

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

⁴ See Section 18.1

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

and take any such action accordingly.

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

- 18.4.4.1 Where the Ombudsman ceases his/her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:
- (a) conduct an investigation; and
 - (b) report, and if appropriate, make recommendations to the Council's Standards Committee.

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18.4.4.2 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.

18.4.4.3 After concluding an investigation, the Monitoring Officer must:

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

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

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

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

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

THE FIRST MEETING OF THE STANDARDS COMMITTEE - INITIAL DETERMINATION

18.4.6.1 After the Monitoring Officer has:

- (a) produced an investigation report in accordance with rule 18.4.4.3(a); or
- (b) considered the Ombudsman's investigation report in accordance with rule 18.4.5.1

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

18.4.6.2 Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001. The agenda will name the Councillor against whom the allegation of misconduct have been made. The first substantive item on the agenda will be to determine whether the members of the public and Members should be excluded in accordance with Rule 4.81.

18.4.6.3 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Committee. If the investigation report is

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produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Committee.

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

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

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

18.4.6.5 The decision of the Committee under Rule 18.4.6.4 will be published and the name of the Councillor against whom the allegation of misconduct has been made will be made public even if the Committee decides that there is no failure to comply with the Members' Code of Conduct.

AFTER THE FIRST MEETING OF THE STANDARDS COMMITTEE

18.4.7.1 Where the Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.

18.4.7.2 Where the Standards Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS

18.4.8.1 The Standards Officer, in consultation with the Chair of the Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and the Member will respond in writing within 7 days indicating whether he / she wishes to attend the hearing and his / her ability to attend the hearing. In the event that the Member is unable to attend a hearing on the date(s) proposed, the Member will be able to propose alternative dates for consideration by the Chair of the Standards Committee, who will decide the reasonableness or otherwise of the proposed alternative date and arrange the date for the hearing to take place at which meeting the Committee will decide whether or not to proceed in the event that the Member fails to attend the hearing.

18.4.8.2 The letter from the Standards Officer in accordance with 18.4.8.1 will also ask the member to respond in writing within 14 days of that letter to confirm whether he / she:

- (a) wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;

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- (b) disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements in addition to the disputed facts set out in the investigation report;
- (c) wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations;
- (d) wants to give evidence to the Standards Committee, either orally or in writing;
- (e) wants to call relevant witnesses to give evidence to the Standards Committee and confirm their identity and either provide a statement of their evidence or the substance of the evidence to be given orally to the Standards Committee;
- (f) wants any part of the meeting to be held in private and the reasons why the meeting should not be in public;
- (g) wants any part of the investigation report or other relevant documents to be withheld from the public and the reasons why the document should not be made public

18.4.8.3 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.

18.4.8.4 The Standards Officer will send a copy of the Member's response under rule 18.4.8.1 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:

- (a) has any comments on the Member's response;
- (b) wants to be represented at the hearing;
- (c) wants to call relevant witnesses to give evidence to the Standards Committee;
- (d) wants any part of the meeting to be held in private; and
- (e) wants any part of the investigation report or other relevant documents to be withheld from the public.

18.4.8.5 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:

- (a) confirm the date, time and place for the hearing;
- (b) summarise the allegation;
- (c) outline the main facts of the case that are agreed;
- (d) outline the main facts which are not agreed;
- (e) note whether the Member or the Investigating Officer will attend or be represented at the hearing;
- (f) list those witnesses, if any, who will be asked to give evidence;
- (g) enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
- (h) outline the proposed procedure for the meeting.

POWERS OF THE STANDARDS COMMITTEE

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

PROCEDURE AT THE HEARING

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

Introduction

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

First Stage - Preliminary Procedural Issues

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

Second Stage - Making Findings of Fact

- 18.4.10.5 The Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

- 1 If there is a disagreement as to the facts:
 - (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
 - (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Member an

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- opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
- (c) the Member will then be invited to make representations to support his or her version of the facts;
 - (d) the Member may call any necessary witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.
- 2 At any time, the Standards Committee may question any of the people involved or any of the witnesses.
- 3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
- (a) continue with the hearing, relying on the information in the investigation report;
 - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
- 4 At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.

Third Stage - Deciding whether the Member has failed to comply with the Code

18.4.10.6

- 1 The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.
- 2 The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.
- 3 The Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, he or she has failed to comply with the Code of Conduct.
- 4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.

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- 5 The Member will be invited to make any final relevant points.
- 6 The Standards Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Committee will announce their findings.

Fourth Stage - Action to be Taken

18.4.10.7

- 1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.
- 2 If the Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:
 - (a) whether or not the Committee should apply a sanction; and
 - (b) what form any sanction should take.
- 3 The Standards Committee will retire to deliberate in private on the representations and decide either that:
 - (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;
 - (b) the Member should be censured; or
 - (c) the Member should be suspended or partially suspended from being a member or Co-Opted Member of his or her authority for a period not exceeding six months (or, if shorter, for the remainder of that person's term of office);after which the Chair of the Standards Committee will announce their decision in public.
- 4 After making a decision the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.
- 5 The decision of the Standards Committee will be deemed to have been received by the Member on the second day after the date the letter was sent by first class post, provided that the Standards Officer has proof of postage.

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FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING

18.4.11.1 If the Member fails to make representations, the Standards Committee may:

- (a) unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
- (b) give the Member a further opportunity to make representations.

18.4.11.2 If a party fails to be present or represented at a hearing, the Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:

- (a) adjourn the hearing; or
- (b) hear and decide the matter in the party's absence;
- (c) and in either case the Standards Officer will inform the Member of the outcome of the hearing by email or telephone and will thereafter arrange for the outcome to be notified to the press.

ILLNESS OR INCAPACITY

18.4.12 If the Standards Committee is satisfied, based upon the medical evidence supplied, that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter, which may include adjourning the hearing to a suitable date or proceeding with the hearing in the absence of the party if appropriate to do so in the opinion of the Standards Committee.

SUSPENSION

18.4.13 A period of suspension or partial suspension will commence on the day after:

- 18.4.13.1 the expiry of the time allowed to lodge a notice of appeal to the Adjudication Panel for Wales under the Regulations (i.e. 21 days after receiving notification of the Standards Committee's determination in accordance with Rule 18.4.10.7.5); or
- 18.4.13.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations; or
- 18.4.13.3 a further determination by the Standards Committee made after receiving a recommendation from the Adjudication Panel for Wales under the Regulations,

whichever occurs last.

REFERRAL TO THE ADJUDICATION PANEL FOR WALES

18.4.14.1 Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may seek permission to appeal against the determination from the President of the Adjudication

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Panel for Wales (APW) within 21 days of receiving notification of the Standard Committee's determination.

18.4.14.2 The APW may endorse the decision of the Standards Committee, refer a matter back to the Standards Committee recommending it impose a different penalty, or overturn the decision.

18.4.14.3 If:

- (a) the Standards Committee determines that the Member failed to comply with the Code of Conduct; and
- (b) the Member appeals to an APW drawn from the Adjudication Panel for Wales; and
- (c) the APW refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

the Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the APW and will determine whether or not it should uphold its original determination or accept the recommendation.

- (d) After making its determination the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the APW as soon as reasonably practicable.

PUBLICATION OF THE STANDARDS COMMITTEE'S REPORT

18.4.15.1 The Standards Committee will produce a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant within 14 days after either:

- (a) the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
- (b) receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
- (c) a further determination by the Standards Committee made after receiving a recommendation from an Adjudication Panel for Wales under the Regulations,

whichever occurs last.

18.4.15.2 Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:

- (a) publish the report on the Council's website for a minimum period of 21 days and make copies available for inspection by the public without charge during office hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;
- (b) supply a copy of the report to any person on request if he or she pays such charge as the Council may reasonably require, and

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- (c) not later than seven days after the report is received from the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

COSTS

- 18.4.16 The Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

Exclusion of Public and Members from Standard Committee Hearings

- 18.4.17.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rules 4.89 and 4.90 (Disturbance by the Public).
- 18.4.17.2 For the purpose of this Rule 18.4, where members of the public have been excluded pursuant to Rule 18.4.17.1, Members are also excluded (save for the Member appearing before the Standards Committee).

18.5 Protocol Concerning Gifts and Hospitality to Members

- 18.5.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.
- 18.5.2 The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Prevention of Corruption Acts. These requirements are then supplemented by this Protocol which has been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public officer for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.
- 18.5.3 This Protocol sets out:
 - (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
 - (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
 - (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

18.5.4 General Principles.

- 18.5.4.1 You should never accept any gift or hospitality in any of the Precluded Situations described in paragraph 6(c) of this Protocol

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18.5.4.2 In deciding whether in situations, other than Precluded situations, it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation

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The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.

(d) Never accept a gift or hospitality which puts you under an improper obligation.

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

(e) Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

18.5.5 Consent Regimes

18.5.5.1 General consent provisions

For clarity, the authority has agreed that in situations other than the Precluded Situations you may accept gifts and hospitality in the following circumstances provided that to do so would not be in breach of any one or more of the general principles contained in paragraph 2 above:

- (i) civic hospitality provided by another public authority

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- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Chairman of the Council together with a written statement identifying the information set out in Paragraphs 3.2 below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

18.5.5.2 Special consent provisions

If you wish to accept any gift or hospitality, in a situation, other than the Precluded Situations, which is in accordance with the General Principles set out in Paragraph 2, but is not within any of the general consents set out in

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Paragraph 3.1, you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 4, below.

18.5.6 **Reporting**

18.5.6.1 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, (or where you accept a working lunch of the type described in paragraph 3.1 (vi) above where the cost or value exceeds £10) you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer officer, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

18.5.6.2 Even if the value of the gift or hospitality is less than £25, (or less than £10 in respect of a working lunch of the type described in paragraph 3.1 (vi)) if you are concerned that its acceptance might be misinterpreted, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

18.5.7 **Gifts to the authority**

18.5.7.1 Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for

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participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

18.5.8 Definitions

18.5.8.1 "Gift or hospitality" includes any:

- (i) the free gift of any goods or services
- (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (iii) the opportunity to obtain any goods or services which are not available to the general public
- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

18.5.8.2 References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
- (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

18.5.8.3 References to "Precluded Situations" are references to situations where a member MUST NEVER accept any gift or hospitality and are:-

- (i) situations covered by the Planning Protocol, the relevant extracts of which are for ease of reference reproduced in Annex A to this Protocol;
- (ii) situations where the gift or hospitality would be provided by an individual who is an applicant for any order, licence, permission or consent to be made or granted by the Council or any objector to, or supporter of the grant of such order, licence, permission or consent or

SECTION 18 – CODE OF CONDUCT FOR MEMBERS

- any other individual who may be affected by the grant or refusal of such order, licence, permission or consent; and
- (iii) situations where the gift or hospitality would be provided by an individual who is in negotiation with the Council or has submitted a tender or offer to the Authority in relation to any proposed contract or transaction for the acquisition or disposal of any estate or interest in land or for the supply of goods or services to or from the Authority.

For the purposes of this definition:-

- “individual” includes any public or statutory body, a company, a partnership, an unincorporated association and any other organisation or legal entity or legal person known to and recognised by the law of England and Wales;
- “Planning Protocol” means the **Code of Conduct Dealing With Planning Matters/Applications In Respect Of The Planning Service** adopted by the County Council on 24th April 2008

SECTION 18 – CODE OF CONDUCT FOR MEMBERS

To: Monitoring Officer.

Declaration of Receipt of Gifts or Hospitality

Name	
Address	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact with the person or organisation providing the gift or hospitality?	
Signed	Date

SECTION 18 – CODE OF CONDUCT FOR MEMBERS

GIFTS AND HOSPITALITY.

A Councillor who is a “Decision Maker” must:

- not accept any gifts or hospitality from anyone connected with a planning application or matter;
- register any offers of gifts or hospitality refused in a register kept for that purpose maintained by the Monitoring Officer.

All other Councillors must comply with the Protocol Concerning Gifts and Hospitality to Members as set out in Part 5 – Section 3 of the Constitution.

Definition.

“**Decision Maker**” means, in relation to a specific planning application, a Member who is neither a “Member with an Interest” nor a “Local Member” and who is involved in the determination of that planning application as a Member of the Planning Committee.

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SECTION 19 – PLANNING PROTOCOL

The Planning Protocol document can be accessed as follows:

[Planning Protocol Document](#)

Note - The Planning Protocol was removed from the Constitution by a decision of Full Council on 25 January 2018

- 19.1 1Planning applications must be dealt with in accordance with the Planning Protocol approved by Full Council on 20th April, 2016.
- 19.2 The Planning Protocol must be followed by Members and Officers. Failure to follow the Planning Protocol could be a potential breach of the Members' Code of Conduct in accordance with Rule 18.1 (Part 2, Paragraph 4(e)) of this Constitution.
- 19.3 The Planning, Taxi Licensing and Rights of Way Committee is hereby authorised to amend the Planning Protocol following receipt of advice from the Scrutiny Manager and Legal Services.
- 19.4 Where amendments are proposed to the Planning Protocol in accordance with Rule 19.3 above, those amendments will take effect 10 working days after the decision of the Planning, Taxi Licensing and Rights of Way Committee unless the procedure set out in Rule 19.5 below is invoked.
- 19.5 Within 10 working days of a decision by the Planning, Taxi Licensing and Rights of Way Committee to amend the Planning Protocol any 4 Members of that Committee may make a written request to the Monitoring Officer for the proposed amendment to be considered and determined at the next meeting of Full Council.

¹ The Planning Protocol was removed from the Constitution by a decision of Full Council on 25 January 2018.

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SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Policy Document

- 20.1 The public is entitled to expect the highest standards of conduct from all Powys County Council employees, including school based staff (those funded by the School's Delegated Budget), in performing their duties. You are here to serve the Council in providing advice, implement its policies and deliver services to the local community. In performing your duties, you must act with integrity, honesty, impartiality and objectivity.
- 20.2 The purpose of this Code is to assist you in carrying out your job by making clear the standards of behaviour the Council requires you to meet. It incorporates the existing laws, regulations and conditions of service you should be aware of in your work for the Council.
- 20.3 This Code aims to ensure that confidence in your integrity as an employee is maintained at all times.
- 20.4 This Code forms part of your contract of employment and must be followed – a breach of the Code could lead to disciplinary action being taken against you, which may include dismissal.
- 20.5 A climate of mutual confidence, trust, respect and support between Members, managers and staff is critical to achieving the Council's objectives and for the fulfilment of all employees. You are expected to show commitment to the Council and to further its objectives as much as you can. If there are allegations that you have brought the Council into disrepute, disciplinary action may be taken against you.
- 20.6 Under this Code you are expected to take responsibility for the decisions that you may make as part of your employment. You should work within the law and be aware that the decisions you make may be scrutinised. If you feel that you require further training / guidance for your role, you should raise this with your line manager either directly as part of the recruitment process or through 1-1's and / or the Individual Performance Review (IPR) process.
- 20.7 The Code applies to all employees of the Council. The Code also applies to contractors, agency staff, volunteers and those on placements working on behalf of the Council.
- 20.8 As an employee you serve the whole of the Council. You are accountable to, and owe a duty to this Council. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees in discharging public functions responsibly and according to the law.
- 20.9 As an employee, you are required to serve the whole of the Council, including Elected Members and School Governing Bodies, equally and with impartiality.
- 20.10 Each Head of Service or Headteacher will be responsible for ensuring that each department maintains and regularly updates a register of Declarations of Interest, as well as centrally recording the receipt of gifts and hospitality. Strategic Directors will inform the Monitoring Officer directly of situations or conflicts of interest in which they may be involved.

Nolan's Seven Principles of Public Life

- 20.11 The following 7 principles of public life apply to anyone who works as a public office-holder, including local government employees.

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Selflessness

20.11.1 Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

20.11.2 Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

20.11.3 In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

20.11.4 Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

20.11.5 Holders of public office should be as open as possible about all the decisions and actions that they take. They should give and record reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

20.11.6 Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

20.11.7 Holders of public office should promote and support these principles by leadership and example.

The Expected Standards

Equality

20.12 All members of local communities, customers and other Council employees have a right to be treated fairly and equitably. You should become familiar with and observe all Council policies and procedures related to equality issues in addition to the requirements of the applicable laws in this regard, such as the Equality Act 2010.

Definition of Declaration of Interest & Conflict of Interest

20.13 A working definition of a conflict of interest is:

"a conflict between the private interests and the official responsibilities of a person in a position of trust".

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

- 20.14 The definition is not restricted to cases where you actually betray this trust; it can be equally damaging for the conflict of interest to exist or to appear to exist or even have the potential to develop into an actual or perceived conflict of interest. This policy is a mechanism for protecting Council employees against criticism or compromise by ensuring that you recognise and disclose such conflict situations and take steps to avoid and manage them.
- 20.15 A conflict of interest arises where the commitments and obligations owed by you to the Council or to other bodies, for example a funding body, are likely to be compromised, or may appear to be compromised, by:
- 20.15.1 your personal gain, or gain to immediate family (or a person with whom you have a close personal relationship), whether financial or otherwise; or
 - 20.15.2 your commitments and obligations that you owe to another person or body.
- 20.16 There can be situations in which the appearance of conflict of interest is present even when no conflict actually exists. It is your responsibility to recognise situations and activities in which you have a conflict of interest, or might reasonably be seen by others to have a conflict, to disclose that conflict to your Head of Service, submitting a request seeking permission to undertake such activities.
- 20.17 Conflicts of interest may be financial or non-financial, or both:
- 20.17.1 financial interest refers to anything of non-trivial monetary value, including, but not limited to, pay, commission, consultancy fees, equity interests, forgiveness of debt, property, royalties, intellectual property rights.
 - 20.17.2 non-financial interest refers to any non-financial benefit or advantage, including, but not limited to, enhancement of an individual's career, education or professional reputation; access to privileged information or facilities.
- 20.18 In order to Declare an Interest or Conflict of Interest, you must complete the form set out at Appendix A below. The Head of Service for each department will ensure that all declarations of interest are filed in the centrally held Sharepoint site for their Service.
- 20.19 The Head of Service for each department will ensure that all declarations of Gifts & Hospitality are filed in the centrally held Sharepoint site for their Service. The form for declaring a gift or hospitality is set out in Appendix B below.
- 20.20 The Monitoring Officer has the right to audit the Declaration Forms at any time.

Tendering Procedures

- 20.21 Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors. Employees **must** comply fully with the tendering procedures as set out in the Contract Procedure Rules – Section 17 of the Constitution.
- 20.22 If you are responsible for engaging or supervising contractors and have previously had, or currently have a relationship in a private or domestic capacity with contractors, you must declare that relationship to your Head of Service, in writing.

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

- 20.23 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- 20.24 All employees must ensure that no special favour is shown to current, recent or former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

Relations with Members, Public and Other Employees

- 20.25 As an employee of the Council, whether your post is politically restricted or not, you must follow every lawfully expressed policy of the Council and must not allow your own personal or political opinions to interfere with your work. Where your post is politically restricted (by the reason of the post you hold, the nature of the work you do, or the salary you are paid), you must comply with any statutory restrictions on your political activities.
- 20.26 As part of your work, you may be required to inform political groups. You must do so in ways which do not compromise your political neutrality.
- 20.27 Mutual respect between employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Any personal relationship between you and a Member must be recorded on a Declaration of Interest Form found in Appendix A.
- 20.28 You should deal with the public, Members and other employees sympathetically, efficiently and without bias.
- 20.29 Close personal relationships between yourself and individual Members can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided wherever possible.
- 20.30 Whilst your private life is your own concern, you must not allow your private interests to conflict with your public duty. You must not misuse your official position or information acquired in the course of your employment to further your private interests, or in the interests of others.

Financial & Council Property Matters

- 20.31 If you are entrusted with public funds, you must ensure that you use them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Council for personal use unless you are authorised to do so.
- 20.32 You should strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 20.33 If you claim benefit e.g. Housing Benefit, Occupational Sick Pay or Council Tax Benefit, from this Council or any other, to which you are not entitled, it is likely that you will be liable to action under the disciplinary procedure.
- 20.34 Personal Use of Internet and Email must be in accordance with the Council's current Internet and Email Acceptable Use Policy and Guidance. Any inappropriate comments regarding the Council, made on Social Media sites, may bring the Council into disrepute and may lead to disciplinary action being taken against you.
- 20.35 Personal Telephone Calls in Council time should be kept to a minimum. Outgoing calls and personal incoming calls should occur infrequently and be kept as short as possible. Text message must also be kept to a minimum and made during break times wherever possible.
- 20.36 Intellectual Property is property which enjoys legal protection, such as patents, copyright, trademarks, designs and software. Where developed in the course of your

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

duties, such intellectual property is the property of the Council. Intellectual Property includes all confidential information regarding the business of the Council.

- 20.37 You must not make use of the Council's property to conduct private work. Property includes buildings, vehicles, phones, stationery etc. This list is not exhaustive.

Whistleblowing

- 20.38 In the event that you become aware of activities which you believe to be illegal, improper, unethical or inconsistent with this Code, you have a duty to report this matter, in accordance with your rights under the Public Interest Disclosure Act 1998, and the Council's confidential reporting procedure in the Whistleblowing Policy (See Section 22 of the Constitution).

Appointments/ Recruitment – Staff & Contractors

Appointment of Staff

- 20.39 If you are involved in the recruitment and appointment of staff, you must ensure that appointments are made on the basis of merit. Please ensure that you refer to the Council's Recruitment Policy and the Safer Recruitment Policy prior to commencing the process.
- 20.40 In order to avoid any possible accusation of bias, you must not be involved in any appointment, disciplinary, promotion or pay and conditions issues for any other employee or prospective employee, to whom you are related or with whom you have a close relationship outside of work.
- 20.41 A 'close relative' is defined by legislation as meaning: spouse / partner, a parent; parent-in-law; son; son-in-law; daughter; daughter-in-law; step-parent; step-son; step-daughter; brother or sister, or the partner of any of these persons. In addition, for the purposes of this policy, 'close relative' also includes: grandparent; grandchild; aunt; uncle; niece or nephew.
- 20.42 A 'friend' can be defined as a person with whom one has a bond of mutual affection.
- 20.43 References will be sought for each individual who is appointed to a post with Powys County Council. If you request to see a reference about you, this request will not be granted without the permission of the referee.

Appointment of Any Persons who Undertake Work for the Council

- 20.44 If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to your Strategic Director and ensure that you complete the Declaration of Interest form found in Appendix A of this document.
- 20.45 Orders and contracts must be awarded on merit, in accordance with the Council Financial Procedure Rules (See Section 16 of the Constitution) and Contracts Procedure Rules (See Section 17 of the Constitution) and no special favour should be shown to businesses run by, e.g. friends, partners or relatives in the tendering process.
- 20.46 You must be aware as a private citizen of any possible conflicts of interest when buying goods or using services of firms who you have dealings with as a Council employee. You must declare any such transactions appropriately and ensure that you complete the Declaration of Interest form found in Appendix A of this document.
- 20.47 If you are required to appoint or deal with in the course of your employment contractors for the Council, you should be aware of possible conflicts of interest, as a

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

private citizen when you buy goods or use the services of firms who have dealing with the Council and you should disclose any such transactions to your Head of Service and ensure that you complete the Declaration of Interest form found in Appendix A of this document.

- 20.48 If you are an officer involved in employing contractors or procuring services through the procurement framework, you must also declare any personal interests you may have with regards to that contract or procurement process.

Taking Other Employment

- 20.49 Regardless of grade, whether whole or part-time, permanent, temporary, casual, “relief” or seasonal, you should not undertake additional employment (paid or unpaid) if your proposed additional work either will or has the potential to:

- 20.49.1 create a conflict of interest;
- 20.49.2 overlap with official duties;
- 20.49.3 weaken public confidence in the Council..

- 20.50 Furthermore, employees are not permitted to wear any Council-branded clothing whilst undertaking additional work. Similarly, employees should not make use of any Council property, records or privileged information obtained in the course of their duties with the Council for any external / additional employment use.
- 20.51 Where you consider your proposed secondary employment may conflict with these requirements, you must inform your line manager who will advise you on whether you need to seek agreement of your Strategic Director to your proposed additional employment.
- 20.52 If you are undertaking secondary employment or propose to do so you should first seek approval from your line manager. You should complete the Dual Employment Form which can be found in Appendix C below for any secondary employment you undertake. It is incumbent on Heads of Service to ensure that all employee secondary employment is reviewed at least annually.
- 20.53 You also have the responsibility to ensure that you work the hours that you are contracted to work, that you dedicate your time at work carrying out the tasks for which you are paid and that you act to acceptable standards at all times.

Openness

- 20.54 Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, nothing in this Code overrides statutory or common law obligations.
- 20.55 Legislation, including the Freedom of Information Act 2000, the Data Protection Act 1998, and the Environmental Information Regulations 2004 requires that certain types of information must be made available to the public and other recognised third parties and to employees and Members.
- 20.56 You have a responsibility to safeguard the security and confidentiality of personal information you hold and you should ensure that only the appropriate amount of information required is provided to those who have a clearly established and legitimate need to use it. If there is any doubt as to whether information and / or documents are disclosed please seek advice from the Information Governance Manager.
- 20.57 You must ensure that any views, opinion or facts that you have do not reflect negatively on the Council or the work you carry out for the Council. Your activities outside work can also reflect on your work. The use of social media must therefore

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

be used with care and sensitivity. You must not breach confidentiality of any of the Council's issues through your use of social media. If there is any doubt regarding the acceptable use of social media, you should refer to the Council's Social Media Guidance document. For example, you should make it clear that any views or opinions expressed on any social medium are your own and not those of the Council.

Acceptable Appearance at Work

- 20.58 The Council imposes a particular style of dress only where protective clothing and uniforms are required. Whilst there is no desire to impose a style of dress elsewhere, standards appropriate to the effective delivery of our services are necessary. You must consider the job you are doing, and consider if your style of dress is appropriate for the role. An element of common sense will come into this consideration.
- 20.59 You represent the Council, so your appearance impacts on our image. Inappropriate dress can suggest that you have little regard for your service delivery or your customers, so consideration should always be given to public perception.
- 20.60 If you are deemed to be inappropriately dressed, you may be sent home to change and repeated breaches of the standards of this Code may lead to disciplinary action being taken against you. If you are sent home to change, you will not be credited for the time taken to do this.
- 20.61 An acceptable standard of appearance would include:
- 20.61.1 a high standard of cleanliness and personal hygiene at all times;
 - 20.61.2 a standard of business dress which promotes the professionalism of your service and the Council;
 - 20.61.3 your identification badge worn visibly at all times in your workplace, unless agreed by your Head of Service or line manager;
 - 20.61.4 only uniforms or protective clothing issued by the Council may be worn. No substitutes are to be made;
 - 20.61.5 it is your duty to keep all items of uniform and protective clothing issued by the Council clean, in good repair and to wear it as required.
- 20.62 Managers are responsible for ensuring that replacement uniform / protective clothing is made available to you when you give reasonable notice.
- 20.63 NOTE –There is clear guidance within the Corporate Working Arrangements with regards to the use of Personal Protective Equipment (PPE) and you must make yourself aware of the content of that document if you are issued with PPE.

Corruption, Acceptance of Gifts and Hospitality

- 20.64 Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for you to receive or give any gift, loan, reward or advantage in their official capacity “for doing or not doing anything” or “showing favour or disfavour” to any person. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained.
- 20.65 Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or be connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below in Rules 20.67 to 20.69, you should decline any personal gift offered to you or your partner, or to a member of your family by any person or organisation having dealings with the Council. Any offer should be

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

reported to your Head of Service (or to the Head of Legal Services and Monitoring Officer if you are a Chief or Deputy Chief Officer).

- 20.66 If you are an employee employed in a caring role or provide a direct personal service to vulnerable people, there are sometimes special problems encountered as it is not unusual for residents of residential care homes or for people receiving support at home (or their relatives) from Council employees to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their Will. If you are made aware that a service user / client is considering making a gift to you or including you in their Will, or has actually done so, then you must immediately report this to your Head of Service.
- 20.67 It is very important in such situations that employees and the Council are protected from any suggestion of improper motives or conduct. For the avoidance of doubt, members of staff and their families are not allowed to accept gifts or legacies from clients / service users.
- 20.68 Gifts should only be accepted if they are of a nominal value (under £25) such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices. This includes gifts of a promotional nature normally given by the company to visitors.
- 20.69 If gifts of more than a nominal value are offered or if you suspect that an improper motive exists, you should always decline the offer and report it to your Head of Service, who should then report it to the Chief Executive regardless of whether the offer is accepted or not.
- 20.70 Exceptionally, if returning the gift would cause offence, your Head of Service can arrange for it to be received by the Council for a charitable purpose.
- 20.71 The form found in Appendix B must be completed by you each time a gift or hospitality has been accepted or offered, no matter what its monetary value may be. This form must then be kept by your Head of Service in the centrally kept register.
- 20.72 Even if the gift is returned to the sender or if the item is donated for charitable purposes, you must fill the form registering the offer of gifts and hand it to your manager to place on the register.
- 20.73 Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thereby undermining public confidence. Such hospitality should be recorded as a gift using Appendix B.
- 20.74 If hospitality is offered to you as an individual employee, special caution is needed particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc. who may stand to benefit from the goodwill of the Council.
- 20.75 You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Monitoring

- 20.76 Where a Monitoring Officer is undertaking an investigation under section 73(1) of the Local Government Act 2000, you must comply with any requirement made by that officer in connection with such an investigation.
- 20.77 It is your Head of Service who is responsible for ensuring and for monitoring that all employees within your service have declared interests. Managers within HR are responsible for monitoring compliance of this code to ensure overall effective governance of this document and will work alongside Internal Audit in order to ensure that good practice is maintained.
- 20.78 It is a central requirement to document declaration of interests for Heads of Service to ensure that they have registers for both Declarations of Interest and Receipts of Gifts & Hospitality and that all staff register these items. The Heads of Service will also ensure that the registers are checked and monitored on an annual basis.
- 20.79 Specific guidance by individual departments have special provisions e.g. Planning Department, Housing Benefit etc with regards to Declarations of Interest and Receipts of Gifts & Hospitality. You must use that specific guidance alongside this document in order to ensure compliance.
- 20.80 In some occupations there are specific codes of conduct e.g. Code of Practice for Social Care Workers, Code of Occupational Ethics for the Youth Service in Wales, etc.

When in Doubt...

- 20.81 If you are doubt with regard to the provisions of this Code and how they apply in any particular situation, your Head of Service should be consulted. If there is still any doubt, the advice of your Strategic Director must be sought.

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Council Constitution - Section 20 – Code of Conduct for Employees Appendix A: Registration of Declaration of Interest Cyngor Sir Powys County Council Declaration of Interest

Powys County Council requires all staff involved in the administration of its work, to immediately report, in writing, to Head of Service or Chief Executive, details of any relationship with an Elected Member, Officer, family member or member of the public which may lead to a conflict of interest as defined in this Code of Conduct.

A 'close relative' is defined by legislation as meaning: spouse / partner a parent; parent-in-law; son; son-in-law; daughter; daughter-in-law; step-parent; step-son; step-daughter; brother or sister, or the partner of any of these persons. In addition, for the purposes of this policy, 'close relative' also includes: grandparent; grandchild; aunt; uncle; niece or nephew.

This declaration will be reviewed on an annual basis, during your Individual Performance Review with your line manager.

NAME OF OFFICER	
POSITION HELD	
DATE OF DISCLOSURE	

NATURE OF INTEREST DECLARED:

Officer signature:	
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Declaration recorded by Line Manager:

Manager's signature:	
Date:	

Declaration recorded in Disclosure of Interest Register - Head of Service or Approved Representative's

Head of Service's signature:	
Date:	

SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Council Constitution - Section 20 – Code of Conduct for Employees

Appendix B: Registration of Receipt of Gifts or Hospitality (Including gifts not accepted, or given to charity, or returned to sender)

Name	
Address	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact with the person or organisation providing the gift or hospitality?	

Officer Signature:	
Date:	

Manager's Signature:	
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SECTION 20 – CODE OF CONDUCT FOR EMPLOYEES

Council Constitution - Section 20 – Code of Conduct for Employees Appendix C: Working Time Regulations – Dual Employment

The Council supports the Working Time Regulations 1998 as part of its general obligations to ensure the health and safety of all staff.

Please can you complete all relevant sections below so that Powys County Council is aware of all positions that you are employed in both within the Council and with other employers.

Please note that this form should still be completed irrespective of whether you have one or more positions, if in the future you accept additional employment with another part of the Council or another employer, you must inform your current Line Manager(s).

Employment with Powys County Council

Full Name	
Payroll No	

1 – Position Title			
Department		Location	
No of Contracted Hours		Permanent/ Temporary (Please delete as appropriate)	

2 – Position Title			
Department		Location	
No of Contracted Hours		Permanent/ Temporary (Please delete as appropriate)	

3 – Position Title			
Department		Location	
No of Contracted Hours		Permanent/ Temporary (Please delete as appropriate)	

Employment With Another Employer

1 – Position Title			
No of Contracted Hours		Permanent/ Temporary (Please delete as appropriate)	

2 – Position Title			
No of Contracted Hours		Permanent/ Temporary (Please delete as appropriate)	

Please return completed form to;

Recruitment Team, County Hall, Llandrindod Wells, Powys LD1 5LG



SECTION 21 – PROTOCOL ON MEMBER / OFFICER RELATIONS

Introduction

- 21.1 The purpose of this Protocol is to guide Members and employees of the Council in their relations with one another.
- 21.2 Mutual respect between Members and employees is essential to good local government. However, close personal familiarity between individual Members and employees can damage this relationship and prove embarrassing to other Members and employees.
- 21.3 The relationship has to function without compromising the ultimate responsibilities of employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and employees.

Roles of Members

- 21.4 Members undertake many different roles. Broadly these are:
 - 21.4.1 Members express political values and support the policies of the party or group to which they belong (if any).
 - 21.4.2 Members represent their electoral division and are advocates for the citizens who live in the area.
 - 21.4.3 Members are involved in active partnerships with other organisations as community leaders.
 - 21.4.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations. When reaching decisions Members must reach decisions having regard to any relevant advice provided by the authority's officers - in particular by:
 - 21.4.4.1 the authority's chief finance officer acting in pursuance of that officer's duties under section 114 of the Local Government Finance Act 1988;
 - 21.4.4.2 the authority's Monitoring Officer acting in pursuance of that officer's duties under section 5 of the Local Government and Housing Act 1989;
 - 21.4.4.3 the authority's chief legal officer, who should be consulted when there is any doubt as to the authority's power to act, or as to whether the action proposed lies within the policy framework agreed by the authority; where the legal consequences of action or failure to act by the authority might have important repercussions.
 - 21.4.5 Members help develop and review policy and strategy including approval of the budget and policy framework.
 - 21.4.6 Members monitor and review policy implementation and service quality.
 - 21.4.7 Members are involved in quasi-judicial work through their Membership of regulatory committees.
 - 21.4.8 From time to time Members will receive professional advice from officers and Members may wish to test this advice by questioning and

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challenging something they do not agree with, but they should not, by their conduct or actions, make employees feel intimidated or threatened. They should ensure that any challenge of advice given is made to an employee of suitable seniority, generally the Chief Executive, Strategic Director / Director, or Head of Service. Employees should remember that councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation. Employees should always seek to meet the Council's objectives when advising, provided that this can be done legally and within financial resources.

Roles of Employees

21.5 Briefly, employees have the following main roles:

- 21.5.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- 21.5.2 Providing impartial advice to the Council and its various bodies and to individual Members in respect of the services provided.
- 21.5.3 Initiating policy proposals.
- 21.5.4 Implementing agreed policy.
- 21.5.5 Ensuring that the Council always acts in a lawful manner.

Respect and Courtesy

21.6 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other employees, in public places.

Undue Pressure

- 21.7.1 It is important in any dealings between Members and employees that neither should seek to take unfair advantage of their position.
- 21.7.2 In their dealings with employees (especially junior employees) Members need to be aware that it is easy for such employees to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- 21.7.3 A Member should not apply undue pressure on an employee either to do anything that s/he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 21.7.4 Similarly, an employee must neither seek to use undue influence on an individual Member to make a decision in his / her favour, nor raise personal matters to do with their job, nor make claims or allegations about other employees. *(The Council has formal procedures for*

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consultation, grievance and discipline, and employees have the right to report possible wrongdoing under the Council's Whistleblowing Policy.)

Familiarity

- 21.8.1 Such familiarity could also cause embarrassment to other Members and/or other employees and even give rise to suspicions of favouritism.
- 21.8.2 For these reasons close personal familiarity must be avoided.

Breach of Protocol

- 21.9 If an employee considers that a Member has contravened the protocol he should consult his / her line manager who will if necessary involve the Head of Service, Director or Strategic Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer who may suggest that the matter is either dealt with under the Council's Local Resolution Process (Section 25) or where appropriate that the officer should complain to the Public Services Ombudsman for Wales.

Provision of Advice and Information to Members

- 21.10.1 Members are free to approach employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 21.10.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.
- 21.10.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 21.10.4 The Access to Information Procedure Rules (Section 14) of this Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 21.10.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 21.10.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

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- 21.10.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that s/he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division.
- 21.10.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.
- 21.10.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such officers are invaluable to any Council.
- 21.10.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the “need to know”. Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member’s enquiry that any individual would be entitled to receive such documentation. The Council’s Information Governance Manager will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

Confidentiality

- 21.11.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which s/he believes, or ought reasonably to be aware, is of a confidential nature, except where:
- 21.11.1.1 s/he has the consent of a person authorised to give it;
- 21.11.1.2 s/he is required by law to do so;
- 21.11.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- 21.11.1.4 the disclosure is:
- (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

SECTION 21 – PROTOCOL ON MEMBER / OFFICER RELATIONS

- 21.11.2 Confidential committee papers are to be treated as confidential information unless the relevant committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.
- 21.11.3 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 21.11.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant officer, but treat the information as confidential in the meantime.
- 21.11.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 21.11.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that officer.

Provision of Support Services to Members

- 21.12 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

Correspondence

- 21.13 Officers should always try to respond to Members within the Council's target timescales for response to members of the public, and if they cannot, should keep the Member informed as to progress. If correspondence is referred by an officer to a Member for response, the Member should also use best endeavours to reply within Council target response times.

Media

- 21.14 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while employees provide factual information. If a Member is unsure about the circumstances of a particular issue s/he should contact the appropriate Strategic Director, Director or Head of Service concerned or ask the Communications Team to do so.

SECTION 21 – PROTOCOL ON MEMBER / OFFICER RELATIONS

The Council's Role as Employer

21.15 In their dealings with officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

Political Activity

21.16.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

21.16.2 In summary, such employees are prevented from:

- 21.16.2.1 being a Member of Parliament, European Parliament, National Assembly for Wales or local authority;
- 21.16.2.2 acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in 21.16.2.1;
- 21.16.2.3 being an officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his / her duties would be likely to require him / her to:
 - (i) participate in the general management of the party or branch;
or
 - (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;
- 21.16.2.4 canvassing on behalf of a political party or a candidate for election to any the bodies referred to in 21.16.2.1;
- 21.16.2.5 speaking to the public with the apparent intent of affecting public support for a political party; and
- 21.16.2.6 publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

Presentations / Attendance of Officers at Political Group Meetings.

21.17 The political neutrality and impartiality of all officers should be respected by Members.

21.18 Officers cannot be compelled to attend political group meetings.

21.19 The overriding principle is that any presentation that will be of benefit to members will be available to all political groups equally.

21.20 Consideration should first be given as to whether there is a more appropriate forum for the presentation e.g. County Council seminar, scrutiny committee.

21.21 The role of staff is to give information to members and assist them in making a decision. The presentations will focus on conveying information and facts rather than on giving an opinion. For the avoidance of doubt information which is essentially service based will be relayed to

SECTION 21 – PROTOCOL ON MEMBER / OFFICER RELATIONS

Members via Area (Shire) meetings or whole Council Seminars; only major issues such as those concerning the policy framework, budget or strategic matters will normally be the subject of officer briefings to the Groups.

- 21.22 Officers will not be involved in advising on matters of political group business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed.
- 21.23 Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- 21.24 Similarly, where officers provide information to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Council, Executive, Committee or Sub-Committee when the matter in question is considered.
- 21.25 Special care needs to be exercised whenever officers are involved in providing information to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information as they would to a Members' only meeting.
- 21.26 Officers must respect the confidentiality of any political group discussion at which they are present in the sense that they should not relay the content of any such discussion to another political group.
- 21.27 Any particular cases of difficulty or uncertainty in this area of officer information to political groups should be referred to the Monitoring Officer who will discuss them with the relevant political group leader(s).

Support Services to Political Groups.

- 21.28 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. Support services should never be used in connection with party political or campaigning activity or for private purposes.
- 21.29 Assistance will however be given to all political groups in connection with the booking of rooms in Council buildings for political group meetings (which may be arranged using the Council email system), and the provision of photocopies of documents which officers have requested the political groups to consider.

SECTION 21 – PROTOCOL ON MEMBER / OFFICER RELATIONS

Presentations / Advice to Non-Affiliated Members of the Council.

21.30 It is likely that there will be Members of the Council who choose not to be affiliated with any political group which is formed. In such cases officers will provide advice to those Members in the same manner as they would to the political groups.

Sanctions

21.31.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

21.31.2 Complaints about any breach of this protocol by an officer may be referred to the relevant Chief Officer, the Chief Executive or the Head of Legal Services and Monitoring Officer .

Conclusion

21.32 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and employees.

W

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

INTRODUCTION

- 22.1 All of us at one time or another have concerns about what is happening at work and usually these concerns are easily resolved. However, when you are troubled about something that involves a **danger (to public or colleagues), professional misconduct or financial malpractice**, it can be difficult to know what to do.
- 22.2 You may be worried about raising such an issue, perhaps feeling it's none of your business or that it's only a suspicion. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what, if anything, to do next. You may feel that raising the matter would be disloyal to colleagues, to managers or to the Council.
- 22.3 This Council has introduced this policy to enable everyone to “blow the whistle” safely and without fear of any repercussions so that such issues are raised at an early stage and in the right way. We know from experience that to be successful we must all try to deal with issues on their merits. The Council welcomes receipt of your concerns and is committed to dealing responsibly, openly and professionally with them. Without your help, we cannot deliver a safe service and protect the interests of the public, staff and the Council. If you are worried, we would rather you raised it when it is just a concern than to wait for proof.
- 22.4 If something is troubling you which you think we should know about or look into, please use this procedure. If, however, you are aggrieved about your personal position in work, please use the Council's Grievance Procedure. **This whistleblowing procedure is primarily for concerns where the interests of others or this Council are at risk.**
- 22.5 A whistleblowing concern is about a risk, malpractice or wrongdoing **that affects others**. It could be something which adversely affects other workers, the organisation itself and/or the public.
- 22.6 A grievance is a personal complaint about someone's own employment situation (e.g. relationships at work or Terms and Conditions of employment and how they have been applied or interpreted).

If in doubt - raise it!

- 22.7 This policy is intended to cover concerns that fall outside the scope of other existing procedures and policies of the Council. Where you have a concern which is personal and relates only to yourself rather than wrongdoing of a more general nature this will be treated as a grievance and the Grievance Policy will apply. In circumstances where unwanted conduct or unnecessary behaviour is displayed to exert power, fear or anxiety on yourself or a work colleague(s) the Council's Fairness and Dignity at Work Policy can be used. If you are not sure about which policy applies to your concern, please contact the Monitoring Officer. There is of course, a need to ensure that any investigation process is not misused and therefore any abuse, such as raising unfounded malicious allegations, may be treated as a serious disciplinary matter.

THIS APPLIES TO YOU

- 22.8 This applies to all staff whether you are a permanent employee, a Member, agency or temporary staff, the staff of one of our contractors, or a volunteer.

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

OUR COMMITMENT TO YOU

Protection of the “ Whistle-Blower”

- 22.9 The Council is committed to this policy and hopes that you feel able to voice your concerns openly. This policy sets out a framework within which you can make a “protected disclosure” without fear that you will be subjected to victimisation or dismissal (and selection for redundancy) provided that the disclosure is made in accordance with the Public Interest Disclosure Act 1998 (“The Act”) as amended. It is important for you to be aware that you can only make a public disclosure in certain circumstances. A “protected disclosure” must be of a certain type of information known as a “qualifying disclosure” and the disclosure must be made in a way which is described in the Act.
- 22.10 A qualifying or protected disclosure is a disclosure of information made in the public interest which in the reasonable belief of the person making the disclosure tends to show one or more of the following:
- 22.10.1 illegal practices (for example, a criminal offence).
 - 22.10.2 a failure to comply with a legal obligation.
 - 22.10.3 the health and safety of an individual, whether this is a member of the public or staff being endangered.
 - 22.10.4 damage to the environment.
 - 22.10.5 miscarriage of justice.
 - 22.10.6 deliberate concealment of any of the above.

Your confidence

- 22.11 We will not tolerate the harassment or victimisation of anyone raising a concern and disciplinary action may be taken against those who harass whistle-blowers. The Council hopes that you feel able to voice their concerns openly. Nonetheless, we recognise that you may be anxious. If so you can ask to talk privately to a senior officer within the service or to one of the persons identified in rules 22.15 to 22.19 below. If you want to raise your concerns confidentially, we will make every effort to ensure that your name will not be revealed without your consent. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly.
- 22.12 However there may be occasions when it may become necessary to disclose your personal details. This could be for a variety of reasons depending upon the nature of the concerns raised. For example, it could be to ensure fairness for all involved.
- 22.13 The Council will seek to withhold personal details being released; it cannot guarantee that others will not try to deduce (correctly or otherwise) your identity. This may be the case where concerns have already been raised with colleagues or managers. In addition, at the appropriate time you may need to come forward as a witness. Where it is necessary for your identity to be disclosed we will discuss this with you, explaining the reasons why your identity needs to be disclosed. We will also discuss and provide any reasonable support to try to alleviate concerns that you may have regarding the need to make the disclosure.

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

Anonymous concerns

22.14 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the facts to be taken into account would include the seriousness of the issues raised, the credibility of the concern and the likelihood of confirming the allegation from available sources. It is better that concerns are raised anonymously rather than not at all.

HOW TO RAISE A CONCERN INTERNALLY

22.15.1 You should not attempt to investigate suspected malpractice yourself.

22.15.2 You should deal with the matter promptly, if you feel your concerns are warranted, involving your recognised trade union or professional body as necessary.

22.15.3 You make an immediate note of your concerns (making a note of all relevant details such as ‘what was said’ in a telephone discussion or other conversations), the date, time and the names of any parties involved particularly details of any witnesses.

Step one

22.16 If you have a concern, we hope you will normally feel able to raise it with the appropriate Line Manager so it can be resolved locally.

Step two

22.17 If you don't feel step one is appropriate or it hasn't worked, please raise the matter with your Head of Service, Director or Strategic Director. Please say if you want to raise the matter in confidence so that they can make arrangements accordingly. We will write to you summarising your concern and the action we propose to take.

Step three

22.18 If these steps have been followed but have not worked, or you feel that the matter is so serious that you cannot discuss it with any of the above, you can report your concerns, in strict confidence to:

22.18.1 The Council's Internal Audit Manager by writing to the Internal Audit Manager, County Hall, Llandrindod Wells, Powys LD1 5LG or by telephone on 01597 826821: or

22.18.2 The Council's Monitoring Officer (Chief Legal Officer) (Tel: 01597 826746); or

22.18.3 The Council's Chief Finance Officer (Tel: 01597 826729); or

22.18.4 The Leader or a Deputy Leader (Tel: 01597 826199)

NB. Protection of Children and/or Vulnerable Adults

22.19 If you witness or have concerns about the safety or welfare of a child or vulnerable adult or if you suspect that abuse may be taking place, please report your concerns immediately to the Council's Safeguarding Manager, Ruth Ingram (Tel 01957 827023) during normal office hours. Outside office hours please contact the Out of Hours Team on 0845 7573818. Alternatively, you can call the Police by phoning 101 and ask for your local Police Station or by phoning 999 if it is urgent.

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

HOW WE WILL HANDLE THE MATTER

- 22.20 Once you have told us of your concern, it will be looked into to assess what action should be taken. This may involve an informal review, an internal inquiry or an investigation all of which will be independent and will not involve the line managers of the whistle-blower or the person against whom the complaint has been made. We will tell you who is handling the matter, how you can contact them and whether your further assistance may be needed. We will write to you summarising your concern and setting out how we propose to handle it.
- 22.21 When you raise the concern we may ask you how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. If your concern falls more properly within the grievance or other procedures we will tell you.
- 22.22 Your concern will be dealt with as quickly as possible and normally any investigation will be concluded within one calendar month.

COUNCIL RESPONSIBILITY OF THIS POLICY

- 22.23 The Executive Management Team member who is responsible for this policy is David Powell, the Strategic Director for Resources. However, all whistleblowing concerns will be co-ordinated by Clive Pinney, the Head of Legal Services and Monitoring Officer .

RESPONSE TIMES

- 22.24 Employees and members of the public need to be aware that matters which have been raised through the Whistleblowing Policy can often be difficult to investigate. In all cases however, all whistle-blowers will receive a written acknowledgement of the concern(s) raised within 10 working days. Subject to the limitations and provisions of statute and confidentiality, all matters raised should be fully investigated within one calendar month. The outcome of the investigation will be notified to the whistle-blower in writing within 10 working days of the completion of the investigation, however, it may not be possible to fully disclose what outcomes were reached in respect of all the issue(s) raised.

INDEPENDENT ADVICE

- 22.25 If you are unsure whether or how to raise a concern or you want free independent advice at any stage, you may contact:
- 22.25.1 your Trade Union or Professional Association; and/ or
 - 22.25.2 the charity Public Concern at Work on 020 7404 6609. Their lawyers can give you independent confidential advice at any stage about whistleblowing.

EXTERNAL CONTACTS

- 22.26 To reassure you that we want you to raise concerns internally and that we will deal with it properly, please know that you can also contact specific regulatory bodies, such as the Health & Safety Executive or the Wales Audit Office. Where you believe the local response has been inadequate, you can also raise your concerns with a body such as Public Concern at Work on 020 7404 6609 and

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

your union will be able to advise you which route is appropriate in your circumstances.

22.26.1 The Wales Audit Office can be contacted at:

PIDA Officer
The Auditor General for Wales
24 Cathedral Road
Cardiff
CF11 9LJ
E-mail: whistleblowing@wao.gov.uk
Phone: 01244 525980

22.26.2 For concerns related to the provision of social services, the Care and Social Services Inspectorate Wales (CSSIW) can be contacted at:

Welsh Government Office
Rhydycar Business Park
Merthyr Tydfil
CF48 1UZ
E-mail: cssiw@wales.gsi.gov.uk
Phone: 0300 7900 126

22.26.3 You may also find assistance from the following website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf 7

IF YOU ARE DISSATISFIED

22.27 If you are unhappy with the response, remember you can go to the other levels and bodies detailed above.

22.28 While we cannot guarantee that you will be satisfied with our response, our aim is to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

WHO WE CONSULTED

22.29 This policy has been drawn up in consultation with Trades Unions, the Wales Audit Office, the Council’s Standards Committee, Democratic Services Committee and Governance and Audit Committee. The Council will review the policy from time to time and welcomes your comments.

REVIEW OF POLICY AND SCRUTINY

22.30 This policy will be reviewed in accordance with the dates set out on the front cover of the policy.

22.31 All staff and Members who are aware that a whistleblowing complaint has been made must inform the Head of Legal Services and Monitoring Officer who will:

22.31.1 record the number and types of concerns raised, follow-up action taken and the outcomes of investigations;

SECTION 22 – CONFIDENTIAL REPORTING “WHISTLEBLOWING” CODE

- 22.31.2 report the number and types of concerns annually to the Standards Committee and the Governance and Audit Committee;
- 22.31.3 ensure that there is evidence of timely and constructive feedback to the worker raising the concern;
- 22.31.4 seek feedback from individuals who have used the arrangements;
- 22.31.5 from time to time recommend to the Strategic Director for Resources that internal audit consider the effectiveness of the whistleblowing procedures.



SECTION 23 – MEMBER ROLE DESCRIPTIONS

The role descriptions need to be read in conjunction with the WLGA's – A Development Framework for Councillors in Wales 2021 which is attached to the Constitution

Section	Member
A1	Elected Member (to include the role as corporate parent)
A2	Chair / Vice-Chair / Assistant Vice-Chair of the Council
B1	Scrutiny Committee Member
B2	Chair / Vice-Chair of a Scrutiny Committee
C1	Regulatory Committee Member
C2	Chair / Vice-Chair of a Regulatory Committee
D1	Governance and Audit Committee Member
D2	Chair / Vice Chair of Governance and Audit Committee
E1	Standards Committee Member
E2	Chair / Vice-Chair of Standards Committee
F1	Standards Community Sub-Committee Member
F2	Chair / Vice Chair of Standards Community Sub-Committee
G1	Democratic Services Committee Member
G2	Chair / Vice Chair of Democratic Services Committee
H1	Cabinet Member
H2	Cabinet Leader and Deputy Cabinet Leader
I	Leader and Deputy Leader of the Opposition
J	Political Group Leader
K	Member Champion

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section A1 Elected Member Role Description

1 Accountabilities

- To the electorate of their ward
- To the political group
- To Full Council

2 Role Purpose and Activity

- **Representing and supporting communities**
 - To represent ward interests
 - To be an advocate for the Council in the ward and communities they serve.
 - To be a channel of communication to the community on Council strategies, policies, services and procedures in the ward and communities they serve
 - To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally
 - To liaise with Cabinet members, other Council members, Council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported
 - To be vigilant and do everything possible to protect adults and children at risk from abuse.
 - To promote tolerance and cohesion in local communities
- **Making decisions and overseeing Council performance**
 - To participate in Full Council meetings, reaching and making informed and balanced decisions, and overseeing performance
 - To participate in informed and balanced decision making on committees and panels to which they might be appointed
 - To adhere to the principles of democracy and collective responsibility in decision making
 - To take corporate responsibility for the protection of vulnerable children and adults
 - To promote and ensure efficiency, effectiveness and equity in the provision of council and other public services
- **Representing the Council (subject to appointment)**
 - To represent the Council on local outside bodies as an appointee of the Council
 - To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain
 - To represent and be an advocate for the Council on national bodies and at national events
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To provide community leadership and promote active citizenship
 - To promote and support open and transparent government

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council, the public and other members of the Council.
 - To adhere to the Member's Code of Conduct, the Member/Officer Protocol and the highest standards of behaviour in public office
 - To have regard to the requirements of the Group Leader (where one exists) in matters of conduct and behaviour.
 - To promote equalities and diversity
- **Personal and role development**
 - To participate in opportunities for development provided for members by the authority
 - To participate in initial and ongoing statutory and mandatory training
 - To actively identify individual needs and participate in opportunities for development provided for members by the authority.

3 Values

- To be committed to the values of the Council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural difference
 - Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section A2

Chair, Vice-Chair and Assistant Vice-Chair of the Council Role Description

Chair

1. Accountabilities

- Full Council
- To the public

2. Role Purpose and Activity

- **Acting as a symbol of the Council’s democratic authority**
 - As the ceremonial head of the Council, to be non-political and uphold the democratic values of the Council
 - To represent the Council at civic and ceremonial functions
- **Chairing Council meetings**
 - To preside over meetings of the Council, so that its business can be carried out efficiently
 - To ensure the Council conducts its meetings in line with the Council’s Constitution
- **Upholding and promoting the Council’s Constitution**
 - To ensure the Constitution is adhered to and, if necessary, to rule on the interpretation of the Constitution
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To provide community leadership and promote active citizenship
 - To promote and support open and transparent government
 - To support, and adhere to respectful, appropriate and effective relationships with employees of the Council
 - To adhere to the Members’ Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office
 - To promote and support the well being of Members
 - To promote effective communication between and provision of information to Members
- **Work programming**
 - To prepare and manage an annual work programme for the Council to meet its legal obligations (e.g. setting the budget and the Council Tax and making appointments)

3. Values

- To be committed to the values of the Council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required

Assistant-Vice Chair

- To fulfil the duties of the Chair or Vice-Chair in his or her absence
- To assist the Chair or Vice-Chair in specific duties as required

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section B1 Member of Scrutiny Committee Role Description

1 Accountabilities

- To the Chair of the appropriate Scrutiny Committee
- To Full Council
- To the public

2 Role purpose & activity

- To participate fully in the activities of the Scrutiny Committee, the development and delivery of its work programme and any associated task and finish groups
- **Scrutinising and developing policy**
 - To assist in the development of council policy through scrutinising of draft policies, and improvement and refinement of existing policy
 - To challenge policies on a sound basis of evidence for example against legislation or local political priority
 - To assess impact of existing policy and identify areas for improvement
 - To identify where new policies might be required to address forthcoming legislation
- **Holding the Cabinet to account, monitoring performance and service delivery**
 - To monitor the performance of internal and external providers against standards and targets including questioning of Cabinet and senior officers on the delivery of targets
 - To contribute to the identification and mitigation of risk
 - To investigate and address the causes of under performance poor performance
 - To monitor action plans or recommendations following external audit, inspection or regulatory reports
 - To evaluate the validity of Cabinet decisions and challenging decisions through call-in where appropriate
 - To build trust with the executive so that appropriate matters could be sent to scrutiny for a pre-decision review prior to the executive taking a final decision
- **Promoting the work of Scrutiny**
 - To promote the role of scrutiny within and outside the Council, developing effective internal and external relationships with officers and other members and external relationships with community representatives.
 - To demonstrate an objective non-political and evidence based approach to scrutiny by utilising a wide range of research in any work undertaken including sources of information outside the Council
 - To add value to the decision making and service provision of the authority through effective scrutiny
 - To be able to demonstrate where scrutiny is making a difference by its involvement

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- **Community engagement [leadership]**
 - To use scrutiny as a means to address community issues and engage the public in forward work programmes
 - To encourage stakeholders to participate in the work of the authority
 - To assist in developing locally viable and acceptable policy solutions
 - To build a dialogue around priorities, objectives and performance, among communities and stakeholders
 - To take a county wide perspective in dealing with issues
- **Participating in joint scrutiny**
 - To work within the appropriate terms of reference and protocols governing joint working in scrutiny
 - To apply the appropriate tests and criteria when deciding whether or not to undertake joint scrutiny
 - To contribute to the scrutiny of regional bodies and partnerships
 - To encourage public engagement in joint scrutiny
 - To work effectively with partner scrutineers from other authorities and organisations.
- **Meeting participation**
 - To make adequate and appropriate preparation for meetings through research and briefings and planning meeting strategies
 - To participate in a proactive, informed and effective manner taking account of the Members' Code of Conduct, Constitution and other constitutional requirements
 - To demonstrate effective scrutiny inquiry skills in questioning, listening and information handling
 - To be non-political
 - To focus on outcomes / making a difference by participation

3. Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section B2 Chair and Vice-Chair of a Scrutiny Committee Role Description

Chair

1. Accountabilities

- Full Council
- To the members of the scrutiny committee
- To the public

2. Role purpose & activity

- **Providing leadership and direction**
 - To provide confident and effective management of the committee
 - To promote the role of scrutiny within the council, liaising effectively with officers, executive members and colleague chairs [and outside the Council, liaising effectively both internally within the council and externally with the Council's partners]
 - To promote the integral role and contribution of scrutiny within the authority's wider improvement planning and reporting arrangements
 - To lead joint scrutiny activities with other authorities or organisations when required
 - To champion and promote the role of Overview and Scrutiny to the public, helping the public better understand and, crucially, contribute to and engage with the scrutiny process.
 - To promote the role of Overview and Scrutiny to partner bodies, helping them to understand and engage with the Scrutiny function.
 - To demonstrate an objective and evidence based approach to scrutiny ensuring that scrutiny inquiries are methodologically sound and incorporate a wide range of evidence and perspectives
 - To follow-up scrutiny recommendations
 - To evaluate the impact and added value of scrutiny activity and identify areas for improvement
 - Work closely with scrutiny support staff to drive continual improvements in scrutiny
 - Assist in publicising the work of the scrutiny committee
 - To participate in the Joint Chairs meetings and the evaluation/ improvement of scrutiny
 - To participate in meetings of the Finance Scrutiny Panel
 - Attending briefing meetings
- **Managing the work programme**
 - To develop a balanced work programme of the committee which includes pre decision scrutiny, policy development and review, investigative scrutiny, and holding the executive to account, including performance monitoring
 - To ensure the programme takes account of relevant factors such as, the work programmes of the executive and other committees, strategic priorities and risks, audit and regulatory reports and recommendations, single-integrated plan and partners strategic priorities and relevant community issues
 - To ensure that the public are engaged in scrutiny activities by informing them about the work programme and encouraging participation
 - To ensure that the work programme is delivered

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- To report on progress against the work programme to Council, and others as appropriate
 - To ensure that the work programme is manageable and the workload delegated and prioritised to focus on the areas of most benefit or greatest risk to the organisation.
 - To ensure that task and finish/working/sub groups have clear terms of reference and deliver the required outcomes.
 - To liaise with officers, other members and community representatives to resource and deliver the work programme
- **Leading Joint Scrutiny**
 - To apply the appropriate tests and criteria when deciding whether or not to undertake joint scrutiny
 - To ensure that regional bodies and partnerships are held to account and that their plans are subject to scrutiny
 - To develop protocols and terms of reference for joint working
 - To ensure public engagement in joint scrutiny activities
 - To enable the pooling of scrutiny resources for effective working and outcomes
 - To ensure the equal participation and contribution from all partners as appropriate
- **Effective meeting management**
 - To plan and set agendas containing clear objectives and outcomes for the meeting
 - To manage the progress of business at meetings, ensuring that meeting objectives are met, and the Members' Code of Conduct and other constitutional requirements are adhered to
 - To ensure that the necessary preparation is done beforehand, if necessary, through pre-meetings, including agreeing appropriate lines of questioning
 - To ensure that the approach to overview and scrutiny is impartial and that the committee meeting is conducted without political whipping (as per the Local Government (Wales) Measure 2011)
 - To ensure that all participants have an opportunity to make an appropriate contribution
 - To ensure that members of the public are able to contribute to meetings and understand the protocols for public speaking.
- **Community leadership**
 - To act as a focus for liaison between the council, community and external bodies in relation to the scrutiny function
 - To build understanding and ownership of the overview and scrutiny function within the community
 - To identify relevant community based issues for scrutiny
 - To promote the full involvement of external stakeholders, for example, service users, expert witnesses and partners in scrutiny activity
- **Involvement and development of committee members**
 - To encourage effective contributions from all committee members in both committee and task and finish groups

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- To assess individual and collective performance within the committee and work to improve scrutiny outcomes [facilitate appropriate development]
- To champion the importance of learning and development
- To ensure that committee members have the appropriate knowledge and skills to undertake their roles and work with lead members and officers to secure appropriate development.

3. Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings
- To participate in the Joint Chairs meetings and the evaluation/improvement of scrutiny

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section C1 Member of a Regulatory Committee Role Description

1 Accountabilities

- To Full Council
- To the Chair of the Regulatory Committee
- To the public

2 Role purpose and activity

- **Understanding the nature of the regulatory committee and quasi-judicial decision making**
 - To be aware of the quasi-judicial nature of Regulatory Committee decision making
 - To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee
 - To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and individual cases/applications before the committee
- **Participating in meetings and making decisions**
 - To participate effectively in meetings of the Regulatory Committee, ensuring that both local considerations and policy recommendations are balanced to contribute to effective decision making
 - To make informed and balanced decisions, within the terms of reference of the Committee, which accord with legal, constitutional and policy requirements
- **Internal governance, ethical standards and relationships**
 - To ensure the integrity of the Committee's decision making and of his/ her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To promote and support good governance by the Council
 - To understand the respective roles of members, officers and external parties operating within the Regulatory Committee's area of responsibility
 - To participate in statutory/mandatory training in order to be able to participate in the Regulatory Committee meetings

3 Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section C2 Chair and Vice-Chair of a Regulatory Committee Role Description

Chair

1 Accountabilities

- To Full Council
- To the members of the regulatory committee
- To the public

2 Role Purpose and Activity

- **Providing leadership and direction**
 - To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
 - To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process
 - To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements
 - To delegate actions to sub committees as appropriate
 - To attend briefing meetings
- **Promoting the role of the regulatory committee and quasi-judicial decision making**
 - To act as an ambassador for the regulatory committee, facilitating understanding of the role
 - To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly
 - To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in individual cases/applications before formal committee meetings
- **Internal governance, ethical standards and relationships**
 - To develop the standing and integrity of the committee and its decision making
 - To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility
 - To promote and support good governance by the Council.

3 Values

- To be committed to the values of the council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural differences
 - Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section D1 Member of Governance and Audit Committee Role Description

1. Accountabilities

- To Full Council
- To the Chair of the Committee
- To the public

2. Role purpose and activity

Participating in meetings of the committee and making decisions

- To demonstrate independence, integrity, and impartiality in decision making according to legal, constitutional and policy requirements.
- To have regard to the requirements of the Chair of the Committee and the professional advice of senior officers of the authority including the Chief Financial Officer and Head of Internal Audit (or equivalent)
- To Comply with the authority's Code of Conduct
- To work according to the Terms of Reference for the Committee
- To contribute to the development of the forward work programme for the Committee.
- To promote the role of the committee within the authority
- To report as required to Council
- To respond to any recommendations made by the Auditor General for Wales
- To participate in any training and development required for the role

Contributing to the work of the Committee in its role in:

Reviewing and scrutinising the authority's financial affairs

- Make reports and recommendations in relation to the authority's financial affairs
- Oversee the authority's internal and external audit arrangements
- Work with internal and external auditors
- Review the financial statements prepared by the authority and approve them when powers are delegated including making relevant reports and recommendations.

Contributing to the effective performance of the authority

- Review the draft report of the authority's annual self-assessment and make recommendations for changes to the conclusions or actions that the authority intends to take
- Make recommendations in response to the draft report of the authority's Panel Assessment (commissioned once per term **from May 2022**)
- Review and assess the authority's ability to handle complaints effectively.
- Make reports and recommendations in relation to the authority's ability to handle complaints effectively.

Reviewing and assessing the Governance, Risk Management and Control of the authority

- Review and assess the risk management, internal control, and corporate governance arrangements of the authority

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- Make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements
- Review and Assess the financial risks associated with corporate governance, and be satisfied that the authority's assurance statements, including the annual governance statement, reflects the risk environment and any activities required to improve it

3. Values

- To be committed to the values of the council and the following values in public office:
- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section D2

Chair and Vice Chair of Governance and Audit Committee Role Description

1. Accountabilities

- To Full Council
- To the Committee
- To the public

2. Role Purpose and Activity

Providing leadership and direction

- To demonstrate independence, integrity, and impartiality in decision making according to legal, constitutional and policy requirements
- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
- To comply with the authority's Code of Conduct
- To work according to the Terms of Reference for the Committee
- To work with senior officers of the authority including the Chief Financial Officer and Head of Internal Audit (or equivalent), to agree the forward work programme and to set agendas for the Committee.
- To work with other members of the authority to ensure that the work of the Committee is communicated to and aligns with that of the Cabinet, Standards and Scrutiny functions whilst maintaining appropriate independence.
- To promote the role of the committee within the authority.
- To report as required to Council
- To participate in and contribute to training and development required for the role
- To support committee members to develop the skills required for the role.
- To lead the committee in responding to any recommendations made by the Auditor General for Wales

Leading the Committee in its role in reviewing and scrutinising the authority's financial affairs

- Make reports and recommendations in relation to the authority's financial affairs
- Oversee the authority's internal and external audit arrangements
- Work with internal and external auditors
- Review the financial statements prepared by the authority and approve them when powers are delegated including making relevant reports and recommendations

Leading the Committee in its role in contributing to the effective performance of the authority

- Review the draft report of the authority's annual self-assessment. Make recommendations for changes to the conclusions or actions that the authority intends to take
- Make recommendations in response to the draft report of the authority's Panel Assessment (commissioned once per term **from May 2022**)
- Review and assess the authority's ability to handle complaints effectively.
- Make reports and recommendations to the authority about the authority's ability to handle complaints effectively.

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Leading the Committee in its role in Reviewing and assessing the Governance, Risk Management and Control of the authority

- Review and assess the risk management, internal control, and corporate governance arrangements of the authority
- Make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements
- Review and assess the financial risks associated with corporate governance, and be satisfied that the authority's assurance statements including the annual governance statement reflect the risk environment and any activities required to improve it

3. Values

- To be committed to the values of the council and the following values in public office:
- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section E1

Member of a Standards Committee Role Description

1 Accountabilities

- To the Chair of the Standards Committee
- To Full Council
- To the public

2 Role purpose and activity

- **To contribute to the role of the Standards Committee in effectively fulfilling its functions and to support the Committee Chair by:**
 - promoting and maintaining high standards of conduct by councillors, lay members and co-opted members
 - assisting the councillors, lay members and co-opted members in their observance of [to observe] the Members' Code of Conduct
 - advising the Council on the adoption or revision of the Members' Code of Conduct
 - monitoring the operation of the Members' Code of Conduct
 - advising, [on] training or arranging to train councillors, lay members and co-opted members on matters relating to the Members' Code of Conduct
 - granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct
 - dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales
 - Contributing to the development and application of any local resolution protocol
 - The exercise of these functions (above) in relation to community councils and the members of those community councils
 - Working with Political Group Leaders to promote and maintain high standards of conduct by the Group members
 - Monitoring compliance by Leaders of Political Groups with their duty to take reasonable steps to promote and maintain high standards of conduct by members of the Group and advising, training or arranging to train the Leaders of Political Groups about these duties. (From May 2022)
 - Making an annual report to the Authority (first report due in respect of the 2022/23 financial year, as soon as possible after year end) describing how the committee's functions have been discharged during the financial year. The report may include any matter within the functions of the committee. The report must include:
 - How the committee has discharged its legal duties, particularly, how the committee has monitored the compliance of Group Leaders with their duties to take reasonable steps to promote and maintain high standards of conduct by members of the Group and the work of the Committee in advising, training or arranging to train the Leaders of Political Groups about these duties
 - The degree of compliance of Group Leaders with their duty to take reasonable steps to promote and maintain high standards of conduct by

SECTION 23 – MEMBER ROLE DESCRIPTIONS

members of the Group

- overseeing the operation of the Council's whistle-blowing policy
 - providing advice to individual councillors on such issues as the treatment of personal interest and on conduct matters generally
 - determining appropriate action on matters referred to it by the Public Services Ombudsman for Wales
 - overseeing the Register of Members' Interests, Co-opted Members and Officers
 - overseeing the Council's rules and protocols on accountability of members
 - overseeing the attendance of Members and Co-opted Members at relevant committees
 - overseeing the training of Members serving on all committees of the Council
-
- To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee
 - To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee
-
- **Participating in meetings and making decisions**
 - To participate effectively in meetings of the Standards Committee
 - To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements internal governance, ethical standards and relationships
-
- **Internal governance, ethical standards and relationships**
 - To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To promote and support good governance by the Council
 - To understand the respective roles of members, officers and external parties operating within the Standards Committee's area of responsibility

3 Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability
- Impartiality

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section E2 Chair and Vice Chair of Standards Committee Role Description

Chair

1 Accountabilities

- To Full Council
- To members of the Standards Committee
- To the public

2 Role Purpose and Activity

- **Providing leadership and direction**
 - To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly
 - To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice on the Members' Code of Conduct
 - To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements
 - To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
 - To attend briefing meetings
- **To lead the committee in its role in:**
 - promoting and maintaining high standards of conduct by councillors, lay members and co-opted members, church and parent governor representatives
 - assisting all members in their observance of [the councillors, co-opted members and church and parent governor representatives to observe] the Members' Code of Conduct
 - advising the Council on the adoption or revision of the Members' Code of Conduct
 - monitoring the operation of the Members' Code of Conduct
 - advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct
 - granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct
 - dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales
 - Developing and applying any local resolution protocols
 - The exercise of these functions (above) in relation to community councils and the members of those community councils
 - Working with Political Group Leaders to promote and maintain high standards of conduct by the Group members
 - Monitoring compliance by Leaders of Political Groups with their duty to take reasonable steps to promote and maintain high standards of conduct by members of the Group and advising, training or arranging to train the Leaders of Political Groups about these duties. (From May 2022)

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- Making an annual report to the Authority (first report due in respect of the 2022/23 financial year, as soon as possible after year end) describing how the committee's functions have been discharged during the financial year. The report may include any matter within the functions of the committee. The report must include:
 - How the committee has discharged its legal duties, particularly, how the committee has monitored the compliance of Group Leaders with their duties to take reasonable steps to promote and maintain high standards of conduct by members of the Group and the work of the Committee in advising, training or arranging to train the Leaders of Political Groups about these duties.
 - The degree of compliance of Group Leaders with their duty to take reasonable steps to promote and maintain high standards of conduct by members of the Group
- overseeing the operation of the Council's whistle-blowing policy
- providing advice to individual councillors on such issues as the treatment of personal interests and on conduct matters generally
- determining appropriate action on matters referred to it by the Public Services Ombudsman for Wales
- overseeing the Register of Members' Interest, Co-opted members and Church and Parent Governor Representatives and Officers
- overseeing the Council's rules and protocols on accountability of members
- overseeing the attendance of Members and Co-opted Members at committees
- overseeing the training of Members serving on all committees of the Council
- exercising appellate role (Independent Lay Members only) under the Habitual or Vexatious Complainants policy

3 Values

- To be committed to the values of the council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural differences
 - Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section F1 Member of a Standards Community Sub-Committee Role Description

1 Accountabilities

- To the Chair of the Standards Community Sub-Committee
- To Full Council
- To the public

2 Role purpose and activity

- **Understanding the nature of the Standards Community Sub-Committee and effectively fulfilling its functions by:**

In relation to town and community councils in Powys and members of those councils:

- promoting and maintaining high standards of conduct by councillors and community youth representatives
 - assisting the councillors and community youth representatives to observe the Members' Code of Conduct
 - advising the Council on the adoption or revision of the Members' Code of Conduct
 - monitoring the operation of the Members' Code of Conduct
 - advising, training or arranging to train councillors and community youth representatives on matters relating to the Members' Code of Conduct
 - granting dispensations to councillors and community youth representatives from requirements relating to interests set out in the Members' Code of Conduct
 - dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales
 - To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the Sub-Committee
 - To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the Sub-Committee
- **Participating in meetings and making decisions**
 - To participate effectively in meetings of the Sub-Committee
 - To make informed and balanced decisions, within the terms of reference of the Sub-Committee, which accord with legal, constitutional and policy requirements
 - **Internal governance, ethical standards and relationships**
 - To ensure the integrity of the Sub-Committee's decision making and of his/her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To promote and support good governance by the Council
 - To understand the respective roles of members, officers and external parties operating within the Sub-Committee's area of responsibility

SECTION 23 – MEMBER ROLE DESCRIPTIONS

3 Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability
- Impartiality

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section F2 Chair and Vice Chair of Standards Community Sub-Committee Role Description

Chair

1 Accountabilities

- To Full Council
- To Members of the Standards Community Sub-Committee
- To the Chair of the Standards Committee
- To the public

2 Role Purpose and Activity

- **Providing leadership and direction**
 - To act within technical, legal and procedural requirements to oversee the functions of the Sub-Committee fairly and correctly
 - To ensure thoroughness and objectivity in the Sub-Committee, receiving and responding to professional advice on the Members' Code of Conduct
 - To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements
 - To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
 - To attend briefing meetings
 - To lead the Sub-Committee in its role in relation to town and community councils in Powys and members of those councils:
 - promoting and maintaining high standards of conduct by councillors and community youth representatives
 - assisting the councillors and community youth representatives to observe the Members' Code of Conduct
 - advising the Council on the adoption or revision of the Members' Code of Conduct
 - monitoring the operation of the Members' Code of Conduct
 - advising, training or arranging to train councillors and community youth representatives on matters relating to the Members' Code of Conduct
 - granting dispensations to councillors and community youth representatives from requirements relating to interests set out in the Members' Code of Conduct
 - dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales
- **Internal governance, ethical standards and relationships**
 - To ensure the integrity of the Committee's decision making and of his/ her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To promote and support good governance by the Council
 - To understand the respective roles of members, officers and external parties operating within the Sub-Committee's area of responsibility

SECTION 23 – MEMBER ROLE DESCRIPTIONS

3 Values

- To be committed to the values of the council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural differences
 - Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section G1 Member of a Democratic Services Committee Role Description

1 Accountabilities

- To the Chair of the Democratic Services Committee
- To Full Council
- To the public

2 Role purpose and activity

- **Understanding the nature of the Democratic Services Committee:**
 - To be aware of and effectively undertake the role of the committee in:
 - Designating the Head of Democratic Services following advice from the Chief Executive
 - Keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services [to discharge the democratic functions], ensuring that these are adequate
 - Making annual reports to the Full Council in relation to the above
 - Appointing working groups and chairs of working groups to undertake functions delegated by the committee
 - Considering reports prepared by the Head of Democratic Services
 - Developing the Authority's member support and development strategy
 - Ensuring that members have access to a reasonable level of training and development as described in the member development strategy and the Wales Charter for Member Support and Development
 - Ensuring that the budget for member development is sufficient
 - Ensuring that members have access to personal development planning and annual personal development reviews
 - Reviewing committee structures
 - Revisions of the Constitution
 - To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the Committee
 - To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the Committee
- **Participating in meetings and making decisions**
 - To participate effectively in meetings of the Democratic Services Committee
 - To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements and Ministerial guidance
- **Internal governance, ethical standards and relationships**
 - To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To promote and support good governance by the Council
 - To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility

SECTION 23 – MEMBER ROLE DESCRIPTIONS

3 Values

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section G2 Chair and Vice Chair of Democratic Services Committee Role Description

Chair

1 Accountabilities

- To Full Council
- To members of the Democratic Services Committee
- To the public

2 Role Purpose and Activity

- **Providing leadership and direction**
 - To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
 - To lead the committee in its role in:
 - Designating the Head of Democratic Services following advice from the Chief Executive
 - Keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services [to discharge the democratic functions and]ensuring that these are adequate
 - Making annual reports to the Full Council in relation to the above
 - Appointing working groups and chairs of working groups to undertake functions delegated by the Committee
 - Considering reports prepared by the Head of Democratic Services
 - Developing the Authority's member support and development strategy
 - Ensuring that members have access to a reasonable level of training and development as described in the Authority's Member Development Strategy and the Wales Charter for Member Support and Development
 - Ensuring that the budget for member development is sufficient
 - Ensuring that members have access to personal development planning and annual personal development reviews
 - Working with the member support and development champion where relevant to promote the role of members and necessary support and development
 - Reviewing committee structures
 - Revisions of the Constitution
 - To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements and Ministerial guidance
 - To attend briefing meetings
 - To participate in the Joint Chairs meetings and the evaluation/ improvement of scrutiny
- **Promoting the role of the Democratic Services Committee**
 - To act as an ambassador for the Democratic Services Committee, facilitating understanding of the role
 - To act within technical, legal and procedural requirements to oversee the functions of the Committee fairly and correctly

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- To ensure thoroughness and objectivity in the Committee, receiving and responding to professional advice in the conduct of meetings
- **Internal governance, ethical standards and relationships**
 - To develop the standing and integrity of the Committee and its decision making
 - To ensure the integrity of the Committee's decision making and of his/ her own role by adhering to the Members' Code of Conduct and other constitutional and legal requirements
 - To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility
 - To promote and support good governance by the Council

3 Values

- To be committed to the values of the council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural differences
 - Sustainability

Vice-Chair

- To fulfil the duties of the Chair in his or her absence
- To assist the Chair in specific duties as required
- To attend briefing meetings
- To participate in the Joint Chairs meetings and the evaluation/improvement of scrutiny

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section H1 Cabinet Member Role Description

2 Accountabilities

- To the Leader
- To the Cabinet (through collective responsibility)
- To Full Council
- To Political Group
- To the public through collective responsibility

3 Role Purpose and Activities

- **Providing portfolio leadership**
 - To give strategic and political direction to officers working within the portfolio
 - To gain the respect of officers within the portfolio; provide support to officers in the implementation of portfolio programmes
 - To provide leadership in the portfolio
 - To liaise with the appropriate scrutiny chair and receive scrutiny reports as required
 - To be accountable for choices and performance in the portfolio
 - To have an overview of the performance management, efficiency and effectiveness of the portfolio
 - To make Cabinet decisions within the portfolio*, which are recorded in accordance with the Constitution

* This only applies under constitutional arrangements where individual Cabinet members or combinations of Cabinet members are given individual responsibility for making decisions on behalf of the Cabinet.

- **Contributing to the setting of the strategic agenda and work programme for the portfolio**
 - To direct the strategic agenda and work programme with reference to the Council's overall Corporate Improvement Plan
 - To work with officers to formulate policy documents both strategic and statutory.
 - Ensure that the political will of the majority is carried to and through the Cabinet
 - To provide assistance in working up and carrying through a strategic work programme both political and statutory.
 - Carry out consultations with stakeholders as required.
 - Make sure that the portfolio's forward work programme is kept up to date and accurate
- **Providing representation for the portfolio**
 - To provide a strong, competent and persuasive figure to represent the portfolio.
 - Be a figurehead in meetings with stakeholders
- **Reporting and accounting**
 - To report to the Leader, Full Council, Cabinet, chair of scrutiny, regulatory bodies and the media
 - To agree objectives with the Leader and report progress.
 - To be the principal political spokesperson for the portfolio

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- To appear before scrutiny committees in respect of matters within the portfolio
- **Taking an active part in Cabinet meetings and decision making**
 - To contribute to decisions based on others' portfolios and take part in collective decision making
 - To show an interest in and support for the portfolios of others
 - To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility
- **Leading partnerships and community leadership**
 - To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities
 - To negotiate and broker in cases of differing priorities and disagreement
 - To act as a leader of the local community by showing vision and foresight
 - To take decisions under delegated authority at partnership meetings
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To provide community leadership and promote active citizenship
 - To promote and support open and transparent government
 - To support, and adhere to respectful, appropriate and effective relationships with employees of the Council
 - To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office

4 Values

- To be committed to the values of the Council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural difference
 - Sustainability
 - Inclusive leadership

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section H2 Cabinet Leader and Deputy Cabinet Leader Role Description

Cabinet Leader

1 Accountabilities

- To the members of the Cabinet
- To Full Council
- To Political Group
- To the public

2 Role Purpose and Activity

- **Providing political leadership to the Council**
 - To be a political figurehead for the Council; to be the principal political spokesperson for the Council
 - To provide leadership in building a political consensus around Council policies
 - To form a vision for the Council and community
 - To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery
 - To provide political direction to the Chief Executive and the senior managers of the Council
- **Appointing the Cabinet**
 - To designate the appropriate portfolios
 - To appoint appropriate elected members to each portfolio
 - To allocate Cabinet members to roles with regard to their abilities
 - To designate the Deputy Cabinet Leader

Under constitutional arrangements for a Cabinet model, either the Full Council or the Leader may appoint the Cabinet. In Wales it is common practice for the Leader to appoint the Cabinet under this model. This Role Description has been written accordingly, as this is the arrangement in Powys.

- **Representing and acting as ambassador for the Authority**
 - To represent the Authority to a high standard. Provide a strong, competent and eloquent figure to represent the Authority both within the County and at external bodies
 - To represent the Authority on the Welsh Local Government Association [WLGA] Co-ordinating Committee and the WLGA Regional Partnership Board
 - To provide leadership and support local partnerships and organisations
 - To represent the Authority in regional and national bodies as appropriate
 - To be the Council member on the Mid Wales Corporate Joint Committee.
- **Providing leadership within the portfolio**
 - To fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of an Cabinet member

SECTION 23 – MEMBER ROLE DESCRIPTIONS

- **Managing and leading the work of the Cabinet and chairing meetings**
 - To ensure the effective running of the Cabinet by managing the forward work programme and ensuring its continuing development
 - To ensure the work of the Cabinet meets national policy objectives
 - To agree objectives with Cabinet Members and monitor progress.
 - To advise and mentor other Cabinet members in their work
 - To chair meetings of the Cabinet in line with the Constitution
 - In the Leader's absence the Deputy Leader should fulfil this role.
- **Participating in the collective decision making of the Cabinet**
 - To work closely with other Cabinet members to ensure the development of effective council policies and the budgetary framework for the Council, and the delivery of high quality services to local people
 - To accept collective responsibility and support decisions made by the Cabinet once they have been made
- **Working with officers to lead the organisation**
 - To liaise with the Chief Executive, and other appropriate officers, on a regular basis
 - To work with employees of the Council in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues
- **Leading partnerships and community leadership**
 - To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities
 - To negotiate and broker in cases of differing priorities and disagreement
 - To act as a leader of the local community by showing vision and foresight
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To provide community leadership and promote active citizenship
 - To promote and support open and transparent government
 - To support, and adhere to respectful, appropriate and effective relationships with employees of the Council
 - To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office

3 Values

- To be committed to and demonstrate the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural difference
 - Sustainability
 - Inclusive leadership
 - Consensus building

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Deputy Cabinet Leader

- To fulfil the duties of the Leader in his or her absence
- To assist the Leader in specific duties as required

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section I Leader and Deputy Leader of the Opposition Role Description

Leader of the Opposition

1. Accountabilities

- To the nominating group within the Constitution

2. Role Purpose and Activity

Providing political leadership for an opposition group

- To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition
- To provide leadership in the constructive challenge of the Council's policies
- To constructively challenge the vision for the Council and community where appropriate
- To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery
- **Representing the Authority's opposition**
 - To represent the opposition group to a high standard; providing a strong, competent and eloquent figure to represent the opposition within the Authority
 - To represent the Council on external bodies
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To provide community leadership and promote active citizenship
 - To promote and support open and transparent government
 - To promote, support, and adhere to respectful, appropriate and effective relationships with employees of the Council
 - To promote, support and adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office

3. Values

To be committed to and demonstrate the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability
- Inclusive leadership
- Consensus building

Role of the Deputy Leader of the Opposition

- To fulfil the duties of the Leader of the Opposition in his or her absence
- To assist the Leader of the Opposition in specific duties as required

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section J Political Group Leader Role Description

1. Accountabilities

- To the nominating Group

2. Role Purpose and Activity

Providing political leadership to the Group

- To be a political figurehead and role model for the Group
- To be the principal political spokesperson for the Group
- If in power, to provide Party Political leadership in the development of the Council's vision or policies and, if in opposition to provide constructive challenge and alternatives to the ruling Political Group's vision and policies.
- To canvass a range of views within the Political Group in the formulation of policy.
- To integrate and represent Political Group policy at a local level.
- To co-operate with other Political Groups where appropriate, particularly in matters of a non-Party Political nature.
- To chair and/or attend meetings where appointed to a representative role within the Council.
- To liaise with other local and regional representatives of the party.
- To be the representative voice of the Group for example and where applicable, in its dealings with outside organisations such as the Welsh Government or Senedd

Internal governance, ethical standards and relationships:

- To promote and support good governance of the Council and its affairs
- To provide community leadership and promote active citizenship
- To promote and support open and transparent government
- To promote, support, and adhere to respectful, appropriate and effective relationships with employees and other members of the Council
- To promote, support and adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office
- Encourage due regard to the Seven Principles of Public life and to civility in public life
- To participate in and encourage Group members to take part in relevant development opportunities.
- To set clear expectations of the behaviour of group members and challenge any inappropriate behaviour
- To promote diversity among Group members
- To encourage Group members to claim salaries and reimbursements due to them in accordance with the determinations of the IRPW

Duty to promote and maintain high standards of conduct by Group Members in accordance with the Local Government and Elections (Wales) Act 2021

- Take reasonable steps to promote and maintain high standards of conduct by the members of the Group.
- Co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions. Specifically, to co-operate with the Standards Committee in its duty to monitor compliance of Group

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Leaders with their duty under the act and in providing information for the Standards Committee's annual report.

- To participate in any training relating specifically to this duty.

3. Values

To be committed to and demonstrate the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability
- Inclusive leadership
- Consensus building

SECTION 23 – MEMBER ROLE DESCRIPTIONS

Section K Member Champion Purpose and Role

What are Member Champions?

Member Champions exist to provide a voice for traditionally under-represented groups, or issues which need to be kept at the forefront of Council business although they may not be the responsibility of any individual or committee.

Member Champions (sometimes called lead members) are elected members who in addition to their other Council responsibilities make sure that the issue or group that they are championing are taken into account when Council policy is being developed and decisions are made. Members act as champions in areas such as children, homelessness, equalities, older people, young people, scrutiny, member support and development, health improvement and anti-poverty. There is a statutory role for a lead member of children's and young people's services with a responsibility for over-seeing the arrangements made under Sections 25 and 26 of the 2004 Children Act.

Guidance on undertaking the role with regard to the subject knowledge that members need is sometimes available from the outside bodies associated with the issue being championed for example the toolkit for older peoples' champions from the Welsh Local Government Association [WLGA]. Otherwise they will be reliant on their authority for guidance in the subject they lead on and also their role as lead member in this area.

What do they do?

Typically, the lead member will:

- Make sure that their area of interest is taken into account when developing policy or making decisions
- Ask questions about performance and resourcing for the area
- Raise the profile of the area and make the authority aware of good practice
- Engage with external bodies who work in the area
- Engage with other officers and members in relation to the role
- Engage with community groups with an interest/stake in the area
- Report action to the Council

How does their role fit within the corporate structure?

This will vary according to the area/issue that is being championed and how the authority functions. There is potential for confusion and overlap between the role of the member champion and those of the relevant Cabinet member or overview and scrutiny members. The champion role itself could be undertaken by either the relevant Cabinet member or a non-Cabinet member.

It is therefore important that members and officers work together to agree roles and action for the area being championed and that there are mechanisms for lead members to report on their activities. It is helpful for the authority to draft a protocol which sets out what powers champions have and do not have, such as whether or not they are able to make decisions on behalf of the authority. Similarly, the appointment of champions varies between authorities, and includes appointments being made by Full Council meetings or by the Leader.

SECTION 23 – MEMBER ROLE DESCRIPTIONS

The Role Description

It is difficult to create a role description that fits with the different roles expected of champions and how they operate in the different authorities' structures. The following is a generic model which will require local adaptation, particularly to reflect the difference that may exist between a statutory role, one undertaken by a Cabinet member and a non-Cabinet lead.

Member Champion Role Description

1. Accountabilities

- To Full Council
- To the public

2. Role Purpose and Activities

Within the Council

- To promote the interest being championed within the Council's corporate and service priorities
- To promote the needs of the client group represented in the interest to the decision makers within the Council
- To work with, and support Cabinet Portfolio Holders and officers to establish strategies/policies/work plans connected with the interest
- To maintain an awareness of all matters connected with the interest
- To contribute to good practice and the continuous improvement of services and functions related to the interest
- To engage with members in matters related to the interest (including holding to account Cabinet Portfolio Holders) such as attending Scrutiny/Cabinet/Full Council meetings etc.
- Raising awareness of and taking a lead role in the development of all members and officers in relation to the interest

In the Community

- To raise the profile of the interest in the community
- To engage with citizens and community groups in matters related to the interest
- To lead and support local initiatives related to the interest

3. Values

- To be committed to the values of the Council and the following values in public office:
 - Openness and transparency
 - Honesty and integrity
 - Tolerance and respect
 - Equality and fairness
 - Appreciation of cultural difference
 - Sustainability
 - Inclusive leadership

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SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

SPEAKING AT PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE MEETINGS

- 24.1 The Planning, Taxi Licensing and Rights of Way Committee (“the Committee”) exercises a number of functions concerning rights of way and related matters set out in Section 13.
- 24.2 This protocol sets out the procedures whereby members of the public and others may speak at meetings of the Committee in relation to an application or proposal to make:
- 24.2.1 Public Path Orders under the Highways Act 1980 sections 25, 26, 116, 117 and 118 (as amended), section 119 (as amended);
 - 24.2.2 Orders under the Town and Country Planning Act 1990 section 257.
- 24.3 However, some of those applications and proposals detailed in paragraph 24.2 above may be determined under delegated authority by officers rather than by the Committee.

MATTERS NOT INCLUDED

- 24.4 For the avoidance of doubt this protocol shall not apply to, (and there shall be no right for any person to speak in relation to) the following:
- 24.4.1 Enforcement cases;
 - 24.4.2 Definitive Map Modification Orders under the Wildlife and Countryside Act 1980 section 53;
 - 24.4.3 Matters relating to lawful and unlawful interference with highways and streets under the Highways Act 1980, sections 130, 139, 140, 142, 147, 147ZA, 149, 169, 171, 171A, 172, 178, 179 and 180;
 - 24.4.4 Town and Village Green Applications.

WHO MAY SPEAK

- 24.5 The public speaking provisions in this protocol will only apply to proposals to make those orders referred to in rule 24.2 above, and where objections have been lodged by a:
- 24.5.1 member of the public; or
 - 24.5.2 body (other than a prescribed organisation as defined in Welsh Office Circular 5/93 – Copy attached); or
 - 24.5.3 Town or Community Council in Powys (but not a Town, Community or Parish Council outside Powys); or
 - 24.5.4 County Councillor(s) in whose electoral division(s) the application falls, or whose electoral division is / are affected by the application;

and who has obtained the right to speak in accordance with rule 24.6 below.

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

OBTAINING THE RIGHT TO SPEAK

24.6 A right to speak at a meeting of the Committee will only be obtained in the following situations:-

24.6.1 A **member of the public** shall be allowed to make representations as an **objector** to the proposed order in question at the Committee where:

24.6.1.1 S/he has duly made, within prescribed time limits, a written objection to the proposed order in question; and

24.6.1.2 Has submitted the request to be heard by the Committee with the Countryside Access Officer at least 10 working days before the date of the relevant meeting of the Committee.

PROVIDED ALWAYS that :

24.6.1.3 Where more than one person has lodged an objection to the proposed order in question and the Chair of the Committee concludes that the substance of the objections by those persons are identical or similar then only one such person so objecting shall be permitted to exercise the right to make representations against the proposed order in question in accordance with the Public Speaking Procedures set out in rule 24.11, and that person shall be the individual agreed by all the objectors who have raised the same or similar objection or, in the absence of such agreement, the individual who first submitted an objection in writing to the Countryside Access Officer.

24.6.1.4 Where in relation to the above situation the Chair of the Committee concludes that different persons have made objections which are different in substance, each person making a different substantive objection shall be allowed to exercise the right to make representations in opposition to the proposed order in question in accordance with the Public Speaking Procedures set out in rule 24.11.

24.6.1.5 Where more than one person has submitted an objection the Countryside Access Officer shall, at least 3 working days before the meeting of the Committee in question, notify (by the most appropriate means) the persons of the conclusions

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

of the Chair as to whether the objections are different in substance and accordingly as to those individuals who are entitled to exercise the right to make representations under the Public Speaking Procedures set out in rule 24.11.

24.6.2 A **body** (other than a prescribed organisation as defined in Welsh Office Circular 5/93) shall be allowed to make representations as an **objector** to the proposed order in question at the Committee where:

24.6.2.1 It has duly made, within prescribed time limits, a written objection to the proposed order in question; and

24.6.2.2 It has submitted the request to be heard by the Committee with the Countryside Access Officer at least 10 working days before the date of the relevant meeting of the Committee.

PROVIDED ALWAYS that :

24.6.2.3 Where more than one body has lodged an objection to the proposed order in question and the Chair of the Committee concludes that the substance of the objections by those bodies are identical or similar then only one such body so objecting shall be permitted to exercise the right to make representations against the proposed order in question in accordance with the Public Speaking Procedures set out in rule 24.11, and that body shall be agreed by all the bodies objecting which have raised the same or similar objection, or in the absence of such agreement, the body which first submitted an objection in writing to the Countryside Access Officer.

24.6.2.4 Where in relation to the above situation the Chair of the Committee concludes that different bodies have made objections which are different in substance, each body making a different substantive objection shall be allowed to exercise the right to make representations in opposition to the proposed order in question in accordance with the Public Speaking Procedures set out in rule 24.11.

24.6.2.5 Where more than one body has submitted an objection the Countryside Access Officer shall, at

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

least 3 working days before the meeting of the Committee in question, notify (by the most appropriate means) the bodies of the conclusions of the Chair as to whether the objections are different in substance and accordingly as to those bodies who are entitled to exercise the right to make representations under the Public Speaking Procedures set out in rule 24.11.

24.6.3 A **Town or Community Council** in Powys (by its clerk or one of its nominated members **who is not a County Councillor**) will be allowed to make representations as a statutory consultee in relation to the proposed order in question to the Committee where that Council has submitted a request to be heard by the Committee with the Countryside Access Officer at least 10 working days before the date of the relevant meeting of the Committee.

24.6.4 **Councillor(s)** within whose electoral division(s) the proposed order in question falls, or whose electoral division(s) is / are affected by the proposed order in question, will be allowed to make representations to the Committee where that / those Councillor(s) has / have submitted a request to be heard by the Committee with the Countryside Access Officer at least 10 working days before the date of the relevant meeting of the Committee.

RIGHT TO RESPOND.

24.7 In relation to applications by or proposals made by the County Council itself, the **landowner and, if different, the occupier or his / her / their agent(s)** will be allowed the right to respond (if he/she wishes) where a member of the public, body, Town or Community Council or County Councillor(s) has / have made representations.

24.8 In relation to all other applications (i.e. non County Council applications) the **applicant or agent** in relation to the proposed order in question will be allowed the right to respond (if he/she wishes) where a member of the public, body, Town or Community Council or County Councillor(s) has / have made representations.

NOTIFICATION PRIOR TO MEETING.

24.9 The Countryside Access Officer will inform all relevant individuals / bodies / organisations of the date on which the proposed order in question is to be determined by the Committee prior to the agenda for that meeting being dispatched.

24.10 The Countryside Access Officer will in addition inform the applicant at least 3 working days before the meeting if objectors are to make

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

representations at the meeting where the proposed order in question is considered.

PUBLIC SPEAKING PROCEDURES

24.11 Where a member of the public, body, representative of a Town or Community Council, Councillor(s), has duly complied with the above provisions enabling that individual, body or Council to make representations at a meeting of a Committee in relation to the proposed order in question then the procedures to be followed at a meeting of the Committee will be as follows.

24.11.1 The Chair will briefly outline these procedures that allow Councillor(s), members of the public, representatives of bodies, and representatives of Town and Community Councils the right to address the Committee, and the landowner / occupier / agent or the applicant / agent's right to respond.

24.11.2 Prior to making their representations to the Committee these individuals (including members of the public and County Councillors, landowners / occupiers / agent, applicant / agent) or representatives of bodies (including Town and Community Councils) shall sit in the public gallery or wait outside the meeting room.

24.11.3 For the purposes of making their representations to the Committee an individual (including members of the public and County Councillors, landowners / occupiers / agent, applicant / agent) or representatives of bodies (including Town and Community Councils) entitled to address the Committee under these provisions will be invited by the Chair to take a seat allocated for this purpose. A maximum time limit of 5 minutes will be available for each presentation.

24.11.4 Those individuals making representations cannot ask questions of one another, Members of the Committee or officers, but Members of the Committee may ask questions of a person making a representation to the Committee.

24.11.5 Those individuals making representations must avoid making personal or derogatory remarks, confine their representation to relevant rights of way issues and may only refer to plans, documents etc included in the formal application material to be considered by the Committee)

24.11.6 At the end of the each representation, the individual making the representation will either take a seat in the public gallery or leave the meeting room **PROVIDED ALWAYS** that a County Councillor with a Prejudicial Interest, having

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

completed his / her representation to the Committee and answered any questions, shall (unless he / she has received a dispensation from the Standards Committee to remain throughout the proceedings) immediately leave the room or chamber where the meeting is taking place.

24.11.7 The order in which individuals shall exercise their right in making representations to the Committee shall be as follows:

- 24.11.7.1 County Councillor(s);
- 24.11.7.2 Representative(s) of Town or Community Council(s);
- 24.11.7.3 Member(s) of the Public;
- 24.11.7.4 Representative(s) of a body / bodies;
- 24.11.7.5 Right of reply by landowner / occupier / agent, or applicant / agent
- 24.11.7.6 Countryside Access Officer

PROVIDED ALWAYS that the landowner / occupier / agent or applicant or his / her agent is not obliged to exercise a right to respond to representations made to the committee if s/he does not wish to do so.

24.11.8 For the avoidance of doubt:

24.11.8.1 In respect of proposals where there are lodged duplicate proposed orders or several linked proposed orders relating to the same site, these shall be deemed to relate to one overall proposed order and the rights to address the Committee will be interpreted accordingly.

24.11.8.2 If representations are made by County Councillor(s) / a member of the public / a representative of a Town or Community / representative(s) of a body / bodies / an applicant or his / her agent / landowner / occupier / agent, to the Committee meeting and the matter is deferred to a subsequent meeting, **there will be no right for any of these to make a second oral representation to the reconvened meeting and any further representations shall be made in writing only.**

24.11.8.3 County Councillor(s) who is / are members of the Committee within whose electoral division(s) the matter falls, or whose electoral

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

division(s) is / are affected by the proposed order in question, and who decide(s) not to be a “Decision Maker” can undertake a “Local Representative” role and make representations on behalf of his/ her constituents in relation to the proposed order in question.

[N.B. - a “Decision Maker” is a member of the Rights of Way Committee who takes part (or intends to take part) at a meeting of the Rights of Way Committee in relation to the decision concerning the proposed order in question].

- 24.11.9 Following oral representations by individuals under the above provisions, the Chair of the Committee shall invite the Countryside Access Officer (if s/he wishes) to respond as necessary to those representations before proceeding with his / her presentation of the matter in the normal way **including where appropriate an update to the Committee concerning any correspondence or additional information received since publication of the Committee Agenda papers.**
- 24.11.10 Following the presentation by the Countryside Access Officer, Members of the Committee shall debate the proposed order in question and reach a decision, unless it is decided to defer the matter.
- 24.11.11 The Countryside Access Officer shall keep a record of all notices received under these provisions with the application / proposal papers.
- 24.11.12 The relevant plans shall be displayed at the meeting as appropriate and a description of the proposed order in question given before any oral representations are heard.
- 24.11.13 The minutes of the Committee shall record the receipt of representations made under these arrangements but shall not record the substance of the representations.

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

ANNEX E

PRESCRIBED ORGANISATIONS

The Secretaries of State have prescribed certain organisations to which authorities must send copies of the statutory notices of orders made under the following Regulations:

The Town and Country Planning (Public Path Orders) Regulations 1993;
 The Public Path Orders Regulations 1993;
 The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993; and
 The Rail Crossing Extinguishment and Diversion Orders Regulations 1993.

The names and addresses of these organisations are listed in the table below (columns 1 and 5), together with details of the type of order for which notification must be given (column 4). In addition, these organisations have also requested that they be consulted on certain orders or proposals before they are made. Details of these and the address to which pre-order papers should be sent are listed at columns 2 and 3 respectively.

1.* <i>Prescribed Organisation</i>	2.** <i>Proposals/Orders for which consultation is requested</i>	3. <i>Person/Address to which pre-order consultation papers should be sent</i>	4. <i>Orders for which statutory notice must be given</i>	5. <i>Person/Address to which statutory notices on the making and confirmation of orders must be sent*</i>
Auto Cycle Union	All cases, <i>except</i> those affecting footpaths or bridleways over which no public vehicular rights are claimed, or suspected to exist	The appropriate local representative as notified to the authority	All orders made in England and Wales	Auto Cycle Union, Wood Street, Rugby, Warwickshire CV21 2XY (Except where otherwise notified to the authority)
British Driving Society	All cases, <i>except</i> those affecting footpaths and bridleways over which no vehicular rights are claimed, or suspected to exist	27 Dugard Place, Barford, Warwick CV35 8DX	All definitive map orders made in England and Wales	British Driving Society, 27 Dugard Place, Barford, Warwick CV35 8DX
British Horse Society	All cases	BHS local representative as notified to the authority	All orders made in England and Wales	BHS, British Equestrian Centre, Stoneleigh, Kenilworth, Warwickshire CV8 2LR

SECTION 24 – RIGHTS OF WAY MATTERS – PUBLIC SPEAKING PROVISIONS

1.* <i>Prescribed Organisation</i>	2.** <i>Proposals/Orders for which consultation is requested</i>	3. <i>Person/Address to which pre-order consultation papers should be sent</i>	4. <i>Orders for which statutory notice must be given</i>	5. <i>Person/Address to which statutory notices on the making and confirmation of orders must be sent*</i>
Byways and Bridleways Trust	All cases	BBT local nominee if notified to the authority	All orders made in England and Wales	BBT, The Granary, Charlcutt, Calne, Wiltshire SN11 9HL
Chiltern Society	All cases in the area for which the Society is prescribed to receive notices	The appropriate Rights of Way Group Area Secretary as notified to the local authority	All orders in the area for which the Society is prescribed to receive notices	The Chiltern Society, Rights of Way Group, P.O. Box 1029, Marlow, Buckinghamshire SL7 2HZ
Cyclists' Touring Club	All cases, <i>except</i> those affecting footpaths over which no other rights are claimed, or suspected	Cyclists' Touring Club, Cotterell House, 69 Meadrow, Godalming, Surrey GU7 3HS	All orders made in England and Wales	Cyclists' Touring Club, Cotterell House, 69 Meadrow, Godalming, Surrey GU7 3HS
Open Spaces Society	All cases, but only in those areas where the Society has notified the authorities concerned of their interest	The appropriate local representative as notified to the authority	All orders made in England and Wales	Open Spaces Society, 25A Bell Street, Henley-on-Thames, Oxon RG9 2BA
The Ramblers' Association	All cases	RA local representative as notified to the authority	All orders made in England and Wales	Ramblers' Association, 1-5 Wandsworth Road, London SW8 2XX
Peak and Northern Footpaths Society	All cases in the area for which the Society is prescribed to receive notices	Peak and Northern Footpaths Society, 1 Nelson Street, Hazel Grove, Stockport SK7 4LR	All orders in the area for which the Society is prescribed to receive notices	Peak and Northern Footpaths Society, 1 Nelson Street, Hazel Grove, Stockport SK7 4LR
Welsh Trail Riders Association	All cases in Wales, <i>except</i> those affecting footpaths and bridleways over which no public vehicular rights are claimed, or suspected to exist	WTRA, 20 High Cross Drive, Newport, Gwent NP1 9AB (Except where otherwise notified to the authority)	All orders made in Wales	WTRA, 20 High Cross Drive, Newport, Gwent NP1 9AB (Except where otherwise notified to the authority)

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SECTION 25 – LOCAL RESOLUTION PROTOCOL

Background.

25.1 The Public Service Ombudsman has made representations that Councils institute Local Resolution (LR) Processes to reduce the numbers of complaints sent to the Ombudsman. If there is no progress with setting up these processes there is a risk that Welsh Government will bring forward legislation to make this compulsory.

25.2 Set out below is the Powys County Council's Local Resolution Process.

The Local Resolution Process.

Issues which will be considered under this process

25.3 Low level complaints about Members e.g.

25.3.1 Minor complaints from Members about Members

25.3.2 Minor complaints from Officers about Members

22.3.3 Members alleged to have not shown respect and consideration for others – either verbally or in writing.

Issues which will not be considered under this process

25.4.1 Complaints which must be directed to the Public Services Ombudsman for Wales:

25.4.1.1 Complaints from the Public.

25.4.1.2 Serious complaints – breaches of the Code of Conduct / Failure to Disclose Interests / bullying.

25.4.2 Vexatious, malicious or frivolous complaints

25.4.3 Members' complaints about officers which should be dealt with using the Council's internal complaints process.

25.4.4 Repetitive low level complaints.

The Process

The complaint

25.5 The complaint would need to be sent to the Monitoring Officer of Powys County Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman.

Resolution Process.

25.6.1 The involvement of Group Leaders/ Chair of Council in the following process is not to adjudicate on the complaint, but to attempt to get the members / officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

25.6.2 The Monitoring Officer or Deputy Monitoring Officer will act as a facilitator for the resolution process below.

25.6.2.1 If the complaint is between Members of the same political group – the Monitoring Officer and the relevant Group Leader will meet with the

SECTION 25 – LOCAL RESOLUTION PROTOCOL

complainant and Member subject of the complaint to seek an agreed resolution.

- 25.6.2.2 If the complaint is between Members of different political groups - the Monitoring Officer and the relevant Group Leaders will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
 - 25.6.2.3 If the complaint is between a Member of a political group and a non-aligned Member (i.e. not belonging to any political groups) - the Monitoring Officer and the relevant Group Leader together with the Chair of the Council (who will act as the “Group Leader” for any non-aligned Member) will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
 - 25.6.2.4 If the complaint is between non-aligned Members (i.e. not belonging to any political groups) - the Monitoring Officer and the Chair of the Council (who will act as the “Group Leader” for any non-aligned Member) will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
 - 25.6.2.5 If the complaint has been made by an officer against a Member the Monitoring Officer and the Group Leader / Chair of Council (for any non-aligned Member) will meet with the officer and the Member subject of the complaint to seek an agreed resolution
 - 25.6.2.6 Where a Group Leader is involved in such a dispute, the Monitoring Officer and the relevant Deputy Group Leaders will meet with the complainant and Member subject of the complaint to seek an agreed resolution.
- 25.6.3 The Monitoring Officer or Deputy Monitoring Officer will not take a note of the meeting on the basis that the meeting is informal and what is said in the meeting cannot be used in any subsequent complaint to the Ombudsman. However, the Monitoring Officer or Deputy Monitoring Officer will note the outcome of the meeting and send a copy of the note to all participants on a private and confidential basis.

Possible results of the process

- 25.7.1 If an agreement is reached by Members and/or officers during this Stage then no further action is required.
- 25.7.2 If agreement cannot be reached the aggrieved Member / officer would always have the opportunity of referring the matter to the Ombudsman.

Time for the process.

- 25.8 It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

SECTION 26 – INDEMNITIES FOR MEMBERS AND OFFICERS

26.1 **The following is the indemnity approved** and adopted by the then Board on 17th October, 2006 (in relation to Board Functions), and by the County Council on 26th October, 2006 (in relation to Council Functions). It has been amended to reflect the change to a Leader and Cabinet Executive model as from the Annual Meeting in May 2011.

26.2

FORM OF INDEMNITY TO MEMBERS AND OFFICERS

1. This indemnity is made under S.101 of the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006, and is supplementary to the provisions of S.265 of the Public Health Act 1875 as extended by S.39 and S.44(1) of the Local Government (Miscellaneous Provisions) Act 1976.
2. Subject to the limit of indemnity set out in rule 3G below, the Council indemnifies each Member and officer of the authority against any claim liability loss and/or damage in relation to any action or failure to act by any Member or officer which:
 - (a) is authorised by the authority; or
 - (b) forms part of or arises from any powers conferred, or duties placed upon that Member or officer as a consequence of any function being exercised by that Member or officer (whether or not in exercising that function the Member or officer does so in the capacity of Member or officer of the authority)
 - (i) at the request of or with the express approval of the authority; or
 - (ii) for the purposes of the authority

Without prejudice to the generality of this indemnity (above) the indemnity extends to action:-

- (a) taken under delegated powers;
- (b) taken personally under any specific statutory provision such as Chief Executive, Chief Finance Officer, Monitoring Officer, Local Government (Contracts) Act 1997.
- (c) taken at Partnerships, informal joint working arrangements, charitable organisations companies (however constituted) when the Member or officer is serving as the Council's representative on these bodies.

(For the purpose of this indemnity "Member" includes independent and co-opted persons who sit on the Council's Committees).

SECTION 26 – INDEMNITIES FOR MEMBERS AND OFFICERS

3. Conditions and Limitations applying to the Indemnity

A. Good faith

A Member or officer relying on the indemnity:-

- (i) must believe that the action, or failure to act, in question was within the powers of the authority

or

- (ii) where that action or failure to act comprises the issuing or authorising of any document containing any statement as to the powers of the relevant authority, or any statement that certain steps had been taken or requirements fulfilled, believed that the contents of that statement were true;

and

in either case that it was reasonable for that Member or officer to hold that belief at the time when that Member or officer acted or failed to act, in which case the council will provide the indemnity in relation to an act or failure to act which is subsequently found to be beyond the power of that Member or officer in question, but only to the extent that the Member or officer reasonably believed that the act or failure to act in question was within that Member or officer's powers at the time at which that Member or officer acted or failed to act.

B. Repayment of cost

Where any indemnity is given to a Member or officer in relation to the defence of criminal proceedings or proceedings alleging a breach of the code of conduct, then:-

- (i) in relation to criminal proceedings if the Member or officer is convicted of a criminal offence then the sums expended by the authority or its insurers in relation to those proceedings must be reimbursed to the authority or to the insurers;

- (ii) where the proceedings relate to an allegation against a Member of a breach of the code of conduct:-

- (a) if a finding is made that finds that the Member has failed to comply with the code of conduct (or the Member has admitted that failure) and as a consequence the Member is suspended, partially

SECTION 26 – INDEMNITIES FOR MEMBERS AND OFFICERS

suspended or disqualified, then the sums expended by the authority or its insurer must be reimbursed to the authority or its insurers

- (b) in the case of an allegation of a breach of the code of conduct and there is a finding that the Member has failed to comply with the code of conduct (or the Member has admitted that failure) and as a result the Member is censured or has some penalty imposed other than suspension, partial suspension or disqualification then if the Council's Standards Committee deems it appropriate the sums expended by the authority or its insurers must be reimbursed to the authority or its insurers.

C. Level of representation

In the case of professional representation of a Member or officer under the terms of this indemnity the Member or officer must obtain the prior approval of the authority through its Standards Committee of the nature and extent of that representation, provided always that the decision on the level or extent of representation will not unreasonably restrict the right of the individual Member or officer to properly defend those proceedings.

D. Defamation

This indemnity does not extend to the **making** of any claim by a Member or officer in relation to an alleged defamation of that Member or officer.

E. Returning Officer

The work and functions of the Returning Officer are not covered by this indemnity.

F. General Principles

- (i) The authority will provide the Member or officer with reasonable and proportionate access to authority employees and authority resources and facilities to enable the individual officer to properly respond to allegations of personal liability being advanced;
- (ii) The authority will allow legal representation for a Member or officer separately from the authority's own legal advisers (and/or the authority's insurers' legal advisers) where the interests of the authority and the individual officer may conflict or in such other circumstances where it is agreed

SECTION 26 – INDEMNITIES FOR MEMBERS AND OFFICERS

between the authority and the individual Member or officer that separate legal representation is appropriate.

- (iii) the authority will not seek to recover from an individual Member or officer any losses incurred by the authority as a result of an action or failure to act by the Member or officer concerned except:-
 - (a) where the Member or officer involved did not reasonably believe that the act or omission in question was within his powers at the time when that act or omission took place, or
 - (b) where the action or failure to act constituted a criminal offence.

G. Limit on Indemnity.

The limit on the indemnity provided for under this Section is £50,000.¹

¹ County Council – 30th April, 2014.

SECTION 27 – PROTOCOL ON CIVIC AND EXECUTIVE MATTERS

INTRODUCTION

- 27.1 The County Council fulfills a number of ceremonial, civic and political leadership roles. It is considered important and helpful that the roles are clarified to avoid confusion between the respective roles.
- 27.2 This protocol outlines the main ceremonial, civic and political events which require attendance of elected members and the Chief Executive by virtue of their office, namely the Council Chairman and his/her Vice Chairman and Assistant Vice Chairman, the Leader of the Council and the Deputy Leader and Executive Members [Portfolio Holders]
- 27.3 Whilst recognising the precedence accorded to the role of the Chairman, the Council has two institutions, that of the **elected** Leader and that of the Executive. The Leader is the political Leader of the Council as well as being the Leader of the Executive. It is the Leader's function to represent the political views of the Council and the Executive. As a consequence, the Leader and Portfolio Holders, will receive invitations from groups or organisations to attend meetings, functions and events where they may be called upon to speak about Council policy and the Executive's plans. On other occasions they will be invited to enable networking, which is a vital part of the Leader's and Executive Members' roles, specifically in developing partnership relationships but also in securing support for Council policy and gaining feedback on community or organisations' views.

GUIDANCE

Ceremonial/Lieutenancy

- 27.4.1 Traditionally and in accordance with the Local Government Act, 1972 (as amended), the Chairman takes precedence in the County subject only to Her Majesty's Royal Prerogative. It is clear therefore that the Chairman must give precedence only to Her Majesty The Queen and/or Members of the Royal Family (if present) or the Lord Lieutenant of the County when acting in his/her official capacity representing The Queen.
- 27.4.2 It follows therefore that the Chairman takes precedence over all Members and staff of the County Council, Mayors/Chairmen and members of Town and Community Councils within the County and Members of Parliament, European Parliament or Welsh Assembly. This applies not only on the occasion of presentation to Her Majesty The Queen and/or Members of the Royal Family during a Royal Visit to the County but also for other civic events.
- 27.4.3 There is an official Order of Precedence. An example is that on Royal visits the order of presentation to the particular Member of the Royal Family by the Lord Lieutenant would be [NB substitutes will not be allowed where any of the following are unable to attend]:-
- 27.4.3.1 Lord Lieutenant's spouse
 - 27.4.3.2 High Sheriff and Spouse
 - 27.4.3.3 Chairman of County Council and Spouse

SECTION 27 – PROTOCOL ON CIVIC AND EXECUTIVE MATTERS

- 27.4.3.4 County Chief Executive and Spouse
- 27.4.3.5 Town/Community Council Mayor/Chairman and Spouse
- 27.4.3.6 Member of Parliament and Spouse
- 27.4.3.7 Member of European Parliament and Spouse
- 27.4.3.8 Welsh Assembly Member and Spouse
- 27.4.3.9 Chief Constable and Spouse

The usual procedure after that is that the Organiser of the event is presented and he/she will then present others.

- 27.4.4 Against this background of formal precedence, the Chairman's Secretary's role therefore is to ensure that the Council, its members and staff and hosts of functions accord the Chairman proper precedence with regard to ceremonies and events and to liaise with the Chief Executive to ensure the effective discharge of this work.

Civic Role

- 27.5 Where both a civic representative and a political representative are in attendance at an event etc the Civic Role takes precedence over the political role.

Chairman

- 27.6.1 The Chairman represents the Council in a non political capacity, that is, as a corporate body whose constitutional status and range of responsibilities warrants inclusion on the attendance lists of the meetings and functions of outside bodies. The Chairman attends such functions in an ambassadorial capacity representing the Council as the duly elected body, representing the people of Powys. For the County to be excluded by organisations from invitations to events can in some circumstances be regarded as an affront to the Council's position and indirectly to the community of Powys.
- 27.6.2 Attendance by the Chairman at an event has the following possible meanings:
- 27.6.2.1 It recognises the event as one at which it is important for the Council to be represented
 - 27.6.2.2 It confirms the event as having a significance for the community of Powys
 - 27.6.2.3 It is a means of encouraging community life
- 27.6.3 The Chairman will represent the Council at events:
- 27.6.3.1 to welcome representatives of other bodies to the Council
 - 27.6.3.2 to represent the Council in public engagements, other authorities' civic functions, community functions and ceremonies
- 27.6.4 Where the Chairman is unavailable the Vice Chairman or Assistant Vice-Chairman will take his/her place.
- 27.6.5 The Chairman's role [or their substitute] takes precedence over any other representative from the Council, which means that he/she should speak first

SECTION 27 – PROTOCOL ON CIVIC AND EXECUTIVE MATTERS

to welcome visitors or open an event. The Chairman [or their substitute] does not deal with political issues in his/her speech.

- 27.6.6 The Chairman, Vice-Chairman or Assistant Vice-Chairman of the Council will preside at all Council Seminars or Member Development sessions. Executive Members with responsibility for portfolios which are the subject of the Council Seminar or Member Development session may assist the Chairman, Vice-Chairman or Assistant Vice-Chairman in facilitating the seminar or development session. However, they should not preside over such a seminar or development session unless authorised by the Chairman of the Council.

Wearing of regalia

- 27.7.1 The Chairman of Council should wear regalia for all official functions. Where the Chairman of Council is unable to attend a function their substitute should wear their regalia.
- 27.7.2 Vice and Assistant Vice Chairmen should wear their regalia to events even when the Chairman is in attendance.

POLITICAL ROLE

The Leader

- 27.8.1 The Leader represents the political authority of the Council and the Executive. He/she represents the specific political programme of the Council and Executive and also any issues concerning the policy direction of the Council. As such, meetings with Government, Assembly Members and MPs would normally fall to the Leader rather than the Chairman. The Leader should not be responsible for the offering of civic greetings on behalf of the Council, or to welcome Royal, ambassadorial and civic visitors to the County or represent the Council at non-political functions or events.
- 27.8.2 The Leader in his/her role as "political Leader" may receive invitations to events where his/her presence is entirely consistent with the performance of that role. There may also be events where organisers would wish to extend invitations to both the Chairman and the Leader to represent both the civic and political function of the Council. In such circumstances, the Chairman's role takes precedence, which means that he/she should speak first to welcome visitors or open an event.
- 27.8.3 Invitations for the Leader to attend an event must be gauged in terms of the nature of the meeting. Meetings which concern the promotion of Powys are a grey area and should be agreed with the Chief Executive, but in some cases it will be a purely political event e.g. gaining acceptance for the Council's tourism policy, lifelong learning policy etc. In those circumstances the Leader or Executive Member would be the relevant person to consider for attendance.

Executive Member

- 27.9.1 An Executive Member may receive invitations to events where his/her presence is entirely consistent with the performance of that role. There may

SECTION 27 – PROTOCOL ON CIVIC AND EXECUTIVE MATTERS

also be events where organisers would wish to extend invitations to both the Chairman and the Executive Member to represent both the civic and political function of the Council. In such circumstances, the Chairman's role [or substitute] takes precedence, which means that he/she should speak first to welcome visitors or open an event.

- 27.9.2 Executive Members with responsibility for portfolios which are the subject of a Council Seminar or Member Development session may assist the Chairman, Vice-Chairman or Assistant Vice-Chairman in facilitating the seminar or development session. However, they should not preside over such a seminar or development session unless authorised by the Chairman of the Council.

GUIDANCE TO OFFICERS

- 27.10.1 Corporate Directors and other officers organising an event should bear these guidelines in mind. Any queries should be discussed with the Chief Executive if there is any doubt.
- 27.10.2 All civic receptions held by the County Council should be arranged in consultation with the Chairman's Secretary, who will liaise with Executive support staff.
- 27.10.3 All invitations to the Council to be represented at events, ceremonies or functions should be referred, in the first instance, to the Chairman's Secretary and Executive support staff.
- 27.10.4 For events, ceremonies and functions involving the Chairman, the event organiser should liaise with the Chairman's Secretary regarding protocol etc. A copy of this Protocol should be sent to organisers.
- 27.10.5 External organisations should be advised of the issues of Precedence and Protocol covered in this note and be encouraged to address invitations correctly to the Chairman, Leader or both of them as appropriate.
- 27.10.6 The Chairman and Leader require adequate briefing and support to fulfill their roles. At important events, it will be appropriate for them to be accompanied by a suitably senior officer, such as a corporate director or head of service. At other events, it will be sufficient for other staff to accompany them. As a minimum officers should consider for each event whether attendance by an officer is necessary and should advise the Chairman or Leader which (if any) officer will be present.