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### 1 The Council Constitution

- 1 The City and County of Swansea Council resolved to adopt the Leader and Cabinet Model, as its executive arrangements at its Annual Meeting on 20 May 2002.
- 2 This Constitutional framework commits the Council to providing a strong base for community partnership, including the active involvement of all Swansea's stakeholders. The Council is committed to ensuring that there is clear, accountable decision-making, strong community leadership and excellence in service delivery in Swansea.
- 3 The framework sets out how the Council operates and how decisions are made together with the Procedures which are followed to ensure that decisions and functions are efficient, transparent and accountable to local people. The law requires some of these processes, while others are a matter for the Council to choose.

### 2 The Constitutional Framework

- 1 The Constitution is divided into 16 Articles that set out the basic rules governing the Council's business. More detailed Procedures and Codes of Practice are provided in the separate rules and Protocols at the end of the Constitution.
- 2 This constitutional arrangement is backed by a system of Members' Allowances informed by the deliberations of the Independent Remuneration Panel for Wales.
- 3 A protocol governs the relationships between Officers and Members of the Council.

### 3 How the Council Operates

- 1 The Council is composed of 75 Councillors normally elected every five years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2 Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee advises Councillors on the Code of Conduct.
- 3 All Councillors meet together as the Council. Changes in legislation allow the Council to meet in person, remotely or a hybrid mixture of both. Meetings of the Council are normally open to the public and the Council meeting is electronically broadcast on the website. Here Councillors decide the Council's overall policies

and set the budget each year. The Council appoints the Leader of the whole Council, who Chairs an Executive Cabinet of 10 (including the Leader). The Council as a whole sets the Council's budget, receives reports from the relevant Scrutiny Body, and provides a forum for public question time. Council also receives reports from Cabinet Members and Officers.

## **4 Role of the Cabinet (Executive)**

- 1 The Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet will be made up of a Leader, appointed by all Council Members, and a Cabinet of nine additional Members appointed by the Leader, collectively known as the Cabinet. The business to be considered by the Cabinet, Overview & Scrutiny Boards and the Council as a whole, will be published in a forward work programme.
- 2 The Leader may appoint job share Cabinet Members and the Leader also has power to appoint a job share Leader provided that the maximum number on the Cabinet does not exceed thirteen.
- 3 The Leader may appoint Assistants to the Cabinet who are entitled to attend and speak at any meeting of Cabinet but they are not members of the Cabinet or entitled to vote or count toward the quorum.
- 4 Meetings of the Cabinet, Overview & Scrutiny Boards, the Council and other Committees will be open for the public to attend except where personal or confidential matters are being discussed.
- 5 All the powers, functions and duties of the Council, except for those powers conferred on the statutory officers (Chief Financial Officer (also known as S151 Officer (Local Government Act 1972)), Monitoring Officer and Chief Executive) by Statute, and those powers, functions and duties which are designated by regulation as 'non-executive', including all functions where the Council has a choice as to whether a function is or is not a non-executive one, and some matters referred to the Appeals & Awards Committee, are vested in the Leader of the Council, who has devised a scheme of delegation. This scheme allows the Cabinet and Responsible Officers to make decisions and manage the day-to-day delivery of Council services.
- 6 The Leader and Cabinet have to make decisions that are in line with the Council's overall policies and budget, within a virement limit of 5% of the Council's net revenue budget. If a decision that is outside the budget or an approved policy is required, this must be referred to the Council Meeting.

## **5 Scrutiny Arrangements**

- 1 Scrutiny will act as a 'critical friend' to the Cabinet and other decision makers in order to promote better services, policies and decisions. Working in a similar way to parliamentary select committees, overview & scrutiny involves councillors who



are not in the cabinet. They work together to ensure that the City & County of Swansea is an accountable, open and transparent organisation.

- 2 Scrutiny will allow citizens to have a greater say in Council matters by holding public sessions to inquire into matters of local concern. In compliance with S21 Local Government Act 2000 and Paragraphs 8 and 9 of Schedule 1 to the Act, these will lead to reports and recommendations that inform and advise the Cabinet and the Council as a whole on the revision of policies, budget and service delivery issues. Scrutiny can also scrutinise the decisions of the Cabinet.
- 3 **Article 5** of the Council Constitution contains details about the Council's relevant Scrutiny body arrangements.

## 6 Call In Procedure

For information relating to the Call In Procedure please refer to Cabinet Procedural Rules in Part 4 of the Council Constitution.

## 7 What's in the Constitution?

**Article 1** of the Constitution commits the Council to providing a strong base for community partnership, including the active involvement of all Swansea's stakeholders. This Council is committed to ensuring that there is clear accountable decision-making, strong community Leadership and excellence in service delivery in Swansea. **Articles 2 - 16** explain the rights of citizens and how the key parts of the Council operate. These are:

- a) Members of the Council (Article 2);
- b) Citizens and the Council (Article 3);
- c) The Council Meeting (Article 4);
- d) Chairing the Council (Article 5);
- e) Scrutiny (Article 6);
- f) The Executive (Cabinet) (Article 7);
- g) Regulatory and Other Committees (Article 8);
- h) The Standards Committee (Article 9);
- i) Area Committees and Forums (Article 10);
- j) Joint Arrangements (Article 11);
- k) Officers (Article 12);
- l) Decision Making (Article 13);
- m) Finance, Contracts and Legal matters (Article 14);
- n) Review and Revision of the Constitution (Article 15);
- o) Suspension, Interpretation and Publication of the Constitution (Article 16).

## 8 The Council Staff

The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

## 9 Citizens' Rights

- 1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in **Article 3**. Some of these are legal rights, whilst others depend on the Council's own processes.
- 2 Where members of the public use specific Council Services, for example as a parent of a school pupil or as a Council Tenant, they have additional rights. These are not covered in this Constitution.
- 3 Citizens have the right to:
  - a) Vote at local elections if they are registered;
  - b) Contact their Local Councillor about any matters of concern to them;
  - c) The Council Constitution will be available on the Authority's web site for Citizen's to view. A printed copy of the Council Constitution will be provided at a reasonable charge;
  - d) Attend meetings of the Cabinet, the Council and its Committees except where personal or confidential matters are being discussed;
  - e) Petition to request a referendum on a mayoral form of executive;
  - f) Participate in the Council's question time and attend meetings of the Overview & Scrutiny Body;
  - g) Find out, from the Forward Work Programme, what business is to be considered by the Cabinet, Regulatory Committees and Overview & Scrutiny Body;
  - h) See reports and background papers considered by the Cabinet, the Council and any of its Committees and the record of any decisions made by the Council, its Committees and the Cabinet, except where they contain personal or confidential information; see also the Council's Access to Information Protocol;
  - i) Comment or complain to the Council about any of its services or functions;
  - j) Complain to the Public Services Ombudsman for Wales if they think the Council has not followed its Procedures properly. However, they should only do this after using the Council's own complaints process;
  - k) Complain to the Public Services Ombudsman for Wales if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
  - l) Inspect the Council's accounts and make their views known to the External Auditor.
- 4 The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Chief Executive's Office.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 1 - The Constitution)**

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### **Article 1 - The Constitution**

#### **1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### **2 The Constitution**

This document is the Constitution of the City and County of Swansea. A guide to the Constitution which explains in ordinary language its contents is published on the Council's website.

#### **3 Purpose of the Constitution**

The purpose of the Constitution is to facilitate the effective operation and governance of the Council. This will, for example, assist the Council to:

- a) Provide clear Leadership to the community in partnership with citizens, businesses and other organisations;
- b) Support the active involvement of the citizens in the process of local authority decision-making;
- c) Help Councillors represent their constituents more effectively;
- d) Enable decisions to be taken efficiently and effectively;
- e) Create a powerful and effective means of holding decision makers to public account;
- f) Ensure that no one will review or scrutinise a decision in which they were directly involved;
- g) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- h) Provide a means of improving the delivery of services to the community;
- i) Assist the Council to adhere to its Mission, Values and Guiding Principles; and
- j) Assist the Council to deliver its Corporate Aims.

#### **4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option that it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15 (Review and Revision of the Constitution).

#### **5 Policy Commitments**

The Council adopted its Policy Commitments Statement 2017-22 on 27 July 2017. The Policy Commitments are the key policy pledges that the Council has identified for delivery during this electoral cycle.

a) **The Council's Vision for Swansea**

- i) Swansea is a very special place with distinctive communities and rich in its culture, history, arts, and sporting achievements. We are very proud to live in such a beautiful place with its wonderful range of natural habitats, parks and open spaces. No other city can match Swansea with its miles of glorious beaches, the Gower Area of Outstanding Natural Beauty and local and national nature reserves.
- ii) Swansea Council will continue to work in partnership and develop the well-being of all our citizens and every community. We will work closely with other bodies/organisations and put the well-being of our citizens and communities and our seven well-being goals at the heart of everything we do, aiming to create;
  - a prosperous Swansea,
  - a globally responsible Swansea,
  - a resilient Swansea,
  - a Swansea of cohesive communities,
  - a more equal Swansea,
  - a healthier Swansea,
  - a Swansea of vibrant culture.
- iii) Swansea Council's draft well-being objectives will form the basis of our corporate plan in 2017-22 and are focused on;
  - Economy and Infrastructure
  - Education and Skills
  - Tackling Poverty
  - Safeguarding
  - Transformation and Future Council
- iv) We will establish a Strategic Delivery Unit to embed effective delivery and cross-departmental co-ordination.

b) **A Prosperous Swansea**

**Standing up for Education Learning and Skills**

- i) Swansea Council will strive to make our city one of the best places for children and young people to be educated in Wales and the UK.
- ii) We will continue to work with our local universities and continue to innovate, learn from the best, share best practice with all schools and run an ambitious, supportive and effective performance framework for our teachers and schools.

**Investing in Education**

- iii) Swansea Council will commit to spending nearly £1bn on schools, teaching and learning in the next 5 years and invest over

£100 million in extensive improvements to school buildings across Swansea.

- iv) We will continue to invest in facilities for those who have additional learning needs or require additional wellbeing and mobility support in our schools and in our special schools, ensuring that all children and young people have the opportunity to realise their potential.
- v) Working in partnership with schools, colleges and employers, we will support pupils to choose the best career path. This will include alternatives to traditional exams and assist those who want to progress through to college and university education, ensuring that all young people have the opportunity to build a career and access well paid jobs.
- vi) Working with our regional partners, we will align our education system to ensure we create the right people with the right skills to supply the new economy, and to fill jobs offering routes to well-paid careers. As part of the Swansea Bay City Deal, and working closely with the Regional Skills & Learning Partnership, we will help all people to attain the skills they need to find a job.

### **High Performing Community Schools**

- vii) Swansea Council will continue to work in partnership with head teachers and governing bodies to help ensure that schools are accessible and available for community activities and that children, young people, their families and the wider community can all benefit from these new arrangements.
- viii) We will promote school buildings as a resource for the whole community, not just children and young people. We will assist schools to develop and promote Family Learning, Wellbeing, Healthy Eating and Exercise, Recreation and Sports.

### **The Best Start in Life for all our Children: Happy, Healthy and Safe**

- ix) Swansea Council will work with partners locally and internationally to seek to continue to participate in the World Health Organisation's 'Healthy City' initiative and encourage schools to provide school breakfast clubs and provide a safe and supportive environment before and after the school day.
- x) Working with the Welsh Government, we will work in partnership with schools to encourage participation in the Welsh Government's plan to provide 30 hours a week for 48 weeks a year, free to 3 and 4 year old children, to ensure that all young children have the best start in life.
- xi) Swansea Council will aim to provide the right number of places, in both English and Welsh medium education to meet the wishes of children and families who want to be educated in the two languages of Wales.

## **A City of Life Long Learning**

- xii) Working with our regional partners, Swansea Council will lead in creating an intelligent knowledge regional network, based on a new dynamic relationship with schools, the further education colleges, our two universities and employers. We will aim to create a seamless education and skills 'pipeline' through all levels education collaborating closely with partners we will create the workforce for the new technology skills and knowledge economy we will need to compete and succeed in the 21<sup>st</sup> century.
- xiii) Building upon our membership of the UNESCO Global Network of Learning Cities, the Council will build on our international links through our membership to share ideas and best practice, learning from each other and building strong economic and cultural ties.

## **The Swansea Bay City Deal**

- xiv) Swansea Council will continue to work with our regional partners and the business community to deliver the City Deal, the 35,000 associated regional jobs, and promote the Swansea Bay City region.
- xv) We will establish a dedicated investment and growth team. By increasing wider economic and social prosperity and the well-being of all our communities in Swansea, we will create better jobs closer to home.
- xvi) Swansea Council will regenerate the Kingsway area and develop a digital employment district. We will improve the Highways and public realm in order to support the transformation of the area.
- xvii) Swansea Council will deliver the Swansea Central and Swansea Waterfront regeneration schemes on the old St David's and Civic Centre sites, creating new shopping, dining and leisure attractions. This will include a multipurpose digital arena, digital aquarium and gallery, new hotels, offices and public squares.
- xviii) We will make the city more attractive and accessible all year round for pedestrians and shoppers, by encouraging the development of more homes with a mix of tenures, exploring the provision of continuous covered walkways to guarantee weather proof shopping in the city centre's main streets, creating new outside dining areas and performance spaces in Wind Street and encouraging independent businesses to set up in Swansea.

## **c) A Globally Responsible Swansea**

- i) Swansea Council will establish new bilateral trade and economic agreements with cities and regions around the world.
- ii) We will develop international links, our special links with China and our twinned Cities around the world. We will build strong

economic and cultural ties thereby growing Swansea's wealth and reputation.

d) **A Greener More Resilient Swansea**

**Standing Up for a Greener Swansea**

- i) Swansea Council will continue to put sustainable development at the heart of all our policies and value and seek to protect Swansea's unique natural and built environment.

**Delivering Green Energy**

- ii) We will strive to make Swansea Bay one of the greenest regions in the UK and seek to create a low carbon economy which promotes renewable energy developments like the Tidal Bay Lagoon. We will promote renewable green energy and aim for all developments to have as low a carbon footprint as possible. We will not promote fracking and other contentious gas extraction methods.
- iii) Working with Swansea University and other local partners, Swansea Council will create a greener, smart and sustainable city by encouraging the development of 5th Generation network technologies to promote the development of 'low carbon' approaches and innovations in energy capture, storage, and distribution.
- iv) Swansea Council will explore establishing an energy company to manage the new energy generating facilities across the authority and to ensure the taxpayers of Swansea receive the benefits of income from energy generated in Swansea.

**Lighting Our Communities**

- v) Swansea Council will convert all remaining street lights to low energy LED in the next 5 years.

**Delivering Better & Smarter Transport**

- vi) Working with our regional partners, Swansea Council will work towards developing an efficient and integrated transport system which develops the built and natural environment and encourages higher levels of physical activity.

**Smart, Sustainable Transport**

- vii) We will work with the Welsh Government, regional local authorities, the health service and other major employers and transport users, to develop a sustainable transport plan that works for everyone in whichever community they live.
- viii) Swansea Council will develop an integrated smart transport infrastructure that supports growth and makes commuting easier for all, whichever mode of transport local people choose to use.

- ix) We will develop new relationships with bus and rail operators to ensure connectivity and coverage exists for the entire city, county and the region.
- x) We will pursue ways to improve our City's public transport services with simplified services using modern clean efficient vehicles, improved bus service frequencies, especially to our poorer communities, plus a simplified fares system. We will explore the benefits of introducing a more demanding customer focused Quality Bus Partnership and/or Quality Bus Contract between the Council and bus operators.

### **Greener, More Sustainable Transport**

- xi) We will look to expand the transport network to ensure better coverage in the west of the city, in the east around the growing university campuses, and in the north as part of planning with the Swans and Ospreys for match day parking.
- xii) Working with the Welsh Government, we will explore the roll out of an 'Oyster card' style cashless card system as part of the integrated smarter transport system.
- xiii) We will continue to lobby the UK Government to confirm a date for completion of the electrification of the main line from London to Swansea so that the cleanest energy and most efficient trains run in and out of Swansea.
- xiv) Working in partnership with Sport Wales, our local universities and many other partners, we will make Swansea an 'Active City' by encouraging greater physical activity and improving people's health and wellbeing. We will seek to follow NICE (National Institute for Health and Clinical Excellence) Guidance on Physical Activity and the Environment.
- xv) Swansea Council will continue to invest in our road, walkway and cycle path network. We will continue to focus resources to deal with road and highway repairs in 48 hours.
- xvi) We will explore and bid for infrastructure funding to invest in better road and cycle links to the city, so that those travelling from the west, north or east of the county can commute more easily.
- xvii) Swansea Council is committed to increasing the numbers of electric and hydrogen vehicles in Swansea. We will seek to secure investment to create a network of charging stations and hydrogen filling stations to promote the use of electric vehicles and hydrogen vehicles for public transport.
- xviii) Working with global partners to develop the technologies to support the development of new green technologies we will aim to attract inward investment in R&D and production facilities for these technologies in the city and region.



## **A Bike and Cyclist Friendly Swansea**

- xix) Swansea Council will support the 'Wheelrights Manifesto', aiming to increase access to safe, quicker and more cost effective cycle and walking routes through many different parts of the city.
- xx) We will continue to encourage quality cycle training in schools for adults and will support the establishment of a bike hire scheme in Swansea and explore the introduction of electric bikes in Swansea.

## **Fairer Parking**

- xxi) Swansea Council will examine the feasibility of introducing a comprehensive city centre parking system, adopting more flexible and fairer car park charges in local authority controlled car parks. We will also expand parking provision across the city and commit to freezing car parking charges across Swansea for at least two years.

## **Valuing Our Parks, Open Spaces and Natural Environment**

- xxii) Swansea has an outstanding collection of beautiful parks and open spaces across the city, many recognised by the prestigious 'Green Flag' accreditation. We will enhance and sustain our parks and natural habitats for the present and future generations by re-greening our communities and investing in wildflower displays across Swansea.
- xxiii) Working with 'friends of parks' organisations Swansea Council will encourage greater community ownership of parks and public spaces to ensure long-term sustainability and control of these assets.
- xxiv) We will seek to protect Swansea's natural and built environment by ensuring that any development and major event within the city complies with sustainable development principles.
- xxv) Working in partnership with our public and private sector partners Swansea Council will seek to develop 'Green Infrastructure' in our buildings and estates.
- xxvi) We will modernise the planning system and ensure the city is a place where appropriate sustainable development can take place efficiently and ensure Swansea is open for business and an attractive place for investment and development.
- xxvii) Swansea Council will encourage the greater use of public access land such as our commons and forests for informal recreation.

## **Growing Local**

- xxviii) We will seek to promote the greater use of allotment and garden sharing particularly where publicly owned land is available and appropriate for such use.

- xxix) Swansea Council will support and expand community enterprises that help people gain growing and cooking skills and to help people escape food poverty.

e) **A City of Cohesive Communities**

**Standing Up for Stronger and Safer Communities**

- i) Swansea Council will make imaginative use of digital technologies and put this at the heart of all its policies.

**Community Action**

- ii) We will continue to follow the co-operative 'one council' model and ensure that the whole council - elected Members and Staff - work together to empower local communities to do more, to achieve more and to be involved in more of the decisions that affect them.

**Cleaner Communities**

- iii) Swansea Council will create a task force to tackle fly tipping and ensure our streets are cleaned regularly. We will support recycling and ensure we will continue to be the leading urban authority in Wales for recycling. We will increase the recycling options, but not reduce the 3 black bag limit.

**Community Resilience**

- iv) We will continue to support community budgets so that local people have the funds to address their local priorities.

**Libraries and Community Buildings**

- v) Swansea Council will invest in Libraries and Community buildings to make them sustainable and ensure people have local access to services across Swansea.

**Celebrating Diversity**

- vi) Swansea Council will continue to stand up for the rights of all people in Swansea to live their lives, freely without fear, hatred, discrimination, or repression regardless of race, colour, religion and beliefs, sexual orientation, gender or age.

**Promoting Community Safety**

- vii) By developing and sustaining a strong partnership between the community, the police and other agencies, we will focus on cutting crime by promoting local ownership of community safety.
- viii) Swansea Council will support people to live independently by developing a network of local area coordinators to cover the whole of Swansea. This network will work with voluntary

organisations and others to ensure people get the information, advice and support they need in their community.

- ix) Swansea Council will not tolerate anti-social behaviour and neighbour nuisance and working with Police and our partners we will adopt a zero tolerance approach towards those who seek to disrupt the lives of people in Swansea.
- x) We will continue to work with our partners and support a zero tolerance approach to tackling domestic abuse.
- xi) Swansea Council will implement 'public space protection orders' where required to prevent on street drinking and the sale and distribution of so called 'legal highs' in order to protect local communities from fear and intimidation.
- xii) We will continue to work with residents and community groups to consider further traffic calming measures or community safety measures to ensure our communities are as safe as they can be.
- xiii) We will establish and enforce 'no cold calling zones'.

### **Strong Council Finances**

- xiv) Swansea Council will continue to modernise Council services; protect jobs, improve performance and bring services back in-house.
- xv) We will robustly manage the Council's finances to ensure money is used wisely and Council finances remain on a sound long-term sustainable basis.
- xvi) We will explore innovative funding and investment strategies and borrow prudently to support the City Deal delivery and only when it is right to do so.
- xvii) Working with the Welsh Government, we will strike a new fairer deal to retain business rates in Swansea for the re-investment in the local economy.
- xviii) Swansea Council will implement a joined up approach to all public expenditure and the use of buildings and resources to ensure we can continue to do more with less and can seek the wider and more imaginative community use of public assets, such as Council-owned buildings.
- xix) Working in partnership, we will continue to explore collaborative and innovative ways in which local services can be financed and delivered most efficiently, and how the value of council assets can be maximised.
- xx) Swansea Council will aim to maximise the value of the 'Swansea Pound' - the considerable expenditure the council and other local

public bodies make on the procurement of goods and services - for the benefit of the local economy, jobs and training.

### **Standing Up for Council Democracy**

- xxi) Swansea Council will continue to modernise the scrutiny process within the Council and ensure the Council is subject to greater accountability, transparency and scrutiny. We will increase the engagement of the public in participation in the Council's decision making process.
- xxii) Swansea Council will establish Policy Development Committees to ensure all elected members and the public can influence how policies are written and services are delivered.
- xxiii) We will modernise how public engagement is embedded in council decision making and ensure that all meetings, unless legally constrained, will be conducted in public with time allocated for public participation guaranteed.
- xxiv) Swansea Council will introduce web broadcasting of key council meetings, and introduce electronic voting. It will publish a full list of elected member votes and decisions and make this freely accessible online. We will also change the constitution to allow consultations to recognise and accept e-petitions to encourage even wider engagement and consultation with the people of Swansea.
- xxv) Swansea Council is committed to the highest standards in public life and supports the Nolan Principles of: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

### **Standing Up for Council Employees**

- xxvi) Swansea Council will continue with its 'Sustainable Swansea Fit for the Future' service modernisation program and will continue to invest in services to ensure that we have best possible local services.
- xxvii) We will continue our co-operative relationship with Council staff and Unions. We will actively engage with the workforce and Unions to identify ways in which Council services can be re-designed and delivered most efficiently for the people and communities of Swansea.
- xxviii) We will look at ways to prevent companies which exploit their workforce or fail to recognise Trade Unions from gaining contracts from the council and continue to convert roles from Agency to permanent status where there is strong evidence that the role is not temporary.
- xxix) Swansea Council will works towards eliminating the use of exclusivity in zero hour contracts within the Authority, to give certainty to employees about their hours of work. We will also

sign up to Unison's care standard in order to protect and support workers.

### **More Jobs and Opportunities**

xxx) We will deliver and build on the £1.3bn City Deal, creating up to 35,000 jobs in the region and providing people from all parts of Swansea with the opportunity to find well paid and secure jobs.

xxxii) We will work towards reducing poverty and increasing prosperity.

### f) **A More Equal Swansea**

#### **Food Banks**

i) Swansea Council will encourage business to reduce food waste by supplying goods to local food banks. We will also explore tax relief and support for food banks locations.

#### **Building Better, Affordable and Energy Efficient Homes**

ii) We will continue to build the first pioneer homes and these will be available to people on the Swansea housing list or for sale in the future as affordable homes.

iii) These will be a mix of affordable, social and commercial housing. They will be highly energy efficient and reduce energy bills and will help lift people out of fuel poverty. We will also support cost effective energy schemes for all existing homes across Swansea so that everyone can benefit.

iv) Swansea Council will explore the setting up of a construction and development company, with a view to building 1000s of new homes in the next 5 years through a combination of delivery models.

v) We will support independent living; provide improved options for older people; increase funding for housing co-operatives and mutual housing, and prioritise those in housing need, especially the homeless.

vi) Working with the Welsh Government, housing associations and the private sector we will increase the supply of affordable housing so people can get on the housing ladder. We will make public land available from the considerable landholdings of Swansea council and, using the planning system and partnership with others, develop innovative ways of raising the funds to deliver an increased supply of high quality affordable housing.

vii) Together with our City Deal partners, we will also develop the technology of 'homes as power stations' and where possible work with partners to commercialise this technology to enable it to be retro-fitted to existing homes. This will enable people from across Swansea to benefit from these technologies and generate an

income for those properties and the taxpayer by selling any excess power to the National Grid.

- viii) Swansea Council will look at creating its own energy venture to provide free energy to homes.

### **Improving Housing Quality**

- ix) Swansea Council will invest a further £260m to ensure every council property in Swansea meets the Welsh Quality Housing Standard by 2022.
- x) We will work with the Welsh Government and tenants to explore innovative ways in which to improve the quality of social housing in our city and also target HMOs for improved standards of management and maintenance.

### **Tough Controls On HMOs**

- xi) Swansea Council will support tough controls on the level of HMOs in communities and support a new 10% saturation limit on HMOs in communities not covered by any proposed HMO management areas.
- xii) We will take a tough approach to dealing with rogue landlords who run poor quality HMOs and who adversely impact communities.

### **Empty Properties**

- xiii) We will work with the Welsh Government and its proposed 'Empty Property Loan Fund' and will bring more empty properties back into use over the next 5 years.

## **g) A Healthier Swansea**

- i) Building on our work with the World Health Organisation 'Healthy City' initiative, Swansea Council will work with the local health service and others to make sure all our children have the best start in life, improving lives and helping to reduce health and educational inequalities.

### **Swansea - a Child-Friendly City**

- ii) We will ensure that children and young people are engaged and consulted on council policy and decision making to ensure their voices and opinions are heard. We will promote the United Nations Convention on the Rights of the Child (UNCRC) in order to give children a voice.

### **Independence Dignity and respect**

- iii) Swansea Council will promote independent living, providing people with the support to live in their own home with dignity and respect for as long as they want.

## **Prevention and Health Promotion**

- iv) Working together with our partners, we will deliver integrated services to ensure a continued focus on prevention and early intervention - investing in the conditions which maintain independence and support families, rather than dealing with the consequences of family breakdown and ill health.
- v) We will continue to review the effectiveness of social service provision and reinvesting and redesigning services to make them sustainable for the long term.
- vi) Swansea Council will work with other partners to identify investment opportunities for new facilities to create sheltered accommodation, and extra care facilities to deliver next generation elderly care services.
- vii) We will help people stay healthy and age well.

## **Better Services**

- viii) Swansea Council will adopt the new Welsh Community Care Information System and work with regional and health service partners and re-design services to ensure greater integration and collaboration between health and social care systems to improve patient services.

## **Helping people recover**

- ix) Swansea Council will invest in services to help people re-able and recover so that they are able to return to living an active and productive life.

## **Focusing on those most in need**

- x) We will focus resources for residential care on those with the most complex needs so that they are properly supported.

## **Older People**

- xi) Swansea Council will work with older people and the Older People's Commissioner for Wales to establish a Charter for Older People to ensure that our commitment is delivered.

## **Swansea – a Dementia Friendly City**

- xii) Working with partner organisations, local employers and the third sector, Swansea Council will develop Swansea's status as the first Dementia Friendly City in Wales.

## **Public Interest above Private Profit**

- xiii) Swansea Council will intervene in the social care provider market and explore how it can expand the provision of council run

services. Specifically we will work in social and residential care to ensure, where provision is of last resort, that there is a diverse range of suppliers, including not-for-profit, cooperative and social enterprise providers.

### **Investing in Our People**

- xiv) We will continue to invest in our staff at all levels in social services and build stronger links with Swansea's universities and others, so that providers of these vital services keep abreast of best practice and new innovations in research, treatment and delivery.

### h) **A Cultural Capital**

#### **Standing Up for the Best in Arts, Culture and Sport**

- i) Our city can fairly lay claim to being the cultural and sporting capital of Wales and has always recognised that the arts, culture and sport are as important to our individual and community sense of worth and well-being as our policies on health and education.
- ii) We will bid for Swansea to be the UK City of culture in 2021.
- iii) We will work towards the Glynn Vivian forming part of the Tate network and will regularly bring world class exhibitions to Swansea.

#### **A New Arena, Conference and Exhibition Centre**

- iv) Swansea Council intend to create a 3500-seater digital arena bringing world class entertainments and the best cultural offerings to Swansea on a regular basis.

#### **A New Gallery and Aquarium**

- v) Swansea Council will work with the Oriel and other operators to create a facility which will contain an interactive Gallery and cutting edge technology digital aquarium on the civic site. This will complement a new promenade and public square and be the focus of a new cultural hub set against the backdrop of the world class Swansea Bay.

#### **Regular National events in our City**

- vi) Swansea Council is committed to retaining the Wales National Air show in Swansea. We will explore options for hosting the Wales National Super Prix, stages of the Tour of Britain, and a full programme of national cultural and sporting events in the city.

#### **Team Swansea in Sport**

- vii) Swansea Council will work towards making Swansea a premier, healthy, Sports City. We will support improving the Liberty Stadium and the Swans and Ospreys to be successful.



## **An International Sports Village and Academy**

- viii) Swansea Council will work with partners in the University and Sports clubs to look at the feasibility of creating an International Sports Academy and National Athletes' village in Swansea.

## **Community all-Weather pitches**

- ix) Swansea Council will invest in more 3G pitches for communities across Swansea, ensuring people can play sports and live a healthy lifestyle all year round.
- x) Swansea Council will promote informal recreation, ageing well and a healthy lifestyle. We will support public access to public land such as our commons, foreshore and waterways. This will help encourage more people to participate in walking, cycling, swimming and other activities.

## **Bringing our Heritage to Life**

- xi) Swansea Council has secured agreement from Penderyn Whisky to establish a working distillery and tourist centre as part of the project and will seek to deliver this in the coming years. We will also give consideration to compulsory purchase of landmark buildings across the authority, if owners do not properly maintain or restore these historic buildings.

## **A River Renaissance**

- xii) Swansea Council will reopen the Tawe River corridor walkway to the public and invest in a new walkway and additional safety barriers along the Tawe River. We will explore establishing a new hotel and leisure development near the Liberty Stadium to complement and support the cultural developments and encourage the establishment of River Taxis to take visitors from the Tidal Lagoon (when constructed) and the Marina to the Liberty Stadium and Copperopolis areas.

## **Recognising Local heroes**

- xiii) We will continue to support the Lord Mayor's Awards and will make this an annual event to celebrate the best Swansea has to offer.

## **Discounts for all Swansea Residents**

- xiv) Swansea Council will introduce a citizen discount offer available to all residents of the City and County of Swansea to get discounts on a range of services in Swansea.

## 6 Corporate Plan

The Corporate Plan discharges our duties under the Well-Being of Future Generations (Wales) Act 2015 and Local Government Measure (Wales) 2009 to set Well-being Objectives and Improvement Objectives. It describes the council's vision for Swansea, our 5 Well-being and Improvement Objectives and our organisation values and principles that will underpin the delivery of our priorities and overall strategy.

Our objectives help deliver key Policy Commitments and show the Council's contribution to Wales' 7 national goals described within the Well-Being of Future Generations Act (the 'Act'). They describe how we will maximise this contribution to the national goals and to the social, cultural, environmental and economic well-being of Swansea by working in line with the sustainability principles set out within the Act.

### **Well-being and Improvement Objectives (6 Key Council Priorities):**

- a) **Safeguarding** people from harm.
- b) Improving **Education and Skills**.
- c) Transforming our **Economy and Infrastructure**.
- d) **Tackling Poverty**.
- e) Maintaining and enhancing Swansea's **natural resources and biodiversity**.
- f) **Transformation and Future Council** development.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 2 - Members of the Council)**

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### **Article 2 - Members of the Council**

#### **1 Composition and Eligibility**

The Council will comprise 75 Members, otherwise called Councillors. These 75 Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Democracy and Boundary Commission for Wales and approved by the Welsh Government.

Eligibility – to be elected as a Councillor of the City and County of Swansea a person must

- be at least 18 years old
- be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union
- meet at least one of the following requirements:
  - is and continues to be a local government elector for the area of the authority; or
  - has during the whole of the preceding 12 months occupied as owner or tenant any land or other premises in the area of the authority; or
  - is a person whose main or only place of work for the preceding 12 months has been in the area of the authority; or
  - has resided in the area of the authority during the whole of the preceding 12 months.

#### **2 Election and Terms of Councillors**

The regular election of Councillors will be held as determined by legislation. Elections for all members of the council normally take place every five years. The terms of office of Councillors is normally for 5 years. The term starts and finishes as defined in legislation.

#### **3 Roles, Rights and Duties of all Councillors**

##### **a) Key Roles**

All Councillors will:

- i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii) Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- iii) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- iv) Balance different interests identified within the electoral division and represent the electoral division as a whole;
- v) Contribute to the continual improvement of Council services;
- vi) Be involved in decision-making through the Council meeting;
- vii) Be available to represent the Council on other bodies; and

viii) Maintain the highest standards of conduct and ethics.

b) Rights and Duties

- i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- iii) For these purposes, “confidential” and “exempt” information are defined in the **Access to Information Rules in Part 4** of this Constitution.

**4 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Officer/Councillor Relations Protocol set out in **Part 5** of this Constitution.

**5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors’ Remuneration Scheme set out in **Part 6** of this Constitution.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 3 - Citizens and the Council)**

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### **Article 3 - Citizens and the Council**

Councils and their Constitutions should be outward looking and seek to engage with the public wherever possible. Setting out what citizens can expect from their Council and what rights they have is therefore an important part of the Constitution. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.

#### **1 Citizens' Rights**

Citizens have the following rights. Their rights to information and to participate are subject to the general law of Access to Information and/or meetings. There are set out and explained in more detail in the **Access to Information Rules in Part 4** of this Constitution:

#### **2 Voting and Petitions**

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution. To be a valid petition for a referendum must contain the signatures of 10% of the Council's registered electors.

#### **3 Information**

Citizens have the right to:

- a) Make a petition in accordance with the Council's Petition Scheme;
- b) Attend meetings of the Council, it's Committees, the Cabinet and Overview & Scrutiny Boards except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private. Where meetings are physical meetings citizens will have the right to attend the meeting venue and where they are virtual they can observe the webcast (where provided) and if hybrid they will be entitled to attend the meeting venue or observe the webcast);
- c) Find out from the Forward Work Programme what decisions will be taken by the Cabinet or the Council meeting, which issues the Overview & Scrutiny Boards will be considering, and when these matters will be discussed;
- d) See reports and background papers, (subject to the Access to Information Rules) and any records of decisions made by the Council and/or the Cabinet; and
- e) Inspect the Council's accounts and make their views known to the external auditor.

#### **4 Participation**

Citizens have the right to participate in the Council and Cabinet question times and attend meetings of Overview & Scrutiny Boards (subject to Access to Information Rules).

## **5 Complaints**

Citizens have the right to complain:

- a) To the Council itself under its Complaints Scheme;
- b) To the Public Services Ombudsman for Wales about maladministration after using the Council's own Complaints Scheme;
- c) To the Public Services Ombudsman for Wales where they believe there has been a breach of the Councillor's Code of Conduct;
- d) To the Social Services Complaints Officer where appropriate.

## Council Constitution, Part 2 - Articles of the Constitution (Article 4 - The Council)

### Article 4 - The Council

#### 1 Policy Framework

The following policies, strategies and plans are:

- a) **Required** by the Local Authority Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) to be adopted by the Council, namely:
  - i) Corporate Plan 2018/22 (inc. Well-Being Objectives)
  - ii) Development Plan (LDP)
  - iii) Local Housing Strategy
  - iv) Local/Regional Transport Plan
  - v) Countryside Action Plan
  - vi) Single Integrated Plan\*
  - vii) Welsh Language Strategy (inc. Welsh Language Standards)
  - viii) Youth Justice Plan

\*The Single Integrated Plan replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young Person's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

- b) Recommended by **Guidance** to be adopted by Council.
- c) In addition the **Council** have adopted the following strategies and plans:
  - A Strategy for Engagement of Children and Young People in Swansea
  - Accessibility Strategy and Guidance to Schools on the production of Accessibility Plans
  - Admission Arrangements for Schools
  - Adoption Policy;
  - Air Quality Action Plan
  - Anti-Bullying Policy
  - Anti-Fraud and Corruption Policy and Strategy
  - Asset Management Plan
  - Building Regulation Charges Policy Document
  - Charging Framework for Home Care and other Non-Residential Social Services
  - Child & Young People's Rights Scheme
  - Children's Play Strategy
  - Civic Visits and Hospitality Policy;
  - Contaminated Land Strategy;
  - Corporate Policy on Records Management
  - Councillors Allowances Scheme

- Councillors Information, Communication & Technology (ICT) Allowances
- Data Protection Policy
- Environment Strategy for Swansea
- Felindre Strategy
- Framework For Community Regeneration
- Freedom of Information Policy
- Gambling Policy
- Gorseinon Regeneration Strategy;
- Gower AONB – Management Plan
- Gypsy Traveller Policy
- Home to School Transport/Special Education Needs Transport Policy
- Houses in Multiple Occupation (HMO) Licensing Policy
- Inclusion Policy
- Interim City Centre Retail Strategy
- LA Governor Appointments Procedure
- Library Plan
- Licensing Policy
- Lord Mayor & Deputy Lord Mayor Protocol
- Private Sector Housing Renewal and Disabled Adaptations Policy to Provide Assistance
- Procurement Strategy
- Protection of Vulnerable Adults
- Providing Better Access to Customer Services
- Publication Scheme
- Rehousing Policy
- Resilience Policy
- Safer Swansea Community Safety Strategy
- Shoreline Management Plans;
- Special Education Needs Policy
- Strategic Equality Plan 2016/20
- Sustainable Development Policy
- Swansea Bay City Region Economic Regeneration Strategy
- Swansea Bay Strategy
- Swansea City Centre Strategic Framework
- Swansea Climbing Higher Strategy
- Swansea Learning Policy and Strategy
- Swansea Strategy for People Aged 50+
- Swansea’s Local Bio-Diversity Plan.
- Tourism Strategy
- Violence Against Women, Domestic Abuse & Sexual Violence Strategy (VAWDASV)
- Waste Strategy for Swansea
- Welsh Declaration on Climate Change

## **2 Budget**

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.



- a) The Council will adopt the:
  - i) Capital Programme;
  - ii) Housing Revenue Account;
  - iii) Revenue Budget;
  - iv) Statutory Resolution;
  - v) Treasury Management, Prudential Indicators, Investment Strategy; and
  - vi) Minimum Revenue Position (MRP) Policy.
- b) The Council will receive a report on the Treasury Management Annual Report.

### 3 Housing and Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Welsh Ministers for approval of a programme of disposal of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

### 4 Functions of the Council Meeting

Only the Council will exercise the following functions:

- a) adopting and changing the Constitution;
- b) approving or adopting the Policy Framework, the Budget and any application to the Welsh Ministers in respect of any Housing Land Transfer;
- c) subject to the Urgency Procedure contained in the **Access to Information Procedure Rules in Part 4** 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 a policy or beyond the budget virement limits;
- d) appointing the Leader(s);
- e) agreeing and/or amending the Terms of Reference for Committees and other constitutional bodies, deciding on their composition and making appointments to them;
- f) performing the corporate joint committee functions set out in Article 11 of this Constitution, including the making of a corporate joint committee application and the giving of consent to corporate joint committee regulations being made
- g) adopting an Allowances Scheme under **Article 2, item 2.5**;
- h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;
- i) making the appointment of the Chief Executive and Chief Officers;
- j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- k) approving, reviewing and amending the Council's Petition Scheme;
- l) consulting local people, other persons carrying on a business in the Council's area, the officers of the Council and every trade union which is recognised by the Council about the extent to which the Council is meeting its performance requirements;

- m) preparing an annual report on the extent to which the Council has met its performance requirements;
- n) making arrangements for a panel performance assessment and responding to the panel's report;
- o) considering Chief Executive reports prepared pursuant to section 54(2)(b) of the Local Government and Elections (Wales) Act 2021, within 3 months of them being made;
- p) considering annual reports of the Standards Committee, within 3 months of them being made and keeping under review the extent to which:
  - i) it is exercising its functions effectively;
  - ii) using its resources economically, efficiently and effectively; and
  - iii) its governance arrangements are effective for securing the matters set out in i) and ii) above
- q) all other matters which, by law, must be reserved to Council.

## **5 Five Types of Council Meeting**

- a) The First Annual Meeting.
- b) The Annual Meeting.
- c) Ordinary Meetings.
- d) Extraordinary Meetings.
- e) Ceremonial Meeting of Council.

They will be conducted in accordance with the **Council Procedure Rules in Part 4** of this Constitution.

## **6 Responsibility for Functions**

The Council will maintain **Part 3** of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 5 - Chairing the Council)**

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### **Article 5 - Chairing the Council**

#### **1 The Presiding Member**

The Chair of Council is to be known as the Presiding Member and the Vice Chair is to be known as the Deputy Presiding Member. The Presiding Member and, in his/her absence, the Deputy Presiding Member will have the following roles and functions:

- a) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members are able to hold the Cabinet and other office holders to account;
- d) To promote public involvement in the Council's activities;
- e) To be responsible for deciding the validity of any call-in of Cabinet decisions;
- f) To be the conscience of the Council;
- g) To attend such civic and ceremonial functions as the Council and he/she determines appropriate;
- h) The Council shall elect the Presiding Member annually at the Annual Meeting of Council; and
- i) To undertake the requirements of the Local Government (Wales) Measure 2011 and the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

#### **2 The Ceremonial Role**

The Presiding Member shall deputise for the Lord Mayor if the Deputy Lord Mayor is unavailable for that purpose.

## Council Constitution, Part 2 - Articles of the Constitution (Article 6 - Overview and Scrutiny)

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### Article 6 - Overview and Scrutiny

#### 1 Scrutiny

The main aim of scrutiny is to act as a 'critical friend' to the Cabinet and other decision makers in order to promote better services, policies and decisions. Working in a similar way to parliamentary select committees, overview & scrutiny involves councillors who are not in the cabinet.

The overview & scrutiny function was set up under Section 21 of the Local Government Act 2000. Every local council needs to have at least one overview & scrutiny committee.

In Swansea there is a Scrutiny Programme Committee that will be responsible for coordinating the work of scrutiny which will hold the Council's Executive to account and examine the work of all Council departments as well as other public services.

- a) It is expected that the work of scrutiny should represent a significant and constructive programme of activities that will:
  - i) Help improve services;
  - ii) Provide an effective challenge to the executive
  - iii) Engage Members in the development of policies, strategies and plans; and
  - iv) Engage the public.
  
- b) In practical terms the work of overview & scrutiny follows four stages:
  - i) Work planning to identify issues and decide how to address them;
  - ii) Gathering evidence through consultation and research;
  - iii) Making recommendations to the Cabinet, to Council and to other decision making bodies;
  - iv) Following up to check that agreed actions have been taken and an impact made.

#### 2 General Roles

Within its terms of reference, scrutiny will:

- a) Review and/or scrutinise (a) decisions or actions taken, (b) policies or processes in connection with the discharge of any of the Council's functions;
- b) Make reports and/or recommendations to the Council meeting and /or the Cabinet on the discharge of any of the Council's functions;
- c) Consider any matter affecting the area of its inhabitants and make recommendations to any decision making body as appropriate.

### 3 Specific Functions

Scrutiny may:

- a) Assist the Council in reviewing service delivery and performance through in analysis;
- b) Review and scrutinise the decisions made by and the performance of the C and/or Committees and/or other Constitutional Bodies and the Council and/ Chief Officers both in relation to individual decisions and over time;
- c) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- d) Conduct research, community and other consultation in the analysis of serv policy issues and possible options;
- e) Consider and implement mechanisms to encourage and enhance communi participation in the development of policy or the improvement of services;
- f) Question Members of the Cabinet and/or Committees and/or other Constitu bodies and appropriate Officers about their proposed policies, decisions an performance;
- g) Make recommendations to the Cabinet and/or appropriate Committee and/c other constitutional bodies and/or Council arising from the outcome of the overview & scrutiny process;
- h) Review and scrutinise the performance of other public bodies in the area ar invite reports from them about their activities and performance;
- i) Question and gather evidence from any person outside of the Authority (with their consent).
- j) Assist the Council and the Cabinet in the review of its budget and policies by in-depth analysis of policy issues;
- k) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.

### 4 Annual Report

An annual report will be provided to Council detailing the work undertaken by scrutiny during the preceding municipal year.

### 5 Work Programme

The Scrutiny Programme Committee will exercise overall responsibility for the work programme.

### 6 Proceedings of Scrutiny

The Scrutiny Programme Committee will conduct proceedings in accordance with the **Scrutiny Procedure Rules set out in Part 4** of this Constitution.

### 7 Call In Procedure

The Chair and/or Vice Chair of the Scrutiny Programme Committee or any 4 Councillors may Call In a decision in accordance with the Call In Procedure set out in the Cabinet Procedure Rules at Part 4.4 Section 18 of the Constitution.

The Scrutiny Programme Committee will consider the called in decision and the reasons for the Call In and:

- i) If satisfied with the explanation it will so indicate to enable the decision to be implemented;
- ii) If “no longer concerned” but not minded to indicate that it is “satisfied with the explanation” it is in order for the Committee to resolve that “the explanation be accepted but not endorsed by the Committee”;
- iii) If still concerned about the decision, then it may refer it back to Cabinet or the relevant decision maker/body for reconsideration, setting out in writing the nature of its concerns. The Cabinet, decision maker/body shall then reconsider its decision before making a final decision.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 7 - The Cabinet (Executive))**

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### **Article 7 - The Cabinet (Executive)**

#### **1 Role**

The executive (known as the Cabinet in the City and County of Swansea) will carry out all of the local authority's functions, which are not the responsibility of any other part of the local authority, whether by law, or under this Constitution.

#### **2 Form and Composition**

Subject to the Job Sharing arrangements set out below the Cabinet will consist of the Leader together with 9 Councillors appointed to the Cabinet by the Leader.

Any election or appointment to the Cabinet (including the Leader) may include the election of two or more Councillors to share office (provided that the number of Cabinet members does not exceed 13, where at least three of the members have been appointed to share office).

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.

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.

#### **3 Leader of the Council**

The Leader will be a Councillor elected to the position of Leader by the Council Meeting. The Leader will hold Office until:

- a) He/she resigns from the Office; or
- b) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume Office at the end of the period of suspension); or
- c) He/she is no longer a Councillor; or
- d) He/she is removed from Office by resolution of more than half of all Council serving Members of the Council. The removal will take effect two working days after receipt of the notice by the Proper Officer.

#### **4 Deputy Leader**

The Leader will appoint a Deputy Leader (up to a maximum of 2) to act as Leader in the Leader's absence and may also if he/she thinks fit remove the Deputy Leader from Office at any time.

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

## 5 Other Cabinet Members

Only Councillors may be appointed to the Cabinet. Neither the Presiding Member nor Deputy Presiding Member may be appointed to the Cabinet and Members of the Cabinet (including the Leader) may not be Members of an Overview & Scrutiny Board.

Other Cabinet Members shall hold Office until:

- a) They resign from Office; or
- b) They are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume Office at the end of the period of suspension); or
- c) They are no longer Councillors; or
- d) They are removed from Office by the Leader who must give written notice of any removal to the Proper Officer. The removal will take effect two working days after receipt of the notice by the Proper Officer

## 6 Assistants to the Cabinet

The Leader may appoint no more than 5 Councillors to act as Assistants to the Cabinet as he/she considers reasonably necessary and appropriate. Neither the Presiding Member or deputy Presiding Member may be an Assistant to the Cabinet. Assistants to the Cabinet are not members of Cabinet or a committee of the Cabinet but they may not vote on any matter before the Cabinet. They cannot substitute for a Cabinet Member or count towards quorum and must perform their roles in accordance with the provisions set out in the Cabinet Procedure Rules in Part 4 of the Constitution.

The Leader can remove a member from the role of Assistant to the Cabinet at any time and can either appoint a new member to the role or leave the role vacant as he/she wishes.

The Leader must inform the Monitoring Officer and the Head of Democratic Services in writing of any appointments which he/she makes of an Assistant to the Cabinet and also if he/she has removed a Member from the role of Assistant to the Cabinet.

The role of the Assistant to the Cabinet will be:

- a) To assist the Cabinet and undertake any work requested by the Leader.
- b) To present reports to Cabinet in the absence of the Cabinet member or with the agreement of the Leader.

## 7 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the **Cabinet Procedure Rules set out in Part 4** of this Constitution.

## 8 Responsibility for Functions

The Leader will maintain a list in **Part 3** of this Constitution, which will be reported to the Council meeting for information, setting out which individual members of



the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

## **9 Member Champions**

The Leader may appoint Member Champions for specific areas of the Council's business in order to assist the Leader and appropriate portfolio holders by advising on service issues across all Directorates.

### Article 8 - Regulatory and Other Committees

The Council will appoint a Planning Committee and a Licensing Committee to discharge those non-Executive functions listed within the table found at **Part 3**.

The Council will appoint those Committees/Panels/Forums whose terms of reference are set out at **Part 3**.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 9 - The Standards Committee)**

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### **Article 9 - The Standards Committee**

#### **1 Standards Committee**

The Council will establish a Standards Committee in accordance with the Standards Committees (Wales) Regulations 2001 ('The Regulations').

#### **2 Political Balance**

Standards Committees do not have to comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.

#### **3 Membership**

The Standards Committee will compose of nine (9) Members:

- a) Five (5) 'Independent' Members. Independent Members are not Councillors or Officers or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Regulations. They shall be appointed in accordance with the Regulations.
- b) Three (3) Councillors of the City and County of Swansea appointed by Council.
- c) One (1) Community / Town Councillor from within the boundaries of the City and County of Swansea appointed by Council.

#### **4 Term of Office**

- a) Independent Members are appointed for a period of not less than four and not more than six years and may be re-appointed for one further consecutive term;
- b) Members of the Local Authority who are members of the Standards Committee will have a term of office the next ordinary local government election following their appointment. They may be re-appointed for one further consecutive term.
- c) Community / Town Councillors. The term of office shall be until the Ordinary Election for the Community Council of which the Community Councillor is a member. They may be re-appointed for one further consecutive term.

#### **5 Voting**

All nine (9) members of the Standards Committee are entitled to vote.

#### **6 Community / Town Council Members**

A Community / Town Council member shall not take part in the proceedings of the Standards Committee when any matters relating to their Community / Town Council is being considered.

## **7 Chairing the Committee**

Only an Independent Member of the Standards Committee may be the Chair.

The Members of the Standards Committee will elect the Chair.

The Chair can be removed by a resolution of two thirds of the members of the Committee.

## **8 Role and Function**

- a) The Standards Committee will have the following roles and functions:
- i) Promoting and maintaining high standards of conduct by Councillors, Community / Town Councillors and Statutory Co-optees;
  - ii) Assisting the Councillors, Community / Town Councillors and Statutory Co-optees to observe the Members' Code of Conduct;
  - iii) Advising the Council on the adoption or revision of the Members' Code of Conduct;
  - iv) Monitoring the operation of the Members' Code of Conduct;
  - v) Advising, training or arranging to train Councillors, Community / Town Councillors and Statutory Co-optees on matters relating to the Members' Code of Conduct;
  - vi) Producing an annual report to Council describing how the Committee's functions have been discharged during the financial year;
  - vii) Monitoring compliance by political group leaders with their duties under s 52A(1) Local Government Act 2000;
  - viii) Undertaking those functions in relation to Community Councils and members of Community Councils in the area of City and County of Swansea as are required by law;
  - ix) Granting dispensations to Councillors, Community / Town Councillors and Statutory Co-optees from requirements relating to interests set out in the Members' Code of Conduct;
  - x) Considering allegations of breaches of the Code of Conduct made against Members in accordance with the Standards Committee Hearing Procedure set out in the Constitution;
  - xi) Determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and Officers;
  - xii) Dealing with any reports from the Monitoring Officer on any matter;
  - xiii) To consider all appeals relating to the Unreasonable Customer Behaviour Policy.
- b) The Standards Committees will also undertake roles, for ethical audit purposes, including:
- i) Overview of the Whistleblowing Policy;
  - ii) The Protocol of Officer/Councillor Relations;
  - iii) The Member/Member Dispute Resolution Process;
  - iv) The Register of Members' Interests.
- c) The Procedure for investigating complaints is determined by the Standards Committee, and may be amended by the Committee at any time.

## **9 Joint Standards Committee**

The Council may establish a joint standards committee with one or more local authorities for the purpose of discharging the statutory functions of the Standards Committee.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 10 - Area Committees and Forums)**

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### **Article 10 - Area Committees and Forums**

#### **Area Committees**

The Council may appoint, as it sees fit, Area Committees for the purposes of developing its policy and service delivery framework, particularly in relation to its community planning functions, if it is satisfied that to do so will ensure improved service delivery in the context of best value and provide more efficient, transparent and accountable decision making.

In areas with Community or Town Councils and Community Meetings, the Council will consult with relevant Community and Town Councils and the Chairmen of relevant community meetings when considering whether and how to establish Area Committees.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 11 - Joint Arrangements)**

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### **Article 11 - Joint Arrangements**

#### **1 Joint Arrangements**

- a) The Council may establish joint arrangements with one or more Local Authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other Local Authorities;
- b) The Cabinet may establish joint arrangements with one or more Local Authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities;
- c) The Cabinet may appoint Cabinet or non-Cabinet members to a Joint Committee and those members need not reflect the political composition of the Council;
- d) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's Scheme of Delegation in **Part 3** of this Constitution.

#### **2 Arrangements to Promote Well Being**

The Cabinet, in order to promote the economic, social or environmental well being of its area, may:

- a) Enter into arrangements or agreements with any person or body;
- b) Co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c) Exercise on behalf of that person or body any functions of that person or body.

#### **3 Corporate Joint Committees**

- a) Any two or more principal councils may jointly make an application to the Welsh Ministers for arrangements to be made to establish a Corporate Joint Committee to exercise a function of those councils or the economic well-being function of those councils in relation to the principal areas of those councils.
- b) The Welsh Ministers may by regulations establish a body corporate (known as a Corporate Joint Committee) to exercise in relation to the principal areas specified in the regulations a function specified in the regulations.

On the 17 March 2021 Welsh Ministers made the South West Wales Corporate Joint Committee Regulations 2021 which established the South West Wales Corporate Joint Committee which included the City and County of Swansea Council.

4 **Access to Information**

The **Access to Information Rules in Part 4** of this Constitution apply;

5 **Delegation To and From Other Local Authorities**

- a) The Council may delegate non-executive functions to another Local Authority or, in certain circumstances, the executive of another Local Authority;
- b) The Cabinet may delegate executive functions to another Local Authority or the executive of another Local Authority in certain circumstances;
- c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to a Meeting of the Council.

6 **Contracting Out**

The Council and the Cabinet for executive functions may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an Order under Section 70 of the De-regulation and Contracting Out Act 1994, or 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.



## Council Constitution, Part 2 - Articles of the Constitution (Article 12 – Officers)

### Article 12 - Officers

#### 1 Management Structure

The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions. (See also **Part 7 Management Structure**).

#### 2 Chief Officers

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

Post	Functions & Areas of Responsibility
<p><b>Chief Executive</b></p>	<p>Overall corporate management and operational responsibility including overall management responsibility of all Officers.</p> <p>The provision of professional and impartial advice to all parties in the decision making process including the Cabinet, Scrutiny Committees, the Full Council and other Committees.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions.</p> <p>Representing the Authority on partnership and external bodies (as required by statute or the Council).</p> <p>Service to the whole Council, on a politically neutral basis.</p> <p>Acting as the Returning Officer / Electoral Registration Officer.</p> <p>Variation of functions and areas of responsibility of the Deputy Chief Executive and Directors and any other directly managed staff.</p>
<p><b>Director of Corporate Services</b></p>	<p>To support the Chief Executive and overall Corporate, Operational and Strategic Management responsibility for Communications &amp; Marketing, Human Resources &amp; the Service Centre, Legal, Democratic Services &amp; Business Intelligence and Transformation Service Units together with Emergency Planning and civil contingencies.</p> <p>Responsibility for the Service Units which deal with the following broad work areas:</p> <p><b>Communications &amp; Marketing.</b> Led by the Head of Communications &amp; Marketing. Areas of work include Access</p>

	<p>to Services, Communications and Marketing, Health &amp; Safety, the Lord Mayoralty, Corporate Planning and Performance and Policy and Transformation.</p> <p><b>Human Resources &amp; the Service Centre.</b> Led by the Head of Human Resources and Service Centre. Areas of work include employee services, employee and pensioner payroll, accounts receivable, accounts payable and cashiers. Human resources, cultural change, Organisational Development and workforce strategy.</p> <p><b>Legal, Democratic Services and Business Intelligence.</b> Led by the Chief Legal Officer. Areas of work include Legal Services, Democratic Services, Electoral Services, Coroner, Scrutiny, Member Support, Information Governance and the Welsh Translation Service. The Service Unit also has responsibility for liaising with Commissioners.</p> <p><b>Digital and Customer Services.</b> Led by the Head of Digital and Customer Services who also acts as the Senior Information Risk Owner (SIRO). Areas of work include, Customer Services, &amp; Complaints, customer contact strategy development and implementation, Digital Strategy development, Digital Transformation and Technology Security.</p>
<p><b>Director of Finance</b></p>	<p>This is a statutory post. This Officer has responsibility for the Council's Chief Finance/Section 151 Officer function. The Director of Finance acts as the Chief Finance/Section 151 Officer.</p> <p>The Service Units deal with the following broad work areas:</p> <p><b>Finance.</b> Broad work areas include Financial Services, Pensions Management, Administration and Investment, Provision of the Authority's Council Tax, Financial Planning &amp; Management, Housing Benefits, Internal Tax and Accountancy services.</p> <p><b>Deputy Chief Finance Officer.</b> Directly assists and deputises as S151 Officer for the Director of Finance. Acts as professional lead on pension administration and pension fund, treasury management and capital planning and funding.</p> <p><b>Head of Revenues &amp; Benefits.</b> Directly assists the Director of Finance and acts as professional lead on council tax, nondomestic rates, benefits and social care financial assessments.</p> <p><b>Head of Commercial Services.</b> Directly assists the Director of Finance and acts as professional lead on procurement, commercial advice and activity, and compliance and implementation of the General Power of Competence for Welsh councils.</p>

	<p><b>Chief Internal Auditor.</b> Independent operational management of the Internal Audit function and independent right of reporting and issuance of audit opinions but with professional oversight by the Director of Finance.</p> <p><b>Head of HR and Service Centre.</b> Reports to the Deputy Chief Executive/Director of Corporate services but professional oversight on all financial matters is reserved to the Director of Finance as S151 Officer. Acts as professional lead on employee services, employee and pensioner payroll, accounts receivable, accounts payable and cashiers.</p>
<p><b>Director of Education</b></p>	<p>This is a statutory post. This Officer acts as the Chief Education Officer and has Corporate Management responsibility and must provide the Council's education services (including schools, school students, services to schools and strategic management of education across the City and County), subject to any variations determined by the Chief Executive.</p> <p>Responsibility for the Service Units which deal with the following broad work areas:</p> <p><b>Achievement &amp; Partnership Service.</b> Led by the Head of Achievement Partnership Service. Areas of work include education partnerships across the system, school performance and links to the regional education partnership service. School and governor support, Welsh in Education, school monitoring, specialist curriculum support, stakeholder engagement, performance, data and systems. Swansea Music team and oversight of minority ethnic learners.</p> <p><b>Education Planning &amp; Resources Service.</b> Led by the Head of Education Planning &amp; Resources. Areas of work include responsibility for Catering and Cleaning, stakeholder engagement, performance, data and systems, financial strategy, schools funding and information and capital planning and delivery.</p> <p><b>Vulnerable Learner Service.</b> Led by the Head of the Vulnerable Learner Service. Areas of work include safeguarding and child protection in education, school admissions, additional learning needs, behaviour support, pupil referral unit, the co-ordination of Looked After Children in education and support and promotion of attendance and inclusion for all including those educated other than at school.</p>
<p><b>Director of Social Services</b></p>	<p>This is a statutory post. This Officer has Corporate Management responsibility and is the Lead Director for children and young people's services under the Childrens Act 2004 and must provide the Council's social services (including services for children, and families, people with mental health problems, people with disabilities and the</p>

	<p>elderly) subject to any variations determined by the Chief Executive.</p> <p>Responsibility for the Service Units which deal with the following broad work areas:</p> <p><b>Adult Services and Tackling Poverty.</b> Led by the Head of Adult Services. Areas of work include responsibility for the provision of the Council's Adult Social Services in the areas of learning disability, mental health, service provision, commissioning, safeguarding and tackling poverty.</p> <p><b>Integrated Services.</b> Led by the Head of Integrated Services. This is a joint post between the Authority and Swansea Bay University Health Board. It is accountable to both Organisations. Broad areas of work include responsibility for all functions delivered through or linked with the existing integrated hubs for Older People and Adults with a physical disability.</p> <p><b>Child &amp; Family.</b> Led by the Head of Child &amp; Family. Areas of work include responsibility for the provision of the Council's Child &amp; Family Social Services.</p>
<p><b>Director of Place</b></p>	<p>Overall Corporate, Operational and Strategic Management responsibility for Building Services, Cultural Services, Highways &amp; Transformation, Housing &amp; Public Health, Planning &amp; City Regeneration, Property Services and Waste, Cleansing &amp; Parks Service Units.</p> <p>This Officer is responsible for the delivery of front line operational services. In addition the Officer has the Section 123 Best Value responsibility, corporate management responsibility and must provide the Council's Building &amp; Property Services, Facilities Management, Asset Management Service subject to any variations determined by the Chief Executive.</p> <p>The Service Units deal with the following broad work areas:</p> <p><b>Building Services.</b> Led by the Head of Building Services. Areas of work include responsibility for the provision of the Council's front line operational services.</p> <p><b>Cultural Services.</b> Led by the Head of Cultural Services. Areas of work include responsibility for the provision of cultural, sporting, arts and leisure facilities in the City and County. This includes tourism &amp; destination management and the provision of Library and joint West Glamorgan Archive Service services.</p> <p><b>Highways &amp; Transportation.</b> Led by the Head of Highways &amp; Transportation. Areas of work include responsibility for the provision of the Council's Highway, Transportation,</p>

	<p>Streetscene, Drainage, Coastal Protection, Fleet and Marina Services.</p> <p><b>Housing &amp; Public Protection.</b> Led by the Head of Housing &amp; Public Protection. Areas of work include responsibility for the provision of the Council's Housing and Environment services (Building Control, Pollution, Housing &amp; Public Health, Registrars, Burials, Cremations, Trading Standards, Licensing, Food &amp; Safety, the Council's Housing Stock, Homelessness Services, Housing Advice, Disabled Facility Grants and improving the condition of Private Sector Housing subject to any variations determined by the Chief Executive.</p> <p><b>Planning &amp; City Regeneration.</b> Led by the Head of Planning &amp; City Regeneration. Areas of work include responsibility for the provision of the Council's services for the regeneration of the City and County, including economic &amp; business development, physical regeneration, city centre management, development control design &amp; conservation, planning policy &amp; environment, This is subject to any variations determined by the Chief Executive.</p> <p><b>Property Services.</b> Led by the Head of Property Services. Areas of work include responsibility for the provision of the Council's Corporate Property and Facilities Management functions.</p> <p><b>Waste, Cleansing &amp; Parks.</b> Led by the Head of Waste, Cleansing &amp; Parks. Areas of work include responsibility and provision of the Council's waste, cleansing, recycling and parks services.</p>
<p><b>Monitoring Officer</b></p>	<p>Responsibility for the provision of the Council's Monitoring Officer function.</p> <p>The Chief Legal Officer acts as the Monitoring Officer.</p>
<p><b>Chief Finance / Section 151 Officer</b></p>	<p>Responsibility for the provision of the Council's Chief Finance /Section 151 Office function.</p> <p>The Director of Finance acts as the Chief Finance Officer/ Section 151 Officer.</p>

### 3 Council Designated Posts

The Council will designate the following statutory posts as shown:

Post	Designation
Chief Executive	Chief Executive
Director of Education	Chief Education Officer
Director of Social Services	Director of Social Services.
Director of Finance	Chief Financial Officer (Section 151 Officer)
Chief Legal Officer	Monitoring Officer
Head of Democratic Services	Head of Democratic Services

The Chief Executive, Chief Finance Officer, Monitoring Officer and Head of Democratic services will have the statutory functions described below.

### 4 Functions of the Chief Executive

- a) **Discharge of Functions by the Council**  
Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Chief Executive. The Chief Executive will report to 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.
- b) The Chief Executive will keep the following under review:
- (i) the manner in which the exercise by the council of its different functions is co-ordinated;
  - (ii) the council's arrangements in relation to:-
    - financial planning;
    - asset management, and
    - risk management;
  - (iii) the number and grades of staff required by the council for the exercise of its functions;
  - (iv) the organisation of the council's staff;
  - (v) the appointment of the council's staff;
  - (vi) the arrangements for the management of the council's staff (including arrangements for training and development).
- c) Where appropriate, to make a report to the council setting out the Chief Executive's proposals in respect of any of the matters set out above. As soon as possible after preparing a report, the Chief Executive must arrange for a report to be sent to each Member of the Council
- d) **Consultation**  
The Chief Executive is authorised to respond on the Council's behalf to any consultation received by the Council and also to authorise any other officer of the Council to respond to any consultation received by the Council.
- e) **Restrictions on Post**  
The Chief Executive may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer/Section 151 Officer if a qualified accountant.

## 5 Proper Officer

- a) To act as the Proper Officer for the receipt of notices under **Articles 12.7c** and **12.7d**.
- b) To be the Proper Officer for the purpose of the following sections of the Local Government Act 1972:
  - i) Witness and receipt of declarations of office (Section 83);
  - ii) Receipt of declaration of resignation of office (Section 84);
  - iii) Convening of meeting of council to fill casual vacancy in the office of Chairman (Section 88);
- c) Receipt of notice of casual vacancy from 2 local government electors (Section 89).
- d) For the purposes of **Articles 12.5b** and **12.5c** the Proper Officer is assigned to the Chief Executive **and to the** Head of Democratic Services.

## 6 Urgency or Absence of Responsible Officer

All the powers delegated to other officers shall, unless prevented by statute, also be delegated to the Chief Executive, for exercise in cases of urgency or in the absence of the responsible officer.

## 7 Functions of the Monitoring Officer

These are set out in section 5 of the Local Government and Housing Act 1989 as amended. The functions of the Monitoring Officer are:

- a) **Maintaining the Constitution**  
The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public
- b) **Ensuring Lawfulness and Fairness of Decision-Making**  
After consulting with the Chief Executive and Chief Financial Officer, the Monitoring Officer may report to the Council Meeting or to the Cabinet in relation to any function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Standards Committee**  
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee.
- d) **Receiving Reports**  
The Monitoring Officer will receive and act on reports made by the Public Services Ombudsman for Wales and decisions of the case tribunals and the Public Services Ombudsman for Wales.
- e) **Conducting Investigations**  
The Monitoring Officer will conduct investigations into matters in relation to vires, ethical matters, constitutional arrangements and maladministration, and matters referred by the Public Services Ombudsman for Wales and will have unqualified access to any information held by the Council and can require the co-operation or assistance of any employee who shall also assist the Monitoring Officer

in order to make reports or recommendations in respect of them to the Council, the Cabinet, the Scrutiny Programme Committee or the Standards Committee, as appropriate.

- f) **Proper Officer for Access to Information**  
The Monitoring Officer will be the Proper Officer for Access to Information and will ensure that Council, Cabinet and Committee decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- g) **Proper Officer for receipt of Notices**  
The Monitoring Officer will be the Proper Officer for receipt of all Notices save for those notices listed under the Chief Executive where the Monitoring Officer shall deputise for the Chief Executive.
- h) **Advising whether decisions of the Council's Constitutional Bodies are within the Budget and Policy Framework**  
The Monitoring Officer will advise whether proposed decisions are in accordance with the budget and Policy Framework.
- i) **Providing Advice**  
The Monitoring Officer will provide advice on: the scope of powers and authority to take decisions; maladministration; probity and Policies issues to all Councillors and Officers.
- j) **Restrictions on Posts**  
The Monitoring Officer cannot be the Chief Financial Officer or the Chief Executive.

## **8 Functions of the Chief Financial Officer**

These are set out in section 6 of the Local Government and Housing Act 1989. The functions of the Chief Finance Officer are:

- (a) **Ensuring Lawfulness and Financial Prudence of Decision making**  
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 a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item or account unlawfully.
- (b) **Administration of Financial Affairs**  
The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management**  
The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice**  
The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles
- (e) **Give Financial Information**  
The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Advising whether Decisions of the Cabinet are within the Budget and Policy Framework**



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

(g) **Restriction on Post**

- (i) The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.
- (ii) The Chief Finance Officer must be a member of one or more of the following professional bodies:
  - The Institute of Chartered Accountants in England and Wales;
  - The Chartered Association of Certified Accountants;
  - The Chartered Institute of Public Finance and Accountancy;
  - The Chartered Institute of Management Accountants; or
  - Any other body of accountants established in the UK and for the time being approved by the Welsh Ministers for this purpose.

## **9 Functions of Head of the Democratic Services**

These are set out in section 9 of the Local Government Measure 2011. The functions of the Head of Democratic Services are:

- (a) To provide support and advice to the authority in relation to its meetings;
- (b) To provide support and advice to committees of the authority and the members of those committees;
- (c) To provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee;
- (d) To provide support and advice to the authority's Democratic service Committee and the members of that Committee;
- (e) To provide support and advice to the authority's Scrutiny Committee and the members of that Committee;
- (f) To provide support and advice to each member of the authority in carrying out the role of member of the authority;
- (g) To make reports and recommendations in respect of any of the following:
  - The number and grades of staff required to discharge democratic services functions;
  - The appointment of staff to discharge democratic services functions;
  - The organisation and proper management of staff discharging democratic services functions;
- (h) Such other functions as may be prescribed by law
- (i) Restrictions on Post

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

## **10 Duty to Provide Sufficient Resources to the Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

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

**11 Conduct**

Officers will comply with the Officers' Code of Conduct and Protocol on Officer/Member Relations set out in **Part 5** of this Constitution.

**12 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in **Part 4** of this Constitution.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 13 - Decision Making)**

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### **Article 13 - Decision Making**

#### **1 Responsibility for Decision-Making**

The Council will issue and keep up to date a record of which Constitutional Body or individual of the Council has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in **Part 3** of this Constitution.

#### **2 Principles of Decision-Making**

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

- a) proportionality – any action taken must be proportionate to the aim(s) being pursued;
- b) due consultation and the taking of professional advice from appropriate officers;
- c) respect for human rights;
- d) presumption in favour of openness;
- e) clarity of aims and desired outcomes; and
- f) proper recording of reasons for the decision, any personal interest declared and any dispensation to speak granted by the Authority's Standards Committee together with details of any consultation.

#### **3 Decision Making Rules and Procedures**

All Constitutional bodies have their own Procedure rules, set out in **Part 4**.

If a Constitutional Body has not adopted its own rules, or if they are silent on a point, then the Council Procedure Rules shall be applicable to that Constitutional Body (Note: References to the Presiding Member in these circumstances shall be taken to mean the Chair).

#### **4 Decision Making by the Council Meeting**

Decisions reserved to the Council Meeting. These are listed in **Article 4.4**, and will be made by the Council Meeting and not delegated.

Subject to **Article 13.7**, the Council Meeting will follow the Council Procedure Rules and other relevant Procedures set out in Part 4 of this Constitution when considering any matter.

#### **5 Decision Making by the Cabinet**

The Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **6 Decision Making by Overview & Scrutiny Boards**

Overview & Scrutiny Boards will follow **Overview & Scrutiny Board Procedure Rules set out in Part 4** of this Constitution when considering any matter.

## **7 Decision Making by Other Constitutional Bodies**

Council, Committees and Sub-Committees will follow those parts of the Council Procedure Rules and/or appropriate Procedures adopted and set out for the Committee as are set out in **Part 4** of this Constitution as apply to them. Should there be any conflict the Council Procedure Rule shall take precedence.

## **8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a Councillor or an Officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow the appropriate Procedure set out for the decision maker, and all such proper Procedures which accord with the requirements of natural justice and the right to fair trial contained in Article 6 of the European Convention of Human Rights.

## **9 Implementation of Decisions Taken by Council, Cabinet and Council Bodies**

All decisions made and to be implemented by Council, Cabinet or a Council Body shall be implemented within 6 months of the date of the meeting where the decision was made;

If any of the decisions mentioned in paragraph a) above are not implemented within this 6 month period then, the matter will be subject to a formal review by Council or Cabinet as appropriate.

## **10 Tracking of Decisions Taken by Council, Cabinet and Council Bodies**

Council/Cabinet will be made aware of progress on each of the decisions it has made based on a decision tracking system.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 14 - Finance, Contracts and Legal Matters)**

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### **Article 14 - Finance, Contracts and Legal Matters**

(This Article refers to the **Financial and Contract Procedure Rules in Part 4**)

#### **1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in **Part 4** of this Constitution.

#### **2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in **Part 4** of this Constitution.

#### **3 Legal Proceedings**

The Chief Legal Officer is authorised, in respect of any proceedings in any court, tribunal or forum, or any legal proceedings generally, to take all necessary steps to protect the Council's interests or the interests of any, some or all of the inhabitants of the City and County of Swansea, including the initiation and defence of, or intervention in or settling of, legal proceedings or potential legal proceedings and to authorise officers to appear in such proceedings. To sign and serve all notices, to engross and execute legal and other documentation, to enter contracts and generally to authorise officers to carry out, as appropriate, the functions of the Chief Legal Officer.

#### **4 Authentication of Documents**

- a) Where any document is necessary to any legal Procedure or proceedings on behalf of the Council, it will be signed by the Chief Legal Officer or the Solicitor to the Council if appropriate or any other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- b) All contracts shall be in accordance with the Contract Procedure Rules.

#### **5 Common Seal of the Council**

Provision of the affixing of the Common Seal of the Council shall be in accordance with the Council Procedure Rules.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 15 - Review and Revision of the Constitution)**

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### **Article 15 - Review and Revision of the Constitution**

#### **1 Duty to Monitor and Review the Constitution**

The Presiding Member, Monitoring Officer and Head of Democratic Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **2 Protocol for Monitoring and Review of the Constitution by the Presiding Member, Monitoring Officer and the Head of Democratic Services**

- a) A key role for the Presiding Member, Monitoring Officer and Head of Democratic Services is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.
- b) In undertaking this task they may:
  - i) observe meetings of different parts of the Member and Officer structure;
  - ii) undertake an audit trail of a sample of decisions;
  - iii) record and analyse issues raised with either of them by Members, Officers, the public and other relevant stakeholders; and
  - iv) compare practices in this authority with those in other comparable authorities, or national examples of good practice;
  - v) Form Ad Hoc Working Group(s) to consider specific issues affecting the Council.

#### **3 Changes to the Constitution**

##### **Approval**

Changes to the Council Constitution may only be made by Council after consideration of a report by the Presiding Member, Monitoring Officer, Head of Democratic Services and/or Chief Executive except where any changes are to make any updates required by:

- a) Legislation;
- b) Changes to the Officer structure or changes of responsibility within the Officer Structure;
- c) The need to correct any administrative or typing errors.

Changes to the Constitution which fall under sub paragraphs a., b., or c., maybe made solely by the Monitoring Officer.

#### **4 Maintaining the Constitution**

The Chief Executive or the Proper Officer will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council. Following the provision of the initial printed version and unless a Councillor requests in writing/email to the contrary, an electronic link will be provided for the remainder of the duration of their term of office. Hard copies will be placed in Political Group Rooms.

The Monitoring Officer will ensure that a copy of the Constitution will be available for inspection at Council offices and on the Council's website.

## **Council Constitution, Part 2 - Articles of the Constitution (Article 16 - Suspension, Interpretation and Publication of the Constitution)**

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### **Article 16 - Suspension, Interpretation and Publication of the Constitution**

#### **1 Suspension of the Constitution**

a) **Limit to Suspension**

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council Meeting to the extent permitted within those Rules and the law.

b) **Procedure to Suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in **Article 1**.

c) **Rules capable of suspension**

The Procedure Rules set out in part 4 specify which of these are not capable of suspension.

#### **2 Interpretation**

The ruling of the Presiding Member as to the construction of this Constitution or its application to any proceedings of the Council shall not be challenged. Such interpretation will have regard to the purposes of this Constitution contained in **Article 1** and any guidance or advice of the Monitoring Officer.

#### **3 Publication**

- a) The Chief Executive or the Proper Officer will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council. Following the provision of the initial printed version and unless a Councillor requests in writing/email to the contrary, an electronic link will be provided for the remainder of the duration of their term of office. Hard copies will be placed in political group rooms;
- b) The Proper Officer will ensure that copies are available for inspection at Council Offices, Libraries and other appropriate locations, and can be purchased by members of the Local Press and the public on payment of a reasonable fee.
- c) The Proper Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.



## **Council Constitution, Part 2 - Articles of the Constitution (Article 17, Schedule 1 - Description of Executive Arrangements)**

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### **Article 17, Schedule 1 - Description of Executive Arrangements**

#### **1 Executive Arrangements**

The following Parts of this Constitution constitute the Executive Arrangements:

- a) Overview & Scrutiny Boards and the Overview & Scrutiny Board Procedure Rules (**Article 6**);
- b) The Cabinet and the Cabinet Procedure Rules (**Article 7**);
- c) Area Committees and Forums – none (**Article 10**);
- d) Joint Arrangements (**Article 11**);
- e) Decision Making and the Access to Information Procedure Rules (**Article 13**);
- f) Responsibility for Functions (**Part 3**).

## Council Constitution, Part 3.1 - Responsibility for Functions (Introduction - Scheme of Delegation)

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### 1 Form and Composition of the Executive Arrangements

- 1 The Council operates a Leader and Cabinet Executive Model. In this Council the Executive is referred to as the Cabinet. The following is a summary of the Executive arrangements. The proceedings for Cabinet which include appointment of the Leader and Cabinet are set out in in **Article 7** and the **Cabinet Procedure Rules**.
- 2 Subject to a job sharing arrangement as outlined in Part 4.4 of the Constitution the Cabinet consists of the Leader of the Council (the “Leader”) and nine other Councillors appointed to the Cabinet by the Leader.
- 3 The Leader will appoint a Deputy Leader who will act as Leader in the Leader’s absence and may also if s/he thinks fit remove the Deputy Leader from office at any time. In these circumstances the Leader shall inform the Monitoring Officer immediately. The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

### 2 Exercise of Council Functions

- 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.
- 2 The exercise of all Executive functions shall be and shall be deemed to be exercised on behalf of and in the name of the Council of the City and County of Swansea.
- 3 There are certain functions which may only be carried out by Council and which are stipulated in the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended). These, together with a record of who has delegated authority to deal with them are set out in the tables below.
- 4 There are also functions informally called Local Choice Functions which Cabinet may opt to discharge itself or may ask another part of the Council to carry out. The Local Choice Functions and any associated delegations are set out below.
- 5 There are also certain plans and strategies which are not to be the sole responsibility of Cabinet and these are contained in **Article 4** of this Constitution.

### 3 Responsibility for and Delegation of Cabinet Functions

- 1 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:
  - a) The Cabinet as a whole;
  - b) A Committee of the Cabinet (comprising executive Members only);
  - c) An individual Cabinet Member;
  - d) A joint committee;
  - e) Another local authority or the executive of another local authority;
  - f) Delegated Officers identified in **Article 12** and **Part 7** of this Constitution
- 2 The exercise of all delegated authority for functions shall include doing anything which is necessarily incidental to the exercise of that function unless they are expressly limited.
- 3 The Leader will determine the portfolios of individual Members of the Cabinet. Individual Cabinet Members are authorised to exercise functions in relation to their portfolio subject to limitations. The current portfolios are set out in the Terms of Reference below.
- 4 The Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.
- 5 The Leader has authority to appoint representatives of the Council onto outside bodies where those outside bodies relate to Executive Functions of the Council. This is subject to the provisions of the Local Government and Housing Act 1989 (Duty to allocate seats to political groups).
- 6 The right to revoke the delegation of Executive functions in whole, in part or on terms is reserved to the Leader.

### 4 Sub-delegation of Executive Functions

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

## **5 Limit on Exercise of Executive Functions**

### **1 Individual Cabinet Members**

Where any delegated power is allocated to an individual Cabinet Member and that Member is absent or otherwise unable to act the power is allocated to the Leader and in the Leader's absence to the Deputy Leader.

- a) Any delegated power includes the authority to undertake any action incidental to the application of the delegated power.
- b) Subject to the following prescriptive provisions, individual Cabinet Member may exercise their delegated powers to make decisions on any matters falling within the Cabinet Member's portfolio (other than decisions which are contrary to the Policy Framework or contrary to or not wholly in accordance with the approved Budget) which, if delayed, would seriously prejudice the Council's or the public's interests.
- c) To authorise the disposal of surplus goods acquired in connection with services falling within the Cabinet Member's portfolio having an estimated total value exceeding £100,000 but not exceeding £200,000.
- d) To declare land or buildings utilised in connection with services falling within the Cabinet Member's portfolio surplus to requirements.
- e) To approve, subject to the budget process:
  - i) Fees and charges for new services in accordance with any relevant charging policy approved by the Cabinet; and
  - ii) Increases in existing fees and charges which are in accordance with any relevant charging policy approved by the Cabinet and which are necessary to reflect either inflation or other increases in costs.

### **2 Officer Delegation**

Responsible Officers can only exercise delegated authority for functions for which they have budgetary and management or operational or statutory responsibility. Decisions taken under delegated authority will be recorded in the register maintained by the Head of Democratic Services.

- a) The exercise of functions by Responsible Officers in relation to the approvals of disposals, acquisitions and leases shall be undertaken in accordance with the Land Transaction Procedure Rules and shall be limited as follows:
  - i) Acquisition of freehold or leasehold property (where a premium only is payable) up to £1,000,000;
  - ii) Acquisition of freehold or leasehold property where a rent is payable – up to £250,000 per annum;
  - iii) Disposal of freehold property or leasehold property (where a premium only is payable) up to £1,000,000;
  - iv) Disposal of leasehold property where a rent is payable – up to £250,000 per annum.

- b) Delegated Authority will also be given to Responsible Officers for disposals and leases transactions where the Land Transaction Rules do not apply.
- c) In cases where the consideration is not straightforward such as involving varying rents or a combination of rental and premium the Head of Property or his nominee shall assess the total capital value of the transaction to establish if such value exceeds the limits of this delegation.
- d) Subject to any limitations imposed by the Leader, all Responsible Officers may authorise another Officer to exercise their delegated functions provided that the Responsible Officer has line management responsibility for that Officer. In those circumstances it is expected that a written “chain of authority” will be maintained.

### 3 **General**

The exercise of Executive functions by the Leader, Cabinet, individual Cabinet Members or responsible Officers and anyone authorised under this Scheme of Delegation shall be subject to any budgetary or policy framework which has been approved by Council.

- a) If a policy or budgetary framework has been approved by Council then it will be the responsibility of the Leader, the Cabinet, individual Cabinet Members and Responsible Officers to implement that policy or budgetary framework and not to do anything in exercising Executive functions which contravenes that policy or budgetary framework.
- b) If no policy framework has been approved by Council in circumstances where the Council has a legal duty to have in place a policy framework then those functions cannot be exercised until the Council approves the policy framework.
- c) The exercise of all Executive functions are to be exercised in accordance with any Procedure Rules within this Constitution.

### 4 **Amendments to the Scheme of Delegation**

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 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.

- a) The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- b) Where the Leader seeks to withdraw delegation from a committee of the Cabinet notice will be deemed to be served on that committee when s/he has served it on its chair.

## 6 Council Delegations

The functions reserved to Council by Schedule 1 to The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007(as amended) are listed in the table below, together with the body/Officer to whom they are delegated in the right hand column of the table. In the event that only Council is listed in that column then only Council can exercise that function.

- 1 Council retains responsibility for the function even though it may be delegated.
- 2 In addition to the table below there are statutory plans/schemes/strategies listed in **Article 4** which will consequently require the approval of Council.

Key:

PC	Planning Committee
DCE / DoR	Deputy Chief Executive / Director of Resources
DoE	Director of Education
DoPI	Director of Place
DoSS	Director of Social Services
CFO	Chief Finance Officer
CLO	Chief Legal Officer
HoC&M	Head of Communications & Marketing
HoDS	Head of Democratic Services
HoH&PH	Head of Housing & Public Health
HoH&T	Head of Highways & Transportation
HoP&CR	Head of Planning & City Regeneration
LF&S Mgr	Licensing, Food & Safety Manager
SHR&ODM	Strategic Human Resources & Organisational Development Manager

**Note:** In relation to Planning, further clarification is provided onwards:

## 7 Functions Relating to Town & Council Planning & Development Control

No	Function	Provision of Act or Statutory Instrument	Delegated To
A1	Power to determine applications for planning permission.	Sections 70 (1) (a) and (b) and 72 of the Town and Country Planning Act 1990.	PC / HoP&CR
A2	Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	PC / HoP&CR
A3	Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	PC / HoP&CR
A4	Power to decline to determine applications for planning permissions	Sections 70A and 70C of the Town and Country Planning Act 1990.	PC / HoP&CR

A5	Duties relating to the making of determinations of planning applications.	Sections 69, 76, 91 and 92 of the Town and Country Planning Act 1990 and Articles 3 to 17, 19 to 24, 29 and 30 of the Town and Country (General Development Management Procedure) Order (Wales) 2012 (S.I. 2012/808 (W.110)) and directions made there under.	PC / HoP&CR
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 and Country Planning General Regulations 1992 (S.I. 1992/1492).	PC / HoP&CR
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 (S.I. 1995/418) (as amended).	HoP&CR
A8	Power to enter into planning obligations regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.	PC / HoP&CR
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.	HoP&CR
A10	Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.	PC / HoP&CR
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.	PC / HoP&CR
A12	Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.	PC / HoP&CR
A13	Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.	PC / HoP&CR

A14	Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice.	Sections 171C, 171E, 187A and 183(1) of the Town and Country Planning Act 1990.	PC / HoP&CR
A15	Power to issue an enforcement notice or an enforcement warning notice.	Sections 172 and 173ZA of the Town and Country Planning Act 1990.	PC / HoP&CR
A16	Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.	PC / HoP&CR
A17	Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.	PC / HoP&CR
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 and paragraph 6(5) of Schedule 14 to that Act.	PC / HoP&CR
A19	Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.	PC / HoP&CR
A20a	Power to determine applications for listed building consent, and related powers.	Section 16(1), (2) & 17 of the Planning (Listed Building and Conservation Areas) Act 1990	PC / HoP&CR
A20b	Power to serve a notice replying to a Listed Building Purchase Notice	Section 33(1) of the Planning (Listed Building and Conservation Areas) Act 1990	PC
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.	PC / HoP&CR



A22	Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 17 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 and paragraph 127 Welsh Office Circular 61/96 Planning and the Historic Environment; Historic Buildings and Conservation Areas'.	PC / HoP&CR
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.	PC / HoP&CR
A24	Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed buildings and Conservations Areas) Act 1990.	PC / HoP&CR
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.	PC / HoP&CR
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.	PC / HoP&CR
A27	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	PC / HoP&CR
A28	Power related to mineral working.	Schedule 9 of the Town and Country Planning Act 1990.	PC / HoP&CR
A29	Power related to footpaths and bridleways.	Section 257 of the Town and Country Planning Act 1990.	PC / HoP&CR
A30	Power as to certification of appropriate alternative development.	Section 17 of the Land Compensation Act 1961.	PC / HoP&CR
A31	Duties in relation to purchase orders.	Sections 137 – 144 of the Town & Country Planning Act 1990.	PC / HoP&CR
A32	Powers related to blight notices.	Sections 149 – 171 of the Town and Country Planning Act 1990.	PC / HoP&CR

A33	Powers relating to the requirement for the replacement of a tree or trees removed, uprooted, or destroyed in contravention of a TPO's	Sections 206 to 209 of the Town & Country Planning Act 1990	PC / HoP&CR
A34	Powers relating to the granting of consent for requests to undertake works or to fell a tree or trees within a Conservation Area.	Section 211 of the Town & Country Planning Act 1990, & Section 9A of the Town & Country Planning (Trees) Regulations 1999	PC / HoP&CR
A35	Powers relating to the requirement for the replacement of trees removed, uprooted, or destroyed in within a Conservation Area without prior approval having been obtained.	Section 213 of the Town & Country Planning Act 1990	PC / HoP&CR
A36	Powers relating to the determination of applications in respect of works etc. to trees subject to a TPO's	Town & Country Planning (Trees) Regulations 1994	PC / HoP&CR
A37	Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892)	PC / HoP&CR
A38	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160)	PC / HoP&CR
A39	Powers relating to the giving of a screening opinion as to the need for an Environmental Impact Assessment (EIA) to accompany an application for planning permission.	Sections 5, 7 and 9 of the Town & Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.	PC / HoP&CR
A40	Powers relating to the requirement for the submission of an EIA to accompany an application for planning permission.	Section 10 of the Town & Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.	PC / HoP&CR

A41	Powers relating to the giving of a scoping opinion as to the contents of an Environmental Impact Assessment (EIA) to accompany an application for planning permission.	Sections 13 & 15 of the Town & Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016	PC / HoP&CR
A42	Power to determine applications for a non-material amendment following a grant of planning permission.	Sections 96 A of the Town and Country Planning Act 1990.	HoP&CR
A43	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))	HoP&CR
A44	Power to respond to Nationally Significant Infrastructure Projects within the City & County of Swansea at pre-application stage and agree a Statement of Community Consultation	Sections 42 and 47 of the Planning Act 2008	HoP&CR
A45	Power to submit Local Impact Reports, Written Representation and agree a Statement of Common Ground on Nationally Significant Infrastructure Projects within the City & County of Swansea	Sections 60 and 90 of the Planning Act 2008	PC
A46	Power to represent the City and County of Swansea in any topic specific hearing and open floor hearing, provide further comments and respond to Examining Authority questions on Nationally Significant Infrastructure Projects within the City & County of Swansea	Section 94 of the Planning Act 2008	HoP&CR

A47	Power to agree/ comment on draft Development Consent Orders and enter into a S106 Obligation on Nationally Significant Infrastructure Projects within the City & County of Swansea	Section 106 of the Town and Country Planning Act 1990 and Section 104 of the Planning Act 2008	HoP&CR
A48	Power to discharge requirements and obligations of Nationally Significant Infrastructure Projects	Section 120 of the Planning Act 2008	HoP&CR
A49	Power to respond to consultation to the applicant on Nationally Significant Infrastructure Projects located wholly outside of the Authority boundary	Section 42 of the Planning Act 2008	HoP&CR
A50	Power to register as a relevant Local Authority / Interested Party and make relevant representations (similar to those outlined above in relation to applications within the County boundary) to the Planning Inspectorate on Nationally Significant Infrastructure Projects located wholly outside of the Authority boundary	Section 102 of the Planning Act 2008	HoP&CR
A51	Power to make minor amendments to conditions post resolution	Sections 70 and 72 of Town and Country Planning Act 1990 and The Use of Planning Conditions for Development Management (Circular 16/2014)	HoP&CR
A52	Power to modify or discharge planning obligations regulating development or use of land	Sections 106A and 106B of the Town and Country Planning Act 1990.	PC/HoP&CR
A53	Power to determine discharge of condition applications and issue revised decision notices.	Section 71ZA and 72 of the Town and Country Planning Act 1990 and Part 23 of the Town and Country (General Development Management Procedure) Order (Wales) 2012 (S. I. 2012/808 (W.110))	HoP&CR

A54	Power to respond to provide pre-application advice	Section 61Z1 of the Town and Country Planning Act 1990	HoP&CR
A55	Power to issue validation notices when an application is invalid	Section 62ZA of the Town and Country Planning Act 1990	HoP&CR
A56	Power to respond to pre-application consultation on Developments of National Significance	Section 62D and Article 7 of The Developments of National Significance (Wales) Regulations 2016	HoP&CR
A57	Power to submit Local Impact Reports, Written Representation and agree a Statement of Common Ground on Developments of National Significance within the County of Swansea	Section 62H of the Town and Country Planning Act 1990	HoP&CR
A58	Power to represent the City and County of Swansea in any topic specific hearing and open floor hearing, provide further comments and respond to Examining Authority questions on Developments of National Significance within the County of Swansea	Section 62D and The Developments of National Significance (Wales) Regulations 2016	HoP&CR
A59	Power to agree/ comment on draft decision and enter into a S106 Obligation on Developments of National Significance within the County of Swansea	Section 62D and The Developments of National Significance (Wales) Regulations 2016	HoP&CR
A60	Power to discharge requirements, obligations and conditions of Developments of National Significance	Section 62D and The Developments of National Significance (Wales) Regulations 2016	HoP&CR
A61	Power to require the Revocation of a Use of Land	Section 97 of the Town and Country Planning Act 1990	HoP&CR

## 8 Licensing & Registration Functions (in so far as not covered by any other paragraph of this Schedule)

(in so far as not covered by any other paragraph of this Schedule)

No	Function	Provision of Act or Statutory Instrument	Delegated To
B1	Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960.	General Licensing Committee / HoH&PH / DoPI
B2	Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.	General Licensing Committee / HoH&PH / DoPI
B3	Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875, & section 15 of the Transport Act 1985 ; & sections 47, 57, 58, 60, 70 & 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57, 58, 60, 70 & 79 of the Local Government (Miscellaneous Provisions) Act 1976.	General Licensing Committee / HoH&PH / LF&S Mgr / DoPI
B4	Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61, 70 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	General Licensing Committee / HoH&PH / LF&S Mgr / DoPI
B5	Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62, 70 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	General Licensing Committee / HoH&PH / LF&S Mgr / DoPI
B6	Power to register pools promoters.	Schedule 2 to the Betting, Gambling and Lotteries Act 1963. *	Statutory Licensing Committee / HoH&PH / DoPI
B7	Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963. *	Statutory Licensing Committee / HoH&PH / DoPI
B8	Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963. *	Statutory Licensing Committee / HoH&PH / DoPI
B9	Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968. *	Statutory Licensing Committee / HoH&PH / DoPI
B10	Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976. *	Statutory Licensing Committee / HoH&PH / DoPI

B11	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976. *	Statutory Licensing Committee / HoH&PH / DoPI
B12	Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933.	General Licensing Committee / HoH&PH / CD(E) / DoPI
B13	Power to license Sex Establishments	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.	General Licensing Committee / HoH&PH / DoPI
B14	Power to license performances of hypnotism.	The Hypnotism Act 1952.	Statutory Licensing Committee / HoH&PH / DoPI
B15	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.	General Licensing Committee / HoH&PH / DoPI
B16	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.	General Licensing Committee / HoH&PH / DoPI
B17	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous provisions) Act 1982.	General Licensing Committee / HoH&PH / DoPI
B18	Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c.66)[32].	General Licensing Committee / HoH&PH / DoPI
B19	Power to license dealers in game and killing and selling of game	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831, Sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.	General Licensing Committee / HoH&PH / DoPI
B20	Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.	General Licensing Committee / HoH&PH / DoPI
B21	Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964.	General Licensing Committee / HoH&PH / DoPI
B22	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975.	General Licensing Committee / HoH&PH / DoPI

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.	General Licensing Committee / HoH&PH / DoPI
B24	Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971.	General Licensing Committee / HoH&PH / DoPI
B25	Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 .	General Licensing Committee / HoH&PH / DoPI
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, section 1 of the Animal Boarding Establishments Act 1963 , the Riding Establishments Acts 1964 and 1970 , section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.	General Licensing Committee / HoH&PH / DoPI
B27	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.	General Licensing Committee / HoH&PH / DoPI
B28	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.	General Licensing Committee / HoH&PH / DoPI
B29	Power to licence dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976.	General Licensing Committee / HoH&PH / DoPI
B30	Power to license knackers' yards.	Regulation 49 of the Animal By-products (Wales) Regulations 2006.	General Licensing Committee / HoH&PH / DoPI
B31	Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963.	CLO
B32	Power to approve premises for the solemnisation of marriages and the registration of civil partnerships	Section 46A of the Marriage Act 1949, Section 6A of the Civil Partnership Act 2004, the Marriages and Civil Partnerships (approved Premises) Regulations 2005.	HoH&PH / DoPI



B33	Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: - a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or; - b) an order under section 147 of the Inclosure Act 1845.	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).	HoP&CR
B34	Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).	HoP&CR
B35	Power to issue a permit to conduct charitable collections.	Section 68 of the Charities Act 1992.	HoH&PH / DoPI
B36	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993.	HoH&PH / DoPI
B37	Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.	HoH&PH / DoPI
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)	General Licensing Committee / HoH&PH / DoPI
B39	Power to enforce regulations in relation to the movement of pigs.	Regulations 27(1) of the Pigs (Records, Identification and Movement) (Wales) Order 2004 (SI 2004/996)	General Licensing Committee / HoH&PH / DoPI
B40	Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998\871).	General Licensing Committee / HoH&PH / DoPI
B41	Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922.	General Licensing Committee / HoH&PH / DoPI
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) Regulations 2006.	Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.	General Licensing Committee / HoH&PH / DoPI

B43	Functions in respect of establishing a Licensing Committee.	Section 6 of the Licensing Act 2003.	Council
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**Note:** \* (B6-B11) Acts shown repealed by Gambling Act 2005.

## 9 Functions Relating to Health & Safety at Work

No	Function	Provision of Act or Statutory Instrument	Delegated To
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.	HoC&M

## 10 Functions Relating to Elections

No	Function	Provision of Act or Statutory Instrument	Delegated To
D1	Duty to appoint an electoral registration officer.	Section 8 (2) (A) Representation of the People Act 1983.	Chief Executive & HoDS
D2	Power to assign officers in relation to requisitions of the registration officer.	Section 52 (4) of the Representation of the People Act 1983.	Chief Executive & HoDS
D3	Power to dissolve community councils.	Section 28 of the Local Government Act 1972	Council
D4	Power to make orders for grouping communities	Section 29 of the Local Government Act 1972	Council
D5	Power to make orders for dissolving groups and separating community councils from groups.	Section 29A of the Local Government Act 1972	Council
D6	Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.	Council

D7	Duty to provide assistance at European Parliamentary elections.	Section 6 (7) and (8) of the European Parliamentary Elections Act 2002	Council
D8	Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.	Council
D9	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.	Council
D10	Powers in respect of holding of elections.	Section 39 (4) of the Representation of the People Act 1983.	Council
D11	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.	CFO
D12	Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985	Chief Executive
D13	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.	Returning Officer & HoDS
D14	Duty to give public notice of casual vacancy.	Section 87 of the Local Government Act 1972	Returning Officer & HoDS
D15	Power to make temporary appointments to community councils.	Section 91 of the Local Government Act 1972	Returning Officer & HoDS
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 (S.I 1986/2214) and rule 48 (3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I 1986/2215).	Returning Officer & HoDS
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.	Returning Officer & HoDS

## 11 Functions Relating to Name & Status of Area & Individuals

No	Function	Provision of Act or Statutory Instrument	Delegated To
E1	Power to change the name of a county, or county borough.	Section 74 of the Local Government Act 1972.	Council
E2	Power to change the name of a community.	Section 76 of the Local Government Act 1972.	Council
E3	Power to confer title of a honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.	Council
E4	Power to petition for a charter to confer county borough status.	Section 245A of the Local Government Act 1972.	Council

## 12 Power to Make, Amend, Revoke or Re-enact Byelaws

No	Function	Provision of Act or Statutory Instrument	Delegated To
F1		Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.	Council

## 13 Power to Promote or Oppose Local or Personal Bills

No	Function	Provision of Act or Statutory Instrument	Delegated To
G1		Section 239 of the Local Government Act 1972.	Council

## 14 Functions Relating to Pensions etc

No	Function	Provision of Act or Statutory Instrument	Delegated To
H1	Functions relating to local government pensions etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972.	Pension Fund Committee for matters relating to the Administering Authority; and

			the SHR&ODM in conjunction with the CFO for matters relating to the Employing Authority
H2	Functions relating to pensions allowances and gratuities.	Regulations under section 18 (3A) of the Local Government and Housing Act 1989.	Council
H3	Functions under existing pension schemes as respects people employed by the fire and rescue authorities pursuant to section 1 of the Fire and Rescue Services Act 2004.	Sections 34 and 36 of the Fire and Rescue Services Act 2004.	Council

## 15 Miscellaneous Functions

No	Function	Provision of Act or Statutory Instrument	Delegated To
I1	Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit Regulations 2005.	Council
I2	Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.	Council
I3	Appointment and Dismissal of staff and the Designation of the Head of Democratic Services.	Section 112 of the Local Government Act 1972 and Sections 7 and 8 of the Local Government and Housing Act 1989.  Section 11 (1) (a) of the Local Government (Wales) Measure 2011 also applies.  The Appointment of Head of Democratic Services is subject to the Democratic Services Committee subsequently Designating the selected person in that role.	Appointments Committee / Chief Officers Disciplinary Committee for Officers employed on JNC terms and conditions (Chief Officers including Head of Democratic Services).  Chief Executive for all other staff.
I4	Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.	Council

I5	Power to consider adverse reports from the Public Services Ombudsman for Wales	Section 19 of the Public Service Ombudsman (Wales) Act 2005	Council
I6	Power to make an order identifying a place as a designated public place for the purposes of the police powers in relation to alcohol consumption.	Section 13 (2) of the Criminal Justice and Police Act 2001.	HoH&PH / DoPI
I7	Powers in respect of registration of motor salvage operators.	Part 1 of the Vehicles (Crime) Act 2001	General Licensing Committee / HoH&PH / DoPI
I8	Power to appoint Officers for particular purposes (appointment of 'proper Officers').	Section 270(3) of the Local Government Act 1972	Council
I9	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	Council
I10	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	Council
I11	Duty to determine affordable borrowing limit.	Section 3 of the Local Government Act 2003	Council
I12	Approval of annual investment strategy in accordance with guidance.	Section 15 of the Local Government Act 2003	Council
I13	Duty to make arrangements for proper administration of financial affairs.	Section 151 of the Local Government Act 1972	CFO
I15	Designating a locality as an alcohol disorder zone	Section 16 of the Violent Crime Reduction Act 2006	HoH&PH / DoPI
I16	Determination of level and any change in level of remuneration to be paid to a Chief Officer (excluding the Head of Democratic Services)	Regulation 7 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as Amended by the 2014 Regulations.	Council

## 16 Local Choice Functions

No.	Function	Delegation of Function
J1	Any function under a local Act other than a function specified or referred to in Schedule 1.	All Cabinet Members
J2	The determination of an appeal against any decision made by or on behalf of the authority.	Appeals and Awards Committee save:  In respect of approvals to drive school transport and licensing functions and matters of a licensing nature which will be heard by the General Licensing Committee.
J3	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 <a href="#">Schedule 7</a> to the Child Support, Pensions and Social Security Act 2000.	CFO
J4	The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under <a href="#">section 52</a> of the Education Act 2002.	Independent Exclusion Appeals Panel
J5	The making of arrangements pursuant to section 94(1), (1A) and (4) of, and <a href="#">Schedule 24</a> to, the School Standards and Framework Act 1998 (admission appeals).	Independent Admission Appeals Panel
J6	The making of arrangements pursuant to <a href="#">section 95(2)</a> of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Independent Admission Appeals Panel
J7	The making of arrangements under section 20 (questions on police matters at council meetings) of the <a href="#">Police Act 1996</a> for enabling questions to be put on the discharge of the functions of a police authority.	Cabinet
J8	The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the <a href="#">Police Act 1996</a> .	Cabinet
J9	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 <a href="#">Local Government Act 1999</a> .	Cabinet
J10	Any function relating to contaminated land.	DoPI
J11	The discharge of any function relating to the control of pollution or the management of air quality.	DoPI
J12	The service of an abatement notice in respect of a statutory nuisance.	DoPI

J13	The passing of a resolution that <a href="#">Schedule 2</a> to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Council
J14	The inspection of the authority's area to detect any statutory nuisance.	DoPI
J15	The investigation of any complaint as to the existence of a statutory nuisance.	DoPI
J16	The obtaining of information under <a href="#">section 330</a> of the Town and Country Planning Act 1990 as to interests in land.	DoPI
J17	The obtaining of particulars of persons interested in land under <a href="#">section 16</a> of the Local Government (Miscellaneous Provisions) Act 1976.	DoPI
J18	Any of the following functions in respect of highways—	HoP&CR & HoH&T: Save as to those matters to be referred to Planning Committee as set out in the paragraph entitled Public Rights of Way Matters in Part 3 of the Council Constitution.
	(a) the making of agreements for the execution of highways works;	
	(b) the functions contained in the following provisions of <a href="#">Part III</a> of the Highways Act 1980 (creation of highways)— (i) section 25—creation of footpath, bridleway or restricted byway by agreement; (ii) section 26—compulsory powers for creation of footpaths, bridleways or restricted byways;	
	(c) the functions contained in the following provisions of <a href="#">Part VIII</a> 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; (ii) section 117—application for order under section 116 on behalf of another person; (iii) section 118—stopping up of footpaths, bridleways and restricted byways; (iv) section 118ZA—application for a public path extinguishment order; (v) section 118A—stopping up of footpaths, bridleways and restricted byways crossing railways; (vi) section 118B—stopping up of certain highways for purposes of crime prevention etc;	



	<p>(vii) section 118C—application by proprietor of school for special extinguishment order;</p> <p>(viii) section 119—diversion of footpaths, bridleways and restricted byways;</p> <p>(ix) section 119ZA—application for a public path diversion order;</p> <p>(x) section 119A—diversion of footpaths, bridleways and restricted byways crossing railways;</p> <p>(xi) section 119B—diversion of certain highways for purposes of crime prevention etc;</p> <p>(xii) section 119C—application by proprietor of school for special diversion order;</p> <p>(xiii) section 119D—diversion of certain highways for protection of sites of special scientific interest;</p> <p>(xiv) section 120—exercise of powers of making public path extinguishment and diversion orders;</p> <p>(xv) section 121B—register of applications;</p>	
(d)	<p>the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets)—</p> <p>(i) section 130—protection of public rights;</p> <p>(ii) sections 139—control of builders' skips;</p> <p>(iii) section 140—removal of builders' skips;</p> <p>(iv) section 140A—builders' skips: charges for occupation of the highway;</p> <p>(v) section 142—licence to plant trees, shrubs etc in a highway;</p> <p>(vi) section 147—power to authorise erection of stiles etc on footpath or bridleway;</p> <p>(vii) section 147ZA—agreements relating to improvements for benefit of persons with mobility problems;</p> <p>(viii) section 149—removal of things so deposited on highways as to be a nuisance etc;</p> <p>(ix) section 169—control of scaffolding on highways;</p> <p>(x) section 171—control of deposit of building materials and making of excavations in streets;</p> <p>(xi) section 171A and regulations made under that section—works under s169 or s171: charge for occupation of the highway;</p> <p>(xii) section 172—hoardings to be set up during building etc;</p> <p>(xiii) section 173—hoardings to be securely erected;</p> <p>(xiv) section 178—restriction on placing of rails, beams etc over highways;</p> <p>(xv) section 179—control of construction of cellars etc under street;</p>	

		(xvi) section 180—control of openings into cellars etc under streets, and pavement lights and ventilators;	
	(e)	exercising functions under section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders); and	
	(f)	exercising functions under <a href="#">section 53</a> of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review).]	
J19	The appointment of any individual—		Cabinet – Leader subject to the Local Government and Housing Act 1989
	(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,	
	and the revocation of any such appointment.		
J20	Power to make payments or provide other benefits in cases of Maladministration etc.		DCE / DoR, DoE, DoPI & DoSS
J21	The discharge of any function by an authority acting as a harbour authority.		Cabinet
J22	Functions in respect of the calculation of council tax base in accordance with any of the following—		Council
	(a)	the determination of an item for T in <a href="#">section 33(1)</a> and <a href="#">44(1)</a> of the Local Government Finance Act 1992;	
	(b)	the determination of an amount for item TP in sections 34(3), 45(3) 48(3) and 48(4) of the <a href="#">Local Government Finance Act 1992</a> ;	
	(c)	the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.	
J23	Licensing functions in accordance with <a href="#">Part 2</a> of the Licensing Act 2003 except section 6 and 7 (2).		Statutory Licensing Committee/ HoH&PH /DoPI
J24	Functions in respect of gambling under the following provisions of the <a href="#">Gambling Act 2005</a> —		
	(a)	section 29—licensing authority information;	HoH&PH & DoPI
	(b)	section 30—other exchange of information;	HoH&PH & DoPI
	(c)	section 166—resolution not to issue casino licences;	Council
	(d)	section 212 and regulations made under that section—fees;	Cabinet
	(e)	section 284—removal of exemption;	Council
	(f)	section 304—authorised persons;	DoPI
	(g)	section 346—prosecutions by licensing authority;	DoPI
	(h)	section 349—three-year licensing policy	Council

	(i)	section 350—exchange of information;	HoH&PH & DoPI
	(j)	Part 5 of Schedule 11—registration with local authority.]	HoH&PH & DoPI
J25	Functions in respect of approval by a local authority under section 51 or a determination by a local authority under section 53 of the <a href="#">School Standards and Organisation (Wales) Act 2013.</a> ]		Cabinet
J26	Family Absence. Local Government (Wales) Measure 2011 and The Family Absence for Members of Local Authorities (Wales) Regulations 2013.		Council
J27	Powers related to Public Rights of Way, Commons Registration and Village Greens.	Commons Registration Act 1965; Commons Act 2006; Section 53 Wildlife and Countryside Act 1981; Section 26, 118, 119 of the Highways Act 1980.	PC/ HoP&CR
J28	Powers related to the Diversion, Extinguishment and Creation of public rights of way where no objections have been received, and all other functions relating to public rights of way not delegated to the Planning Committee.	Highways Act 1980; Countryside Act 1968; National Parks and Access to the Countryside Act 1949; Wildlife and Countryside Act 1981; Countryside and Rights of Way Act 2000; Road Traffic Regulation Act 1984.	HoP&CR

## 17 Other Delegations by Council

No	Function	Provision of Act or Statutory Instrument	Delegated To
K1	Proper Office for the Administration of Births, Deaths and Marriages	Section 13 of the Registration Service Act 1953; and Section 270 of the Local Government Act 1972.	HoH&PH

## 18 Clarification of Planning Delegations

Where functions are delegated to both the Planning Committee and the Head of Planning & City Regeneration the functions will be exercised by the Officers in the following circumstances:

- 1 Planning Applications, Other Applications, Related Matters and Planning Call In by Councillors**

- 2 Councillors shall be notified in advance, by e-mail, of all valid planning applications received.
- 3 Subject to 6 and 8 below, the determination of all applications for Planning (Permission, Approval, Prior Approval or Consent) submitted under the following legislation/circumstance shall be delegated to the Director of Place (DoPI) or Head of Planning & City Regeneration (HoP&CR):
- a) Town and Country Planning Acts 1990 - 2008;
  - b) The Planning (Listed Building and Conservation Areas) Act 1990;
  - c) The Planning (Hazardous Substances) Act 1990;
  - d) The Caravan Sites and Control of Development Acts 1960 and 1968;
  - e) Making of representations following formal consultation in respect of development by the National Assembly of Wales, Government Departments, Statutory and other bodies; or
  - f) Development on land in the area of another local authority.
- 4 The determination of applications identified in 3 above will be referred to the Planning Committee where:
- 5 **Departure Applications.** The application is contrary to the provisions of the Development Plan, and is being recommended for approval by the Head of Planning & City Regeneration;
- 6 **Councillors / Officer Applications.** The application has been submitted by any Officer involved in the planning process or a Councillor. An Officer is involved in the planning process if they are a member of staff in the planning section, or involved in enforcing planning matters, or giving advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in the planning process;
- 7 **EIA Development.** The application involves an Environmental Impact Assessment (EIA).
- 8 **Alternate Development Threshold.** The application relates to the following forms of development:
- a) The winning and working of minerals or the use of land for mineral-working deposits;
  - b) Waste development;
  - c) The provision of dwellinghouses where:
    - i) The number of dwellinghouses to be provided is 20 or more; or
    - ii) The development is to be carried out on a site having an area of 1 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
  - d) The provision of a building or buildings where the floor space to be created by the development is 2,000 square metres or more; or
  - e) Development to be carried out on a site having an area of 2 hectare or more.
- 9 **Councillor Call In.** A Councillor has requested by letter, email or fax within 21 days of being notified that a valid application has been received (or within the specified re-consultation period), – i.e the “Call in Period”, that it be reported to the Planning Committee and the objection threshold is reached within the “Call in Period”, namely:

- a) The application is subject to 20 letters of objection from different people at different addresses; or
  - b) A petition of 30 or more signatures from different people at different addresses.
- 10 **Chair of Planning Committee Referral.** Where a “Councillor Call In” has been made within the “Call in Period” but the objection threshold has not been reached the Chair of the Planning Committee can direct that the application be determined by Planning Committee where the development has a quantifiable community wide impact or there is a quantifiable community wide interest in a development which goes beyond protecting the private interests of one person, or group of persons against the activities of others.
- 11 **Head of Service Referral.** The application is, in the opinion of the Head of Planning & City Regeneration, of strategic importance or the application should, in the opinion of the Head of Planning & City Regeneration be determined by Planning Committee.
- 12 Councillors may withdraw a Councillor Call In at any time prior to the relevant Committee agenda being finalised. Such withdrawal may follow contact between the Councillor(s) and Planning Officer(s).
- 13 If a Councillor wishes to use the Councillor Call In to call in an application which is within the area of another Councillor(s) they must inform the Councillor(s) in whose area the application falls giving their reason prior to making the Planning Call In.
- 14 In the case of 13 above, the Councillor making the Councillor Call In must also give written notice (letter, e-mail or fax) to the Head of Planning & City Regeneration stating that the Councillor(s) in whose area the application falls has been informed of the intended Councillor Call In. Any application called in by a Councillor in another Councillor(s) area shall not be valid unless it contains the required written statement.
- 15 The Council has a duty to ensure that it maintains an efficient planning service and to progress planning applications in a timely fashion. Whilst the Call-in procedure is a fundamental and important part of the democratic process, unnecessary ‘call-ins’ can lead to unreasonable delay.
- a) Therefore, where it is considered that a member or members is/are unreasonably calling in planning applications or otherwise potentially abusing the ‘call-in’ process, the Chair of the Planning Committee will, in the first instance, discuss the situation with the member/members concerned.
  - b) In the event that the issue is not resolved then the Chair of Planning Committee and a member from the Planning Committee will review all applications for ‘call-in’ to Committee with the member/members concerned and have the authority to withdraw any “Councillor Call In” requests. The decision of this panel is final.

## 19 Enforcement Matters

The implementation of all enforcement powers shall be delegated to the Director of Place or Head of Planning & City Regeneration, except where the proposed action would lead to the loss of a residentially occupied unit.

## 20 Public Rights of Way Matters

The determination of all rights of way matters, other than decisions relating to the following **(which will be reported to the Planning Committee)**:

- 1 Public Rights of Way creation, diversion and extinguishment orders (under all Acts) that, after public consultation, are likely to be challenged or be contentious;
- 2 Application to the Magistrates Court to stop up or divert a public right of way;
- 3 Determination of applications for new rights of way and corrections to the records of existing rights of way (keeping the Definitive Map under continuous review);
- 4 Traffic Regulation Orders, (other than for temporary closures or restrictions which are needed for safety reasons; to allow works to be carried out; or for the holding of a special event)."

## Council Constitution, Part 3.2 - Responsibility for Functions: Terms of Reference, Section 1 (Cabinet Portfolios)

### 1 Care Services

Adult Social Services Modernisation
Assessment / Care Management
Child & Family Services
Children & Young People (CYP) Chair
Continuum of Care
Corporate Parenting Lead
Elderly Care
Families First
Human Rights city accreditation
Joint Equipment
Leaders Representative on West Glamorgan RPB
Learning Disability
Local Area Coordination Lead
Mental Health including CAHMS
Physical & Sensory Impairments
Preventing Violence against Women, Domestic Abuse & Sexual Violence
Regional Adoption Service
Safe Looking After Children (LAC) Reduction Strategy
Safeguarding lead
Strategic Health & Social Care Collaboration Opportunities
Supporting People
Wellbeing lead
YOS (Youth Offending Service)

## 2 Community

<b>Services</b>	<b>Support</b>
Bin services	Activities to Promote Independence & Ageing Well
Community Caretakers (Non HRA)	Community based events
Community Growing (inc. Allotments)	Community Groups, Engagement & Development
Community operatives (new)	Community safety
Fly Tipping	Community Support Services
Grass Cutting Services	Community Wellbeing
Litter & Community Cleansing	Co-production champion
Public Toilets	Digital inclusion
Recycling	LAC Services in Communities
Regreening in communities	Local policing
Streetscene improvements	Mental Health awareness
Tree services	Neighbourhood Working
Waste Management	Opportunities for play
Wildflower planting	Promoting Youth Inclusion & Youth Citzenships
	Youth Services

## 3 Corporate Service & Performance (Joint Deputy Leader)

Agile Rollout Programme Lead
Audit
Building Control
Commercial Services, Procurement & Frameworks
Corporate Delivery of Priorities
Council Champions
Democratic Services
Environmental Health
Health & Safety
Houses of Multiple Occupation (HMO)
Human Resources
Landlord Licensing
Licensing Policy
Mayoral & Civic Functions
Member Development
Outside Bodies participation oversight
Performance monitoring
Petitions
Planning Policy
Public Protection
Scrutiny liaison
Strategic Estates & Property Management
Trade Union Engagement and JCC Lead Member
Trading Standards
Western Gateway Leader's Representative



#### 4 **Culture & Equalities**

Access to Services
Age Friendly City
Archives
Community Centres
Community hubs
Creative City
Diversity
Equalities
Floating exhibits
Galleries & Museums
Healthy City Partnership
Healthy Night Life
Heritage protection and restoration
Inclusion
Libraries
Recognition
Science City
Street Art
The Arts
Veterans support fund

#### 5 **Economy, Finance & Strategy (Leader)**

Capital Programme
City Centre Strategic Redevelopment
City Deal
Communications
Community Leadership
Constitutional Changes
Corporate Joint Committee (CJC) - Chair
Finance Strategy, Budget & Saving Delivery
Financial Services
Legal Services
Local and Regional Investment Strategy
Major Projects
Planning Policy (Regional)
Poverty Reduction corporate lead
Public Service Board (PSB)
Recovery Plan
Regional Working Lead (All Bodies)
Risk & Resilience Management
Strategic Partnerships
Swansea Bay City Region Joint Committee - Chair
Welsh Local Government Association (WLGA) – Deputy Leader
WLGA Lead on Economy & Inward investment, Europe & Energy
WLGA representative to LGA

## 6 Education & Learning

21st Century Schools Programme inc. School Building Upgrade
Apprenticeships
Best Start in Life
Catchment Review
City of Learning - Member of UNESCO COL Steering Group
CYP Board member
Education Services from 3 to 19
Flying start
Further Education
Inclusion & Learner Support
NEETS Prevention & reduction (Not in Education, Employment or Training)
Partneriaith (regional working) Leaders Representative
Quality in Education (QEd) Programme
Readiness for Work
Regional Workforce Planning & Skills Development
School Improvement
Schools Estate Planning & Resources Planning
Schools' Organisation & Performance
Skills & Talent Project (City Deal)
UNCRC (United Nations Convention on the Rights of the Child)
Welsh Language

## 7 Environment & Infrastructure

Active travel & cycleways
Biodiversity
Coastal Defences
Corporate & Community digital connectivity (inc hybrid facilities, free community WiFi & next gen CCTV)
Estates Maintenance Management (Non HRA)
Flood prevention
Green infrastructure
Highways maintenance & improvements
Infrastructure repairs & Maintenance
Leaders representative for regional Collaborations for Transport, Highways & Waste
Marina, Foreshore & Beach Maintenance
Members Community Budget Scheme delivery
Operational Public Transport Services
Patch services Parking Policy, Control and Enforcement
Play upgrade programme delivery (in collaboration with IRT)
Pothole Task Force
Road safety
Rural development lead

## 8 Investment Regeneration & Tourism

Business & City Promotion
Business engagement
City Centre Management
City Projects delivery
Destination Management
Economic recovery local business grant delivery lead
ERF grants for play enhancement lead
Events and attractions
Future Development Opportunities
Inward Investment Opportunities
Marketing
New Local & Regional Business Opportunities
Parks (all)
Play investment & sufficiency
Purple Flag
River Corridor Development
Sports Facilities development and maintenance
Suburban Centres & Community Regeneration Initiatives
Tourism
Universities Collaboration (Development)
Western Gateway Leader's Representative

**9 Service Transformation (Joint Deputy Leader)**

<b>Strategic Transformation</b>
APSE lead
Asylum Seekers & Refugees Lead
Climate change lead
Contact centre
Corporate ICT & Digital Transformation Lead
Homes as Power Stations (City Deal)
Members IT
Post covid service stabilisation & transformation
Public Service Board (PSB) Leader's Representative
<b>Housing</b>
Building Services
Co-operative Housing
Council House Management & Repairs
Homelessness
Housing Adaptations & Renewal Schemes
Housing Policy, Affordable Housing and Housing Options
Lettings policy & Tenancy Enforcement
More Homes Delivery
Sheltered Housing
Welsh Housing Quality Standard (WHQS) Programme Lead
<b>Transport</b>
CJC representative for regional Transport
Fleet Renewal & Maintenance inc Green fleet strategy
Future Transport Services (Regional)
Green Vehicle Adoption

**10 Well-being**

3rd Sector Services
Community Cohesion
Community Safety
Drugs and substance misuse reduction
Employability
Financial Inclusion
Life long learning support
Poverty Reduction
Preventing Violence against Women, Domestic Abuse & Sexual Violence
Prevention and intervention initiatives
Public Service Board Representative
Public Space protection orders
RPB representative
Safer Swansea Partnership Lead
Sexual exploitation reduction
Swansea Working
Vulnerable people support
Welfare Reform
Welfare Rights

**1 Appeals and Awards Committee**

- a) To hear all appeals except for appeals specifically carried out by another Committee.
- b) To make all decisions of a quasi-judicial nature not referred to Cabinet/Council or any other Committee.
- c) To carry out all Investigatory Committee functions in relation to the disciplinary procedure for Officers on JNC conditions.

**2 Appointments Committee**

- a) **Chief Executive and Chief Officers**
  - i) To shortlist suitable candidates;
  - ii) To interview shortlisted candidates and recommend a final shortlist to Council, if any.
- b) **Heads of Service**

To shortlist, interview and appoint, if appropriate, suitable Candidates.
- c) **Independent Lay Person(s) of the Audit Committee**

To shortlist, interview and appoint, if appropriate, suitable independent Lay Member(s) to the Audit Committee.
- d) **Joint JNC / Chief Officer Appointments**

To establish Sub Committees if required in order to shortlist, interview and appoint' if appropriate, suitable candidates for designated JNC Officer posts that are shared with other Public Sector Organisations.

Membership of the Sub Committee must be proportionate with the political makeup of the Council.

**Note:**

  - i) Regulation 7 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as Amended by the 2014 Regulations states that the appointment of the Chief Executive is to be approved by Council itself. However, it has been customary within the City and County of Swansea for all Chief Officers to be appointed by Council and this will continue to be the case.

- ii) Section 11 (1) (a) of the Local Government (Wales) Measure 2011 states that the Democratic Services Committee shall Designate a person into the role of the Head of Democratic Services”.

### **3 Governance & Audit Committee**

#### **Statement of Purpose**

The Governance and Audit Committee is a key component of the City and County of Swansea’s corporate governance. It provides an independent and high level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of the Governance and Audit Committee is to provide independent assurance of the adequacy of the risk management framework, the internal control environment and the performance assessment of the Council. It provides an independent review of the governance, performance assessment, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

#### **Membership**

The Local Government (Wales) Measure 2011 provides that two thirds of the members of the Committee are to be members of the council and one third must be lay members. Only one member of the Cabinet or Assistant to the Cabinet may sit on the Committee, and that person must not be the Leader. The Chair must be a lay member and the vice chair must not be a member of the Cabinet or an Assistant to the Cabinet.

#### **Governance, Performance, Risk and Control**

- a) To review the Council’s corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
- b) To review the Council’s draft annual Self-Assessment Report, and make any appropriate recommendations for changes to the conclusions or actions the Council intends to make.
- c) To review the Council’s draft response to the Panel Performance Assessment Report, and make any appropriate recommendations for changes.
- d) To review the Council’s draft response to any Auditor General’s recommendations arising from a special inspection in respect of the Council’s performance requirements and to make any appropriate recommendations for changes.

- e) To review and assess the authority's ability to handle complaints effectively and to make any associated reports and recommendations in relation to the authority's ability to handle complaints effectively.
- f) To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances.
- g) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- h) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- i) To monitor the effective development and operation of risk management in the Council.
- j) To monitor progress in addressing risk related issues reported to the Committee.
- k) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- l) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- m) To monitor the counter fraud strategy, actions and resources.
- n) To review any proposals in relation to the appointment of external providers of internal audit services and to make recommendations.
- o) To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

- p) To approve the internal audit charter and resources.
- q) To approve the risk-based internal audit plan, containing internal audit's resource requirements, the approach to using other sources of assurances and any work required to place reliance upon those other sources.
- r) To approve significant interim changes to the risk based internal audit plan and resource requirements.
- s) To make appropriate enquiries of both management and the Chief Internal Auditor to determine if there are any inappropriate scope or resource limitations.

- t) To consider the Chief Internal Auditor's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- u) To consider the Chief Internal Auditor's annual report.
- v) To consider reports from the Chief Internal Auditor on Internal Audit's performance during the year including the performance of external providers of internal audit services.
- w) To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- x) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Chief Internal Auditor. To approve and periodically review safeguards to limit such impairments.
- y) To consider summaries of specific internal audit reports as requested.
- z) To receive reports outlining the action taken where the Chief Internal Auditor has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- aa) To consider reports dealing with the management and performance of the providers of internal audit services.
- bb) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- cc) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- dd) To contribute to the Quality Assurance and Improvement Programme and in particular the external quality assessment of internal audit that takes place at least once every five years.
- ee) To provide free and unfettered access to the Governance and Audit Committee Chair for the Chief Internal Auditor, including the opportunity for a private meeting with the Committee.

### **External Audit**

- ff) To consider the external auditor's annual letter, relevant reports, and to those charged with governance.
- gg) To consider specific reports as agreed with the external auditor.



- hh) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- ii) To commission work from external audit.
- jj) To advise and recommend on the effectiveness of relationships between external audit and other inspector agencies or relevant bodies

### **Financial Reporting**

- kk) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- ll) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

- mm) To report to full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.
- nn) To report to Council on an annual basis and to publish an annual report on the Committee's work, its performance in relation to the Terms of Reference, and its effectiveness in meeting its purpose.
- oo) To raise the profile of probity generally within the Council and to report on matters of concern to the individual Cabinet Member, relevant Scrutiny Committee, Cabinet or to Council as necessary and appropriate.
- pp) To work in synergy with the Scrutiny Committees of the Council and liaise with other Council Committees as and when appropriate to avoid duplication in work programmes.
- qq) To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the Appendix 1 adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions
- rr) To publish an annual report on the work of the committee.

### **Training and Development**

- ss) To attend relevant training sessions including specialist training tailored for Members of the Governance and Audit Committee.

#### 4 Chief Executive's Appraisal and Remuneration Committee

This Committee is exempt from the Committee Balance Rules in order to allow the following membership:

Leader and Deputy Leader of the Ruling Group;  
Leader and Deputy Leader of Largest Opposition Group;  
Leader only of other Political Groups;  
3 other Councillors from Ruling Group.

- a) Responsible for the Performance Appraisal and objective setting of the Chief Executive.
- b) Assisting the Chief Executive in the annual appraisal of the Deputy Chief Executive and endorsing the objectives set for the Deputy Chief Executive and agreeing the Deputy Chief Executive's salary banding for performance related pay.

**Note:**

Where the Authority proposes to appoint a Chief Officer or Deputy Chief Officer, and the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum, it must:

- i) Draw up a statement specifying:
  - The duties of the officer concerned, and
  - Any qualifications or qualities to be sought in the person to be appointed;
- ii) Make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- iii) Make arrangements for a copy of the statement mentioned in a) to be sent to any person on request.

The Authority is not required to publicly advertise, if it proposes to appoint the Chief Officer for a period of no longer than 12 months.

#### 5 Chief Officers Disciplinary Committee

To deal with all matters of discipline relating to Officers employed under Joint Negotiating Committees (JNC) terms and conditions (including Head of Democratic Services).

**Note:**

- a) At least 1 member of Cabinet must sit on this Committee and that no more than 50% of the Committee are permitted to be Cabinet Members.

- b) This meeting will be Chaired by the Presiding Member.

## **6 Chief Officers Disciplinary Appeals Committee**

To deal with all matters of discipline relating to Officers employed under Joint Negotiating Committees (JNC) terms and conditions (including Head of Democratic Services).

### **Note:**

- a) At least 1 member of Cabinet must sit on this Committee and that no more than 50% of the Committee are permitted to be Cabinet members.
- b) This meeting will be Chaired by the Deputy Presiding Member.

## **7 Corporate Parenting Board**

### **Purpose**

- a) Some children and young people need additional help and support because of their needs and circumstances. In some cases this requires that they are looked after by the Local Authority.
- b) The purpose of the Corporate Parenting Board is to encourage all Councillors, Officers, Agencies and Individuals to work together to ensure that every looked after child, young person and care leaver receives the best possible support to achieve their full potential.
- c) This may be educational, social or in any other area of their development. This means seeking the highest quality outcomes that every good parent would want for their own child by asking themselves 'If this were my child would it be good enough for them?' and striving to achieve the standards that a good parent would want.
- d) The Board will always seek a consensus opinion prior to making any recommendations to the appropriate decision making body.

### **Legislation**

- e) Ensuring a joined up approach to fulfilling the responsibilities of corporate parenting is important. The corporate parenting responsibility, towards children looked after by the Authority and care leavers applies to all Councillors. It is important to bear in mind that it is not just social services that impact on these children. Section 27 of the Children Act 1989 places a duty on the NHS as well as each Local Authority's housing and education services to assist social services in carrying out their functions under the Act – including their corporate parenting function.
- f) The Children Act 2004 places a duty on the local authority, health and other key partners to co-operate to improve the wellbeing of children in their area. Members will seek to ensure the provision of all public services used by looked after children and young people is high quality, joined up, and takes account of their needs. This entails commitment and

collaboration across a range of Council services and with key partners where appropriate:

- i) Local health services, Paediatrics and Child and Adolescent Mental Health Services (CAMHS);
  - ii) Flying start and early years provision;
  - iii) Schools and other education settings;
  - iv) Youth offending teams;
  - v) Housing associations;
  - vi) Leisure, library and youth services;
  - vii) Leaving Care and Therapeutic Services that may be contracted out to private or voluntary sector organisations;
  - viii) Fostering Services.
- g) In addition there is a requirement (Children Act, 2004) that the local Children and Young People's Plan ensures the improvement of wellbeing outcomes for children through effective local partnerships which co-ordinate the planning and delivery of all services for children and young people.

**Function. To do this, the Board members will:**

- h) Listen to, communicate with and champion the views of Looked After children and young people.
- i) Develop a Corporate Parenting Strategy and annual action plan to deliver its purpose.
- j) Facilitate multiagency Task and Finish groups as required.
- k) Raise the profile of issues that may put children and young people at risk of becoming Looked After; issues affecting Looked After Children, children, young people and care leavers within the Council and with partner organisations.
- l) Promote the work of the Corporate Parenting Board within the Council, with partner organisations and the broader arena as appropriate.
- m) Develop, receive and respond to regular performance data on Looked After children and Care Leavers.
- n) Ensure the Corporate Parenting Board is kept up to date on relevant legislation, guidance and inspections and implications thereof.
- o) Ensure that children looked after by the Local Authority are offered the protection of the UN Convention on the Rights of the Child.

**Membership**

- p) The Board will comprise cross-party representation of Councillors. It is currently 9 Councillors (6 Labour and 1 from each other Political Group).
- q) The Chair and Vice Chair shall be elected from the Councillors appointed to the Board by the Council.

- r) Senior representation from across the Local Authority reflecting the needs of children and young people in need, the looked after children and young people who are leaving or have left care. As a minimum this should include Education, Housing, and Public Protection, Child and Family Services and the Youth Offending Service.
- s) Senior representation from a number of partner agencies/organisations will be required to ensure the Board fulfils its obligations to young people in promoting their safety and wellbeing and ensuring their wellbeing outcomes are achieved.
- t) Co-opted members as necessary.

#### **Quorum**

- u) The quorum shall be one quarter of the Councillor members of the Board.

#### **Reporting arrangements**

- v) Provide an annual report to Council.
- w) Reports will be provided to interested parties, including the relevant Cabinet Member(s) for Children and Young People services and others as required.
- x) Specific matters of interest or concern will be forwarded to the appropriate Cabinet Member.

#### **Meeting arrangements**

- y) The Board would normally meet on a quarterly basis but may meet as required.
- z) The Board will be supported by Child and Family Social Services.
- aa) The Board will be serviced by Democratic Services which will draft the agenda and produce the minutes.
- bb) The Board will establish its financial requirements and keep any allocated budget under review.

### **8 Democratic Services Committee**

#### **(Section 11 of the Local Government (Wales) Measure)**

- a) Exercise the function of the local authority under section 8(1)(a) Local Government (Wales) Measure 2011 (designation of Head of Democratic Services).
- b) Review the adequacy of provision by the authority of staff, accommodation and other resources to discharge Democratic Services functions, including:

- i) Achievement of the Welsh Local Government Association's (WLGA) Member Support and Development Charter;
  - ii) Councillor Training;
  - iii) Improvements and innovations such as electronic voting, web casting etc.
- c) Make reports and recommendations to the authority in relation to such provision.
- d) It is for a Democratic Services Committee to determine how to exercise those functions.
- e) To determine whether or not the Councillors period of family absence should be cancelled in accordance with Regulation 34 of the Local Government (Wales) Measure 2011.
- f) To determine whether or not to withhold a Councillor's Remuneration should they fail to return following a period of family absence on the date specified in the notice provided.
- g) At the request of the Local Authority, the Democratic Services Committee may review any matter relevant to:
  - i) The support and advice available to Members of the Authority.
  - ii) The terms and conditions of Office of those Members.

## **9 Family Absence Complaints Committee**

- a) To determine a complaint made by a Councillor regarding the cancellation or bringing to an end a period of family absence by the Authority;
- b) To determine any such complaint in accordance with Regulation 36 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013;
- c) To determine a complaint made by a Councillor on maternity absence or parental absence regarding a decision made by the Chair of Council (Presiding Member) as to the Councillor attending any meeting or performing any duty;
- d) To determine any such complaint in accordance with Regulation 38 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013".

## **10.1 General Licensing Committee**

- a) To determine all licensing matters and any other matters of a licensing nature as set out in the scheme of delegation with exception of Licensing Act 2003 and Gambling Act 2005 licensing functions and matters.

- b) All Licensing matters will be considered by the General Licensing Committee or General Sub Committee as deemed necessary, exercising plenary powers meeting on such specific occasions as necessary.
- c) The General Licensing Committee shall be empowered to do anything which is necessarily incidental to the exercise of the delegated function and all delegations and or authorisations shall be construed accordingly unless they are expressly limited otherwise in order to facilitate the determination of any matters considered by them.
- d) The General Licensing Committee or General Licensing Sub Committee as deemed necessary shall be empowered to adopt or modify any such rules of procedure including, but not limited to the Statement of Principles for taxi licensing in order to facilitate the determination of any matters considered by them.
- e) To review and update conditions attached to existing licences/certificates/permits/consents and to agree new conditions required due to changes in legislation and or changes in trends or practices.
- f) To consider appeals against an officer decision to refuse an application for approval to work as a driver or passenger assistant in vehicles for school transport purposes.

**Note:**

All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

## **10.2 General Licensing Sub Committee**

- 1 To determine all Licensing matters and any other matters of a licensing nature with the exception of Licensing Act 2003 and Gambling Act 2005 licensing functions and matters in accordance with the provisions of the scheme of delegation set out in the Council's Constitution and the Council's statements of policy or principles.
- 2 The General Licensing Sub Committee shall be empowered to adopt or modify any such rules of procedure as may be required in order to facilitate the determination of any matters considered by them.

**Notes:**

All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

## **11 Joint Consultative Committee**

- a) To establish a regular method of communication, consultation and negotiation between Members of the City & County of Swansea and

representatives of Trade Unions for all employees recognised for negotiating purposes.

- b) The JCC shall be the ultimate negotiating body for the Council, decisions of the JCC will be reached by consensus and will be subject to the approval of Council. Should there be a failure to reach a consensus, this shall be referred to an internal disputes' resolution procedure, or the regional joint secretaries.
- c) The JCC will consult on matters of overall strategy and service delivery, with the aim of influencing Council policies.
- d) The JCC will work together with a view to agreeing the formulation of best practices and the improvement of employment relations between the Authority and its employees and will ensure consistency of application across the workforce.
- e) To be a consultative forum on issues of relevant corporate matters.
- f) To enable the Trade Union side an opportunity to influence and enrich Council's decision making process
- g) JCC will meet every six weeks. However, there may be occasions where JCC feel that it may need to meet on an extraordinary basis. It would also be appropriate for the JCC to allocate work to working groups to deal with detailed negotiations within the JCC Terms of Reference. That such groups will report back to the JCC.
- h) Elected Members will number seven in accordance with the Political Balance Rules. Members will be entitled to send a substitute in the event that they are unable to attend.
- i) Membership will include the Leader, Deputy Leader and relevant Cabinet Member for Finance.
- j) The Trade Unions who are entitled to attend the JCC shall be as set out below. Representation is capped to a maximum of 12 and attendees are to be mutually agreed and allocated by the trade unions. Substitutes will be entitled to attend, but this shall be organised by the trade unions prior to the meeting and the numbers shall not exceed 12 overall. The names of the substitutes are to be given to the relevant officer prior to the commencement of the meeting. On specialist issues, or in matters where direct experience will be helpful, the Trade Unions can co-opt a person to attend JCC. This shall be for information purposes only and must be agreed at agenda planning meetings.
- k) Full time Union officials shall be entitled to attend in an ex officio capacity:
  - Unison
  - Unite
  - GMB
  - NUT
  - NAHT
  - NASUWT
  - UCAC



- ATL
- l) The following officers will attend JCC if available, or send a nominated representative instead if they are unavailable:
- Chief Executive
  - Strategic Human Resources & Organisational Development Manager
  - Directorate Lawyer
  - Democratic Services Officer
- m) Other officers will attend as appropriate dependent upon the agenda.
- n) On specialist issues, or in matters where direct experience will be helpful, the Authority can co-opt a person to attend JCC. This shall be for information purposes only and must be agreed at agenda planning meetings.
- o) The JCC will be jointly chaired by Elected Members and Trade Unions on an alternate basis.
- p) The Joint Chairs shall be elected at the first meeting after the Council Annual meeting.
- q) The Agenda Planning meetings will take place no later than 10 days prior to the meeting of the JCC.
- r) Agenda items will be agreed, and any papers in connection with those items will be circulated with the Agenda and Minutes of the last meeting.
- s) A report template will be provided and only reports in this format will be accepted.
- t) No “Any Other Business” will appear on the agenda but urgent matters shall be subject to the agreement of the Joint Chairs prior to the commencement of the meeting.
- u) No departmental matters will be allowed unless:
- there has been a failure to resolve the issues via the departmental trade union forum;
  - there has been a failure to resolve the issues via the Monthly Trade Union forum;
  - there has been a failure to resolve the issues via the via liaison with Human Resources;
  - there has been a failure to resolve the issues via an internal local dispute resolution;
  - the Trade Unions believe that issues have been unreasonably delayed in being referred to the JCC.

- v) Joint Chairs will be accompanied by advisors as appropriate.
- w) Papers will be circulated 5 days in advance of the JCC.
- x) A room will be provided for the Trade Unions to use in the two hours before the formal meeting of the JCC.
- y) A briefing for Elected Members of the JCC will be held prior to the Formal meeting of the JCC.
- z) Role of Members:
  - To be the representative of the Authority as the employer, who are the provider of Council Services.
  - To conduct negotiations on behalf of the Authority.
  - To consult and communicate on behalf of the Authority.
- aa) Role of Trade Unions:
  - To represent the interests and views of their members in communication, consultation and negotiations with the Authority.
  - To support and promote the services provided by their members for the Authority.
  - The Trade Unions be the recognised organisations for the purposes of reaching agreement regarding the issues listed under 'Relevant Matters for Consultation and Negotiation'.
- bb) Role of Officers:
  - To advise Elected Members.
  - To present information to the JCC.
- cc) Relevant Matters for Consultation and Negotiation:
  - i) To enable the JCC to fulfil its functions as a high level consultative and negotiation vehicle, only the following matters will be permitted to be raised as agenda items and discussed.
  - ii) Collective Bargaining Rights for the purpose of negotiating the following:
    - Pay
    - non-pay benefits
    - job evaluation
    - trade union recognition
    - terms & conditions, including all Human Resources policies and procedures
    - working practices
    - implementation of NJC agreements
  - iii) Although the following is not exhaustive, consultation will take place in respect of the following:
    - the Authority's economic position and the budget requirements
    - the management of change
    - training & development

- new initiatives e.g. IIP
  - decisions affecting work organisation.
- dd) Regular, formal meetings between Management and Trade Unions will take place at a Directorate and/or Service Unit level. The frequency of these meetings will be agreed between the service manager and local trade union representatives. Flexibility in the need to arrange such meetings on an ad hoc basis is essential in order to ensure that meaningful consultation takes place on workforce and service delivery issues.

## 12 Local Pension Board

### a) Introduction

This document sets out the terms of reference of the Local Pension Board of The City & County of Swansea (the 'Administering Authority') a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Local Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).

The Board is established by the Administering Authority and operates independently of the Pension Fund Committee. Relevant information about its creation and operation are contained in these Terms of Reference.

### b) Interpretation

The following terms have the meanings as outlined below:

<b>'the Act'</b>	The Public Service Pensions Act 2013.
<b>'the Code'</b>	means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.
<b>'the Pension Fund Committee'</b>	means the committee who has delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.
<b>'the Fund'</b>	means the Fund managed and administered by the Administering Authority <sup>1</sup> .
<b>'the Guidance'</b>	means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.
<b>'the Regulation'</b>	means the Local Government Pension Scheme Regulations 2013 (as amended from time to time), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) including any earlier regulations as defined in these regulations to the extent they remain applicable and the Local

Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time).

**‘Relevant legislation’** means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board notwithstanding that the Codes of Practice are not legislation.

**‘the Scheme’** means the Local Government Pension Scheme in England and Wales.

c) **Statement of purpose**

The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:

- i) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and;
- ii) to ensure the effective and efficient governance and administration of the Scheme.

d) **Duties of the Board**

The Board should at all times act in a reasonable manner in the conduct of its purpose.

e) **Establishment**

The Board is established on 3rd March 2015 subsequent to approval by Council of the recommendation to establish a Local Pension Board contained in LGPS (Amendment) Governance Arrangements 2015 Regulation - Local Pension Boards. Subsequent to its establishment, the Board may establish sub-committees.

f) **Membership**

- i) The Board shall consist of 6 voting members, as follows:
  - 3 Member Representatives; and
  - 3 Employer Representatives.
- ii) There shall be an equal number of Member and Employer Representatives.
- iii) The Chair shall be selected from the existing member/employer representatives on a rotating basis and shall endeavour to reach consensus.

g) **Local Pension Board Member representatives**

- i) Local Pension Board Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund.
  - ii) Local Pension Board Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and have the necessary skills and knowledge required and participate in training as required.
  - iii) Substitutes shall not be appointed.
  - iv) A total of 3 Local Pension Board member representatives shall be appointed by nomination from the Joint Trade Unions representing employees who are scheme members of the Fund. If required a competitive selection process will be delegated to the Head of HR and S151 Officer.
- h) **Local Pension Board Employer representatives**
- i) Local Pension Board Employer representatives shall be Councillors, office holders/ senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No Officer or Councillor of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.
  - ii) Local Pension Board Employer representatives should be able to demonstrate their capacity to attend and have the requisite skills and knowledge and complete the necessary preparation for meetings and participate in training as required.
  - iii) Substitutes shall not be appointed.
  - iv) A total of 3 Local Pension Board employer representatives shall be appointed to the Board, one from each of the following sources:
    - (1) One employer representative shall be appointed by the largest employer within the fund (City & County of Swansea).
    - (2) One employer representative shall be appointed by the second largest employer within the fund (Neath Port Talbot CBC)
    - (3) One employer representative shall be appointed by the Administering Authority where all employers (bar those identified in iv)(1) and iv)(2) above) will have been asked to submit their interest in undertaking the role of employer representative on the Board. In the event that more than one employer expresses an interest outlining their availability, skills and knowledge and lack of conflicts of interest than a competitive interview process will be undertaken delegated to the Strategic HR & OD Manager and S 151 Officer to progress.
- i) **Other members**

No other Members are recommended for appointment to the Board.

j) **Appointment of Chair**

Subject to the meeting arrangements in paragraphs q)ii) to r)ii) below a Chair shall be appointed for the Board as identified below:

At the first meeting of the Board, a Chair shall be elected from their number on a rotating basis for a term of one year, with the role alternating between employer and member representatives on an equal basis. The Chair shall seek to reach decision by consensus and in the event this cannot be reached, this should be so recorded.

k) **Duties of chair**

The Chair of the Board:

- i) Shall ensure the Board delivers its purpose as set out in these Terms of Reference, agree Agendas and clear minutes.
- ii) Shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered, and
- iii) Shall seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.

l) **Notification of appointments**

When appointments to the Board have been made the Administering Authority shall publish the name of Board members on the City and County of Swansea website, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

m) **Terms of Office**

The term of office for Board members is 4 years, following the Local government cycle, however the first term of office may be shorter.

Extensions to terms of office may be made by the Administering Authority with the agreement of the Board.

Board membership may be terminated prior to the end of the term of office due to:

- i) A member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund<sup>1</sup>.
- ii) A member representative no longer being a scheme member or a representative of the body on which their appointment relied.
- iii) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.

- iv) A Board member no longer being able to demonstrate to The City & County of Swansea their capacity to attend and prepare for meetings or to participate in required training.
  - v) The representative being withdrawn by the nominating body and a replacement identified.
  - vi) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.
  - vii) A Board member who is an elected member becomes a member of the Committee.
  - viii) A Board member who is an officer of the Administering Authority becomes responsible for the discharge of any function of the Administering Authority under the Regulations.
- n) **Conflicts of interest**
- i) All members of the Board must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.
  - ii) A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.
  - iii) On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, the Administering Authority shall ensure that any potential conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.
- o) **Knowledge and understanding (including Training)**
- i) Knowledge and understanding must be considered in light of the role of the Board to assist the Administering Authority. The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.
  - ii) Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.
  - iii) Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

p) **Meetings**

- i) The Board shall as a minimum meet 6 monthly
- ii) Meetings shall normally take place during office hours where practicable at offices of the Administering Authority
- iii) The Chair of the Board with the consent of the Board membership may call additional meetings.

q) **Quorum**

- i) A meeting is only quorate when a minimum of 3 persons are present with at least one member and one employer representatives being present.
- ii) A meeting that becomes inquorate must cease immediately and be reconvened.

r) **Board administration**

- i) The Chair shall agree an agenda prior to each Board meeting. Officers shall provide such services and provide information for the Board when required.
- ii) The agenda and supporting papers will be issued at least 5 clear working days in advance of the meeting except in the case of matters of urgency in line with the Local Government Act 1972.
- iii) Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members within 10 clear working days after the meeting. These draft minutes will be subject to formal agreement by the Board at their next meeting. Any decisions made by the Board should be noted in the minutes and in addition where the Board was unable to reach a decision such occasions should also be noted in the minutes.
- iv) The minutes may be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.
- v) The Board shall ensure that Board members meet and maintain the knowledge and understanding as determined in the Board's Knowledge and Understanding Policy and Framework and other guidance or legislation.
- vi) The Board shall arrange for such advice from officers or Advisors as is required.
- vii) An attendance record shall be maintained.



- viii) The Board shall liaise with the Administering Authority on the requirements of the Board, including advanced notice for officers to attend and arranging dates and times of Board meetings.

s) **Public access to Board meetings and information**

- i) The Board meetings can be open to the general public (unless there is an exemption under relevant legislation) when the public would be asked to leave.
- ii) The following will be entitled to attend Board meetings in an observer capacity:
- Members of the Pension Fund Committee,
  - Any person requested to attend by the Board.

Any such attendees will be permitted to speak at the discretion of the Chair.

- iii) In accordance with the Act the Administering Authority shall publish information about the Board to include:
- The names of Board members and their contact details.
  - The representation of employers and members on the Board.
  - The role of the Board.
  - These Terms of Reference.
- iv) The Administering Authority shall also publish other information about the Board including:
- Agendas and minutes
  - Attendance logs
  - An annual report on the work of the Board to be included in the Fund's own annual report.
- v) All or some of this information may be published using the following means or other means as considered appropriate from time to time:
- On the Fund's website.
  - As part of the Fund's Annual Report.
- vi) Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

t) **Expenses and allowances**

The Administering Authority shall meet the expenses of Board members in line with the Administering Authority's policy on expenses.

The Administering Authority shall not pay allowances for Board members.

u) **Budget**

The Board is to be provided with adequate resources to fulfil its role. The Board will seek approval from the Section 151 Officer for any expenditure it wishes to make.

v) **Core functions**

- i) The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:
- (1) Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code.
  - (2) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
  - (3) Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.
  - (4) Monitor complaints and performance on the administration and governance of the scheme.
  - (5) Assist with the application of the Internal Dispute Resolution Process.
  - (6) Review the implementation of revised policies and procedures following changes to the Scheme.
  - (7) Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
  - (8) Review the complete and proper exercise of employer and administering authority discretions.
  - (9) Review the outcome of internal and external audit reports.
  - (10) Review draft accounts and Fund annual report.
  - (11) Review the compliance of particular cases, projects or process on request of the Committee.
  - (12) Any other area within the statement of purpose (i.e. assisting the Administering Authority) the Board deems appropriate.
- ii) The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:
- (1) Assist with the development of improved customer services.
  - (2) Monitor performance of administration, governance and investments against key performance targets and indicators.
  - (3) Monitor internal and external audit reports.
  - (4) Review the risk register as it relates to the scheme manager function of the authority.

- (5) Assist with the development of improved management, administration and governance structures and policies.
  - (6) Review the outcome of actuarial reporting and valuations.
  - (7) Assist in the development and monitoring of process improvements on request of Committee.
  - (8) Any other area within the statement of purpose (i.e. ensuring effective and efficient governance of the scheme) the Board deems appropriate.
- iii) In support of its core functions the Board may make a request for information to the Committee with regard to any aspect of the Administering Authority's function. Any such request should be reasonably complied with in both scope and timing.
  - iv) In support of its core functions the Board may make recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.
- w) **Reporting**
- i) The Board should in the first instance report its requests, recommendations or concerns to the Committee. In support of this any member of the Board may attend a Committee meeting as an observer.
  - ii) Requests and recommendations should be reported under the provisions of above.
  - iii) The Board should report any concerns over a decision made by the Committee to the Pension Fund Committee.
  - iv) On receipt of a report under paragraph w)iii) above the Committee should, within a reasonable period, consider and respond to the Board.
  - v) Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.
  - vi) Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph w)iii) and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.
  - vii) The appropriate internal route for escalation is to the Monitoring Officer and the Section 151 Officer.
  - viii) The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.
  - ix) Board members are also subject to the requirements to report breaches of law under the Act and the Code

x) **Review of terms of reference**

The Council and Board may review the operation of and Terms of Reference periodically.

**13 Pension Fund Committee**

- a) To establish and keep under review policies to be applied by the Council in exercising its discretions as an administering Authority under the Local Government Pension Scheme (LGPS) Regulations in force from time to time.
- b) Subject to **Council Procedure Rule 46** “Co-opted Members” to co-opt members onto the Pension Fund Committee.
- c) To monitor factors likely to affect the solvency of the Pension Fund between the triennial valuations of the Fund by its independent actuary including specifically, the impact of early retirements approved by all employing bodies within the fund.
- d) To determine the strategic aims for investment of the Fund and the benchmarks by which performance will be measured.
- e) To arrange for independent investment advice to be available to the Panel at any time.
- f) To determine, keep under review and, where appropriate, secure changes in the management arrangements for investment of the Pension Fund.
- g) To monitor on a regular basis against its objectives and benchmarks the Fund’s investment performance.
- h) To approve attendance of the Committee or any of its Members or Officers at Regional or National meetings arranged to assist Members of investment panels to fulfil their trustee responsibilities.
- i) To ensure effective communication and liaison with other employing bodies within the City & County of Swansea Pension Fund.
- j) To respond to consultative documents affecting the Local Government Pension Scheme.
- k) To make decisions and determine discretions of the Administering Authority under the Local Government Pension Scheme Regulations which may from time to time exist.
- l) To approve the Authority’s Pension Statement of Accounts.

**Note:**

- i) The Neath Port Talbot County Borough Council Member is appointed to ensure compliance with Statute.

## 14 Planning Committee

- a) To discharge the functions of the Council with regard to planning control services except:
- i) Where the Planning Committee is minded to approve an application for development which the Head of Planning & City Regeneration has recommended for refusal because it is contrary to the Unitary Development Plan, or any other relevant policies adopted by the Council, **other than**:
  - ii) The following policies of the Unitary Development Plan:

EV1	Design of New Development
EV2	Siting & Location of New Development
EV3	Accessibility & Access for All
EV4	Public Realm
EV5	Public Art
EV7	Listed Buildings
EV8	Demolition of Listed Buildings
EV9	Development in Conservation Areas
EV10	Demolition of Unlisted Buildings in Conservation Areas
EV12	Lane & Public Paths
EV13	Shop fronts, Security Grilles
EV14	Advertisements
EV15	Hoardings
EC14	Agricultural Development
EC15	Urban Tourism
HC2	Infill Development & Small Scale Residential Development
HC4	Regeneration of Older Housing Areas
HC5	Multiple Occupation
HC6	Flat Conversion
HC7	Household Extensions
HC8	Over the Shop Housing
HC10	Holiday Chalet and Caravan Sites
HC26	Informal Recreation
HC27	Use of Land for Horses
R10	Telecommunications
AS1	Accessibility of new development
AS2	Accessibility of new development
AS5	Walking & Cycling
AS6	Car parking requirements for new development
AS10	Traffic management & highway safety.

- b) Where the recommendation would involve a refusal of permission to an application submitted by the Council in relation to land owned by the Council;
- c) Any other matter as determined by the Head of Planning & City Regeneration including the consideration and adoption of Supplementary Planning Guidance with the exception of Development Plan Strategy which shall be determined by Council;

- d) To discharge the functions of the Council with regard to Public Rights of Way, Commons Registration and Village Greens.
- e) Monitor the progress of Local Development Plan (LDP) delivery and performance;
- f) Examine the process of LDP preparation and advise upon improving reporting mechanisms;
- g) Consider ways to promote / encourage sustainable development;
- h) Consider in detail proposals for inclusion in the LDP and be able to report upon their findings;
- i) Consider the preparation of Supplementary Planning Guidance (SPG) in support of the LDP;
- j) Advise on methods of helping facilitate improved community involvement;
- k) Improve linkages with other Council plans and strategies;
- l) Ensure equality and diversity issues pertaining to these matters are addressed;
- m) Provide a link to the political party groups to enable the views of all Councillors to inform the development of the LDP.

**Note:**

- i) **Pursuant to the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017**
  - (1) Each meeting of the Planning Committee must have a quorum of 50% to make decisions; and
  - (2) The use of Substitute Members is prohibited.
- ii) **Pursuant to the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017. (Section 39 of the Planning (Wales) Act 2015)**
  - (1) The Planning Committee must contain no fewer than 11 members and no more than 21 members, but no more than 50% of the Authority Members (rounded up to the nearest whole number);
  - (2) Where wards have more than one elected member, only one member may sit on the Planning Committee, in order to allow other ward members to perform the representative role for local community interests.
- iii) **Councillors must receive planning training prior to attending the Planning Committee as a member.**

## 15 Service Transformation Committees (STCs)

There are 5 STCs:

- Climate Change & Nature Recovery Service Transformation Committee.
- Economy & Infrastructure Service Transformation Committee.
- Education & Skills Service Transformation Committee.
- Social Care & Tackling Poverty Service Transformation Committee.
- Corporate Services & Financial Resilience Service Transformation Committee.

The purpose of Service Transformation Committees is to contribute to the ongoing development of the Council's agreed transformation activities (specifically in relation to the council's corporate plan, policy commitments, Corporate Transformation Plan, and Medium-Term Financial Plan) for consideration and adoption by Cabinet Members, Cabinet and / or Council as appropriate.

### a) **Membership & Frequency of Meetings**

- i) Non-Executive Members and Assistants to Cabinet are eligible to be members of the Service Transformation Committees.
- ii) Executive (Cabinet) Members are not eligible to be members of the Service Transformation Committees. However relevant Cabinet Members will be invited to attend committee sessions.
- iii) Frequency of meetings is a matter for the Chair depending on workload; however, it is anticipated that formal Committee meetings shall be held no more than 6-weekly. In addition to formal Committee meetings, Informal Working Groups may be undertaken, if the work plan dictates and subject to the availability of officer resources.
- iv) Chairs of the Service Transformation Committees will meet to co-ordinate agendas and work plans to ensure consistency and that there is no duplication in work. This meeting will be supported by the Leader and the Chief Executive and / or their nominated representatives.

### b) **Role and Framework**

The role of a Service Transformation Committee is to:

- i) Contribute to future policy and/or service design.
- ii) Consider mechanisms to encourage and enhance public participation in development of policy and service models.
- iii) Work with Senior Officers and Cabinet Members in a Team Swansea approach.
- iv) Consider and where appropriate to invite relevant organisations / individuals to contribute to policy development and service design discussions.

### c) **Remit of Service Transformation Committees**

The Service Transformation Committees will focus their work on

relevant aspects of the Council's corporate plan, policy commitments, Corporate Transformation Plan, and Medium-Term Financial Plan. Specifically, the following areas of work will be within the remit of each Committee:

- i) Climate Change & Nature Recovery Service Transformation Committee:**
  - Developing a new Sustainable Transport Strategy (2050).
  - Developing a new Renewable Energy Strategy (2050).
  - Developing a new Swansea Council Sustainable Food Strategy (2030).
  - Waste Strategy Development to Contribute to Swansea Achieving Net Zero & Nature Recovery (2050).
  - Swansea Local Nature Recovery Action Plan (LNRAP).
  - Section 6 Action Plan.
  - Swansea Council's contribution / commitment to Net Zero Swansea (2050).
  - Public EV Charging Policy (2050).
  
- ii) Economy & Infrastructure Service Transformation Committee:**
  - Local Economic Delivery Plan.
  - Tawe Riverside Corridor Action Plan.
  - Swansea Bay Strategy Projects.
  - Maintenance of Road Infrastructure.
  - More Homes Delivery Programme.
  - Destination Management Plan.
  - Review of the Council's Housing Allocation Policy.
  
- iii) Education & Skills Service Transformation Committee:**
  - Transforming Additional Learning Needs.
  - Right Schools in Right Places
  
- iv) Social Care & Tackling Poverty Service Transformation Committee:**
  - Safeguarding People from Harm Steps in the Corporate Plan 2023-2028.
  - Tackling Poverty and Enabling Communities Steps in the Corporate Plan 2023-2028.
  - Residential Service Development
  - Enabling and promoting independence - prevention and early Help.
  - Approach to enabling community resilience and selfreliance.
  - Development of a corporate Volunteering Strategy and Policy
  
- v) Corporate Services & Financial Resilience Service Transformation Committee:**
  - Transformation and Financial Resilience Steps in the Corporate Plan 2023-2028.
  - Digital Transformation Programme.
  - Workforce and OD Transformation Programme.
  - Corporate Services MTFP savings proposals.
  - Policy Commitments relevant to Corporate Services & Financial Resilience.



- d) **Relationship with Cabinet:**
  - i) The Service Transformation Committee Chair will agree a forward work programme with Cabinet / CMT.
  - ii) The Committee will produce a Transformation report to the Cabinet Member / Cabinet / Council in connection with work undertaken.
  - iii) Each Service Transformation Committee will produce an annual report to Council summarising the outcome and outputs of its work throughout the year
  
- e) **Relationship with Scrutiny:**
  - i) The Service Transformation Committees are not Scrutiny Committees they are forward looking Committees assisting Council to transform services, modernise, and meet medium and long-term financial challenges.
  - ii) If a Service Transformation Committee identifies an issue of concern arising from their role, the Chair should refer it to the Scrutiny Programme Committee for further consideration / investigation.
  - iii) The Service Transformation Committee Chair will be responsible for ensuring the Committee does not stray into the role of the Scrutiny Programme Committee.
  - iv) Service Transformation Committees and the Scrutiny Programme Committee should ensure awareness of each other's work programmes. including the timing of work programme activities. This will be achieved by an early 'sense check' of the work programmes for Service Transformation and scrutiny. The Scrutiny Programme Committee should consider relevant advice but has autonomy on decisions about the scrutiny work programme.
  
- f) **Support:**
  - i) The Democratic Services Team shall provide the relevant support to the Service Transformation Committees.
  - ii) Service Transformation Committee will have a nominated senior service lead for each item or work. The relevant Director, Head of Service, or nominated relevant Officer will provide work plan support and research and produce reports as appropriate.

## 16.1 Statutory Licensing Committee

- a) To determine all matters regulated by the Licensing Act 2003 and the Gambling Act 2005 in accordance with the provisions of the Scheme of Delegation in the Council's Constitution and the Council's Statements of Licensing Policy.
- b) All Licensing Act 2003 and Gambling Act 2005 functions and matters will be considered by the Statutory Licensing Committee or Statutory Licensing Sub Committee as deemed necessary, exercising plenary powers meeting on such specific occasions as necessary.

- c) The Statutory Licensing Committee shall be empowered to do anything which is necessarily incidental to the exercise of the delegated function and all delegations and or authorisations shall be construed accordingly unless they are expressly limited otherwise in order to facilitate the determination of any matters considered by them.
- d) The Statutory Licensing Committee or Statutory Licensing Sub Committee as deemed necessary shall be empowered to adopt or modify any such rules of procedure in order to facilitate the determination of any matters considered by them.

**Note:**

All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

**Statutory Licensing Sub Committee**

- a) To determine all Licensing Act 2003 and Gambling Act 2005 functions and matters in accordance with the provisions of the scheme of delegation in the Council’s Constitution and the Council’s Statement of Licensing Policy.
- b) The Statutory Licensing Sub Committee shall be empowered to adopt or modify any such rules of procedure as may be required in order to facilitate the determination of any matters considered by them.
- c) Any consideration of interim measures by the Statutory Licensing Sub Committee under Section 53B of the Licensing Act 2003 are not deemed public hearings and the public can be excluded.

**Note:**

All members of this Committee must have been trained by the Authority prior to them being permitted to take part in the meeting.

**17 Standards Committee**

**1 Composition**

- 1.1 The Standards Committee is composed of 9 Members. Its Membership includes.
- 1.2 5 “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 1.3 3 Councillors other than the Leader and not more than 1 Member of the Executive; and

- 1.4 1 Community/Town Councillor
- 1.5 The Standards Committee is not required to comply with Section 15 of the Local Government and Housing Act 1989 (duty to allocate to Political Groups).

## **2 Term of Office**

- 2.1 Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 2.2 Members of local authorities who are Members of the Standards Committee will have a term of office until the next ordinary local government election following their appointment. They may be reappointed for one further consecutive term.
- 2.3 The Community Council Member will have a term of office until the next election for the community council following their appointment. They may be reappointed for one further consecutive term.

## **3 Quorum**

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

- 3.1 at least 3 Committee Members, including the Chair, are present; and
- 3.2 at least half the Committee Members present (including the Chair) are independent Members.

## **4 Voting**

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

## **5 Chairing the Committee**

- 5.1 Only an independent Member of the Standard Committee may be the chair.
- 5.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
- i) Not less than four years or no more than six years; or
  - ii) Until the term of office of the independent Member comes to an end

## **6 Role and Function**

The Standards Committee will have the following roles and functions:

- 6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 6.2 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- 6.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 6.4 monitoring the operation of the Members' Code of Conduct;
- 6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 6.6 to produce an annual report to Council describing how the Committee's functions have been discharged during the financial year;
- 6.7 to monitor compliance by leaders of political groups with their duties under s 52A(1) Local Government Act 2000;
- 6.8 to undertake those functions in relation to Community Councils and members of Community Councils in the area of City and County of Swansea as are required by law;
- 6.9 to grant dispensations to Members in accordance with the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 and s 81(5) Local Government Act 2000;
- 6.10 to consider allegations of breaches of the Code of Conduct made against Members in accordance with the Standards Committee Hearing Procedure attached to these terms of reference;
- 6.11 determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and Officers;
- 6.12 to consider any other matters placed before the Committee by the Monitoring Officer;
- 6.13 to consider all appeals relating to the Unreasonable Customer Behaviour Policy.

## **7 Additional Role of Standards Committee**

The Standards Committee shall maintain an overview of the operation and maintenance of the following;

- 7.1 The Protocol of Officer/ Councillor Relations.
- 7.2 The Council's Whistleblowing Policy and general confidential reporting procedures.
- 7.3 The Member/Member Dispute Resolution Process.
- 7.4 The Register of Members Interests.

The Standards Committee must, in exercising any of its functions, have regard to any relevant guidance issued by the Welsh Ministers.

## **8 Work Programme**

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

## **9 Rule of Procedure and Debate**

9.1 The Council Procedure Rules will apply to the meetings of the Standards Committee.

9.2 When considering the conduct of individual Councillors, the procedures outlined at section \*\*\* will apply.

## **18 West Glamorgan Archives Committee**

- a) To monitor the work of the Joint Archive Service as a provider of services to the City and County of Swansea and Neath Port Talbot County Borough Council, and its role within each authority.
- b) To provide a forum where elected representative of both authorities can meet to discuss matters relating to the Archive Service, and where representatives of owners and users of Archives can become involved in, and make an advisory contribution to its work.
- c) To approve the Joint Archive Service annual budget.
- d) To meet quarterly to receive the report of the County Archivist on the provision of an archives and records management service to the authorities and to the public, and to approve future developments within the service.
- e) To advise and make recommendations regarding the Archive Service publications programme.
- f) To be informed on standards and matters relating to archive service provision in Wales and the UK generally, in order to assess the quality of service provision made by the West Glamorgan Archive Service.
- g) To take the recommendations of the Joint Archives Committee back to the parent authorities for formal approval by the respective Executives.
- h) To meet quarterly, meetings to be held alternately in Swansea and Neath Port Talbot.

## **1 Scrutiny Programme Committee**

- a) The Scrutiny Programme Committee will have the following general responsibilities:
- i) Holding members of the Council's executive to account.
  - ii) Monitoring the performance of public services, policies and partnerships.
  - iii) Contributing to corporate and partnership policy and strategy development.
  - iv) Conducting in depth inquiries into service and policy areas.
  - v) Involving the public in service improvement and policy development.
  - vi) Considering the opinions of external inspectors.
  - vii) Making reports and recommendations to Council or Cabinet on the discharge of any functions of the authority as appropriate.
  - viii) To undertake reviews as directed by Council.
  - ix) Preparing and publishing a regular work plan.
  - x) Contribute to an overall strategic work programme for scrutiny that will be reported regularly to Council.
  - xi) Observing the principles of effective scrutiny as set out in the Protocol for Scrutiny.
- b) The Committee will have responsibility for coordinating the scrutiny of the following:
- i) The community strategy / single integrated plan.
  - ii) Swansea's Local Service Board.
  - iii) The Council budget.
  - iv) Central / corporate functions of the local authority.
  - v) Groups and organisations with which the Council has formed links through grant funding, compacts, subscription or service level agreements.
  - vi) External bodies which are able to levy a statutory precept upon the Authority.
  - vii) The Treasury Management Strategy Statement, Annual Report, Mid Term Report and Quarterly Progress Reports.

## **2 Scrutiny Panels**

- a) The Committee may establish Panels / working groups for the purpose of undertaking in depth inquiries or for looking at the performance of particular areas of service delivery.
- b) Each Panel/working groups will be led by a Scrutiny Convener who will be responsible for:

- i) Convening meetings of the relevant Panel.
  - ii) Chairing meetings of the relevant Panel.
  - iii) Ensuring that the Panel undertakes work to the specifications and timescales agreed by the parent board.
  - iv) Reporting back to the parent Board with findings, conclusions and recommendations as appropriate.
- c) Councillors will be appointed to a Panel on the following basis:
- i) At least two political groups on the Council to be represented on the Panel.
  - ii) Membership of Panels will be open to any non-executive members of the Council regardless of whether they are a member of the Scrutiny Committee.
  - iii) New panels will be advertised to all non-executive members and expressions of interest sought. The membership of panels will be determined by the Committee.

### **3 Scrutiny Work Programme**

The Scrutiny Programme Committee will be responsible for coordinating the work of the Scrutiny panels. Other tasks linked to the delivery of the work programme include:

- a) Monitoring the delivery of the scrutiny strategic work programme;
- b) Preparing and agreeing the scrutiny annual report as required by Council;
- c) Dealing with business relating to regional / national scrutiny meetings (for example in relation to the Welsh Local Government Association or the Centre for Public Scrutiny);
- d) Considering reports relevant to the development and improvement of the Council's Scrutiny function;
- e) Dealing with consultation and implementation of national policy changes relevant to scrutiny;
- f) Preparing and publishing a regular work plan;
- g) Making reports and recommendations to Council, Cabinet or the Democratic Services Committee on the discharge of any functions of the authority as appropriate.

### **4 Service and Policy Areas**

Areas of responsibility cover all functions of the Council and specifically:

- a) All of the functions of the Council as a Social Services Authority under all relevant legislation;
- b) All functions of the Council under the Children Act (1989 and 2004);
- c) All of the functions of the Council as a Planning Authority under the Town and Country Planning Acts and all other relevant legislation including countryside, nature conservation and rights of way matters, in force from time to time;
- d) Acting as the Council's designated Crime and Disorder Committee for the purposes of the Police & Justice Act 2006;

- e) All of the functions of the Council as a Housing Authority under the Housing Acts and all other relevant legislation;
- f) Outcomes of reviews undertaken by outside agencies or audit bodies;
- g) Items where Welsh Government Guidance suggests that matters should be considered by scrutiny.

## **5 Cabinet Portfolios**

The work of the Board will not be limited to any particular Cabinet portfolio(s). Invitations to attend meetings, reports, letters and recommendations will be directed to the relevant Cabinet Member(s) as each issue requires.



## **1 Admissions Panel**

Policy framework - The Education (Admission Forums) (Wales) Regulations 2003.

### **a) Membership (Core Members)**

- i) One representative nominated by The Church in Wales Diocesan Authority;
- ii) One representative nominated by the Roman Catholic Diocesan Authority;
- iii) One head teacher from each school group (i.e. primary, secondary and voluntary aided schools);
- iv) The two elected Parent Governor Representatives (one primary, one secondary);
- v) Two representatives of the Swansea Association of Governing Bodies (one of whom should be a Welsh speaker);
- vi) One representative of the Swansea Bay Racial Equality Council.
- vii) In addition, the core Members may invite other interested parties to a meeting of the Panel if they consider it appropriate to do so having regard to the issue under discussion.
- viii) Five elected Members;

### **b) Tenure of Meetings**

A maximum of four years subject to re-election.

### **c) Frequency of Meetings of the Panel**

The Panel must meet at least twice a year.

### **d) The Role of the Panel is to:**

- i) Consider how well existing and proposed admission arrangements serve the interests of children and parents within the area of the authority;
- ii) Promote agreement on admission issues;
- iii) Consider the comprehensiveness and accessibility of the admission literature and information for parents;
- iv) Consider the effectiveness of any proposed co-ordinated admission arrangements;
- v) Consider the means by which admissions processes might be improved and how actual admissions relate to the admission numbers published;

- vi) Monitor the admission of children who arrive in the authority's area outside a normal admission round with a view to promoting arrangements for the fair distribution of such children among local schools, taking into account parental preference;
- vii) Promote effective admission arrangements for children with special educational needs, looked after children and children who have been excluded from school;
- viii) Consider any other admission issues arising.

e) **Responsibilities**

The Panel must circulate their advice and recommendations to all admission authorities and maintained schools in the authority and to any other interested parties.

## 2 **Standards Committee Vacancy Panel**

- a) To shortlist (if necessary) applicants seeking to be appointed as the Independent Co-opted Members to Standards Committee.
- b) To interview applicants seeking to be appointed as the Independent Co-opted Members to Standards Committee.
- c) To make recommendation(s) for appointment if appropriate to Council

**Note:**

- i) Shall consist of 5 Members, one of which must be a Lay Member and one of which must be a Community/Town Councillors serving within the boundaries of the City & County of Swansea;
- ii) Shall be chaired by a Lay Member appointed by the Monitoring Officer.

## 3 **Trustees Panel**

The Authority currently has involvement in a number of Trusts. The Trustees Panel has been established to determine matters arising from the different Trusts, which often include applications for grants and decisions relating to the operation of the particular Trust.

- a) Depending on the terms within the individual Trust Deed, Local Authority Members may be required to act as trustees or alternatively, the Local Authority itself may be the trustee and members may act as representatives of the local authority trustee.

- b) Each item referred to the Trustee Panel will state in an individual report the capacity in which members are required to act.
- c) The role of trustee can be distinguished from the role of representative of the Local Authority trustee.

**1 Community / Town Councils Forum**

- a) This Forum is exempt from Committee Balance Rules in order to ensure that only the Cabinet Members and Chairs of Planning Committee and General Licensing Committee are represented on it.
- b) To consult and liaise with Community/Town Councils on corporate and strategic issues.
- c) It will be Chaired by the CCS Cabinet Member that has Community/Town Councils within their Cabinet Portfolio.

**2 Gypsy Traveller Liaison Forum**

- a) To provide a Forum to help strike a balance between the needs and legitimate expectations of the settled community, local businesses, other local land owners and gypsy travellers.
- b) To prepare a strategy that meets the requirements of the NAW guidance on Managing Unauthorised Camping.
- c) To Provide cross party views.
- d) To evaluate all Council strategies and policies to identify any impact upon the welfare of the gypsy traveller community.

**3 Swansea Student Liaison Forum**

a) **Purpose of Group**

A strategic alliance of bodies working in partnership to link activities relating to students in Swansea with the aim of assisting community cohesion.

b) **Membership**

- i) Ward members from Uplands, Castle, Sketty, Townhill, Gorseinon, landore, Lower Loughor, Upper Loughor, St Thomas, Kingsbridge and Killay North
- ii) Cabinet Member for Next Generation Services
- iii) Cabinet Member for Wellbeing and Healthy City

- iv) Director of Place, City & County of Swansea
- v) Relevant officers, City & County of Swansea
- vi) Relevant officers, South Wales Police
- vii) Director of Student Services, Swansea University
- viii) Relevant officers, Swansea University
- ix) President of Swansea University Students' Union
- x) President of Swansea Metropolitan University Wales Trinity St David's
- xi) Relevant officers, Swansea Metropolitan University Wales Trinity St David's
- xii) President of Swansea Metropolitan University Wales Trinity St David's Students' Union
- xiii) Relevant officers, Gower College Swansea
- xiv) Student Governor, Gower College Swansea

Additional members may be co-opted from time to time with the agreement of the Chair.

c) **Frequency of meetings**

Quarterly, although frequency may vary depending on the requirements of the Forum.

d) **Objectives of Group**

- i) To review and develop strategies relating to students in Swansea.
- ii) To consider relevant legislation and Government policy and shape and inform its implementation in Swansea.
- iii) To review issues arising from members of the Forum and other community groups, including PACT meetings, as they affect strategy and policy.
- iv) To contribute to the Local Service Board, the Single Integrated Plan and other relevant partners' strategies and plans.

e) **Ratification**

Each of the partners will ensure that these terms of reference are reported through their own governance procedures for ratification.

## **Council Constitution, Part 3.2 - Responsibility for Functions: Terms of Reference, Section 6 (Groups (non Decision Making and non-proportional))**

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### **1 Constitution Working Group**

- a) This Group is exempt from the Committee Balance Rules to allow the following membership and representation by each Political Group: Presiding Member, Deputy Presiding Member, Leader & Deputy Leader of Ruling Group and Largest Opposition Group, Leader of other Political Groups and Cabinet Member with responsibility for Constitutional matters.

**Note:** Each Political Group Leader may substitute their Deputy Political Group Leader with another of their Group Members if required but the membership must be approved by Council.

- b) To keep under review all aspects of the Council Constitution and to make appropriate recommendations for change.
- c) To administer the requirements of the Election of Lord Mayor and Deputy Lord Mayor Protocol as outlined in the Council Constitution.
- d) To consider all aspects of any Boundary Reviews and make recommendations to Council as appropriate.

### **2 Local Development Plan Advisory Group**

- a) There will be twelve appointed Members on the Group. These will comprise:
- i) Cabinet Member with Planning portfolio (chair);
  - ii) Members appointed from the political groups.
- b) The political groups shall be entitled to nominate at least one Member to the Group. All Members will be given appropriate training on the LDP preparation process.
- c) A deputy or vice chair shall be appointed by the Group.
- d) The Group will be supported by the Director of Place, the Head of Planning & City Regeneration, or other officers from the Planning Policy Team and Legal and Democratic Services as appropriate.
- e) The scope of the Group will be to:

- i) Monitor the progress of LDP delivery and performance;
  - ii) Examine the process of LDP preparation and advise upon improving reporting mechanisms;
  - iii) Consider ways to promote/ encourage sustainable development;
  - iv) Consider in detail proposals for inclusion in the LDP and be able to report upon their findings;
  - v) Consider the preparation of Supplementary Planning Guidance (SPG) in support of the LDP;
  - vi) Advise on methods of helping facilitate improved community involvement;
  - vii) Improve linkages with other Council plans and strategies
  - viii) Ensure equality and diversity issues pertaining to these matters are addressed;
  - ix) Provide a link to the political party groups to enable the views of all elected Members to inform the development of the LDP.
- f) The Group will not:
- i) Be able to make decisions;
  - ii) Be a public Group for debate on the content of the LDP or for the discussion of planning applications or appeals;
  - iii) Duplicate the work of other Boards or Committees.
- g) Ordinary Meetings will take place on a regular basis (approximately every 6 months) throughout the LDP preparation process, but with more frequent meetings in the lead up to key stages.
- h) The quorum for a meeting shall be three Members being present.
- i) The Chair may, in consultation with the Head of Planning & City Regeneration, arrange additional meetings as and when required.
- j) Minutes will be kept and circulated by Legal and Democratic Services.
- k) Meetings shall take place at the Civic Centre, Swansea at the time specified on the agenda for the meeting unless otherwise required, for example a site visit.
- l) The Chair will be responsible for orderly and fair conduct of the meetings.
- m) The Group will need to consider whether:
- n) The LDP has been prepared in accordance with the approved Delivery Agreement and Community Involvement Scheme
- o) Proposals are founded on a robust and credible evidence base

- p) The preferred strategic options are the most appropriate when considered against reasonable alternatives
- q) The LDP is well related to other relevant policies and strategies
- r) The LDP is realistic and consistent
- s) The Group will:
  - i) Devise its own rolling work programme including work to be undertaken between meetings, for example site visits, focus groups, research, the establishment of topic working groups, etc;
  - ii) Identify the issues to be considered at each meeting. These issues should be focused on the sustainability principles of environmental protection; economic growth; social progress (community need prudent use of resources and accessibility for all;
  - iii) Receive reports from the Planning Policy Team on the LDP;
  - iv) Consider reports and information from other sources related to the LDP and referrals from members of the public/stakeholders;
  - v) Review the options and techniques for facilitating community involvement in the LDP preparation process;
  - vi) Prepare progress reports for Cabinet for consideration and decision as appropriate.

### **3 Social Services Rota Visits**

- a) The Council accept the proposals contained in the report to ensure the Authority's Corporate Parenting and Protection of Vulnerable Adults responsibilities were met;
- b) The Council nominate fourteen Members to carry out rota visits and those Members identified take advantage of an induction/briefing provided by the Directorate prior to undertaking the visits;
- c) The Council agree to the reporting on rota visits activity to the Health and Social Care Scrutiny Board as set out in the report;
- d) The Council agree to amending the rota visits arrangements as set out Minute No. 42 of Council of 29th July 2004.



## 4 Gower Area of Outstanding Natural Beauty (AONB) Advisory Group

### Statutory Role & Function

- 1) The Countryside and Rights of Way (CRoW) Act 2000 places a duty upon the City & County of Swansea ('the Council') to "prepare and publish a management plan which formulates their policy for the management of the Area of Outstanding Natural Beauty and for the carrying out of their functions in relation to it".
- 2) The Act also places a statutory duty on other relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of the AONB when exercising or performing any functions affecting land in the AONB. "Relevant authorities" are any public bodies including local and statutory authorities, parish councils and statutory regulators.
- 3) The Gower AONB Advisory Group is an advisory group to the Council, convened by them, to facilitate the management of the Gower AONB, in fulfilment of their legal responsibilities and duties with regard to the Gower AONB.

### Structure

- 4) The **Gower AONB Advisory Group** will comprise:
  - a maximum of 6 Councillors (including the Councillor who is Chair of the Planning Committee), who will be appointed by the Council.
  - 2 representatives from Natural Resources Wales
  - 10 other local members, drawn from the following local interests as appropriate:
    - Community Councils
    - Nature conservation
    - History and archaeology
    - Land owning/farming/forestry
    - Commoners
    - Rural business
    - Tourism
    - Recreation
    - Local interest groups
    - Residents of the Gower AONB
- 5) The Advisory Group will be chaired by the Chair of the Planning Committee, with a Vice Chair selected from the members of the Advisory Group.
- 6) The term of appointment will be the same as the electoral term.
- 7) The Advisory Group will invite applications for new members towards the end of the term of appointment. The new members will be appointed by the incoming Councillors appointed to the Advisory Group following Local Government elections.
- 8) The Advisory Group will encourage applications from individuals who are local, and can represent local interest groups, with a selection process

based on their ability to contribute to the Advisory Group, through their local knowledge, experience and representation of that interest group.

### **Purpose & Responsibility**

- 9) The Advisory Group's purpose is to oversee the management of the AONB and is responsible for the development of policy and strategy for the AONB, particularly through the AONB Management Plan, and influencing the policies and strategies of others. The Advisory Group will also take and support action to conserve and promote the AONB.
- 10) The members of the Advisory Group will appoint the following sub-groups:
  - a) **Sustainable Development Fund (SDF) Grants Panel.**
    - This panel will decide on grant applications to the SDF from funding obtained from the Welsh Government. It will determine how best to use that funding and will operate an appeals process when considering how funding should be spent.
    - This panel will comprise the Chair of the Planning Committee (who will act as Chair) and seven other members.
    - The panel will be supported by the AONB Officer, and a representative from NRW, as observers.
  - b) **The SDF Grants Appeals Panel**
    - This Panel will handle disputes on how funding should be spent and will decide on appeals for grant applications refused by the SDF Grants Panel.
    - The SDF Appeals Panel will comprise the Vice Chair of the Advisory Group (who will act as Chair of the SDF Appeal Panel) and seven other members, who do not already sit on the SDF Grant Panel.
    - The panel will be supported by the AONB Officer, and a representative from NRW, as observers.
  - c) **Other sub-groups as required**
- 11) The Advisory Group will have the power to co-opt individuals or organisations (to itself, or to sub-groups), or to set up further sub-groups as deemed necessary to fulfil the aims and objectives of the AONB Management Plan.
- 12) Members of the Advisory Group and of any sub-group will be expected to abide by the City and County of Swansea Members Code of Conduct.

### **Meetings**

- 13) An officer from Swansea Council Democratic Services will be present at all meetings to record proceedings. Minutes of each meeting shall be kept and circulated to Advisory Group members, and made available to the public, as soon as possible after each meeting.
- 14) The Advisory Group: will meet quarterly, and the meeting dates published annually. Additional meetings will be convened if required. In

the absence of the Chair or Vice-Chair at a meeting, the Advisory Group may elect a Chair for that meeting. The quorum for the Advisory Group meetings will be six.

- 15) All meetings of the Advisory Group will be open to the public for observation.
- 16) Decisions by the Advisory Group shall be made by show of hands with the Chairman having the casting vote.
- 17) **The SDF Grants Panel:** will be called to meet by the Grants Panel members and advised by the AONB Team and NRW representative, determined by the timing and number of applications to received. Quorum of the SDF Grants Panel will be four.
- 18) **The SDF Appeals Panel:** will be called to meet by the Grants Panel and advised by the AONB Team and NRW representative, determined by the timing of appeals received. Quorum of the SDF Appeals Panel will be four.
- 19) Further information in relation to the election of Advisory Group members and other procedural matters can be found in the Gower AONB Partnership Procedural/ Guidance notes available from the AONB Team.

#### **The Aonb Partnership**

- 20) **The Gower AONB Partnership** will be a membership body, open to any individual, group or organisation that has an interest in the AONB and will be chaired by the Councillor who is Chair of the Planning Committee.
- 21) The role of the partnership is to:
  - protect, conserve and enhance the natural and cultural heritage of the Gower AONB (“the primary purpose”),
  - promote the sustainable social and economic development of the area, where it is consistent with the primary purpose of the AONB,
  - encourage the enjoyment and understanding of the area, where it is consistent with the primary purpose of the AONB.

#### **5. Employing Authority**

To make decisions and determine discretions of the Employer/Employing Authority under the Local Government Pension Scheme Regulations which may from time to time exist.

## **Council Constitution, Part 4.1 – Rules of Procedure (Council Procedure Rules)**

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### **1 Meetings**

- 1 The Head of Democratic Services, shall summon all meetings of the Council or Chief Legal Officer, in her/his absence. A notice period of 5 clear working days shall be given to Council meetings and to Cabinet Meetings. However in exceptional circumstances the 5 clear working day notice period may be waived providing prior written agreement (via e-mail) is received from the Presiding Member, Monitoring Officer and / or Head of Democratic Services or their respective Deputies. A notice period of **3** Clear working days will apply to all other Committee meetings.

**Note:**

This provision does not allow the Authority to waive its legislative duty to meet the 3 clear working day requirement’.

- 2 The summons will set out the date, time and place of each meeting and, where meetings are conducted in accordance with the Council’s arrangements for multi-location meetings, details of how to access the meetings by remote means

### **2 Timing of the First Annual Meeting of Council**

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place on a date that the Council may fix between the eighth day of the retirement of the outgoing Councillors but within 21 days of the retirement of the outgoing Councillors.

### **3 Timing of the Annual Meeting of Council**

The Council shall hold an Annual Meeting in such place and at such time of day during the months of March, April or May as the Council shall fix.

### **4 Smoking/Refreshments/Mobile Phones/Comfort Break**

- 1 Smoking is prohibited by Law in all Council premises.
- 2 Members shall refrain from refreshments other than water unless under the direction of the Presiding Member.
- 3 Councillors shall refrain from using mobile phones or similar devices for verbal communication during meetings. However, Councillors may use mobile phones, mobile internet devices or similar devices for internet access during meetings provided they comply with any rules in place by legislation or by the Council. These devices must be set to silent.
- 4 Should a Councillor require the use of a noise emitting devise based on medical grounds during a meeting, then the Presiding Member must be informed of the

necessity.

- 5 Councillors and Officers are reminded that a 'voluntary' contribution to the Lord Mayor's Fund is expected where a noise emitting device disrupts the meeting without a prior dispensation from the Presiding Member.
- 6 The Presiding Member shall have the discretion to call an adjournment at an appropriate time after approximately 2 hours of a meeting in order to facilitate a 10 minute comfort break. The Presiding Member may repeat such a break as necessary.

## **5 Timing of Ordinary, Extraordinary and Ceremonial Meetings of Council**

- 1 Meetings of the Council other than the Annual Meeting shall be held on such other days and at such other times as the Council may determine.
- 2 At the Annual Meeting a programme of ordinary meetings of the Council for the year will be agreed. There will be no variation to the programme except at the request of the Presiding Member in consultation with political Group Leaders. The cancellation shall be notified to all Councillors at least 7 clear working days before the original date of the meeting.

## **6 Order of Business**

This Council Procedure Rule outlines the Order of Business for the 5 types of Council Meeting, namely:

- a) First Annual Meeting of Council;
- b) Annual Meeting of Council;
- c) Ordinary Meeting of Council;
- d) Extraordinary Meeting of Council;
- e) Ceremonial Meeting of Council.

## **7 The First Annual Meeting of Council**

The First Annual Meeting in the year of ordinary election of Councillors to the Council shall transact the following business:

- a) Election of Chair Pro Tem (if the Presiding Member or Deputy Presiding Member is not present);
- b) Election of Presiding Member for the ensuing Municipal Year;
- c) Election of Deputy Presiding Member for the ensuing Municipal Year;
- d) Apologies for Absence;
- e) Disclosures of Personal and Prejudicial Interests;
- f) Minutes of Council;
- g) Announcement from the Presiding Member and/or Chief Executive;
- h) Election of the Leader of the Council;
- i) Names of Councillors that the Leader of the Council has chosen to be members of the Cabinet and where applicable those Cabinet positions that will operate on a job share basis;

- j) Constitutional Matters; (appoint Council bodies, decide the size of these Council bodies, decide the allocation of seats to these Council bodies, receive nominations and appoint Councillors to serve on these Council bodies)
- k) Councillors' Handbook; (Review of Councillors Mileage Distances)
- l) Reaffirmation of the adoption of the Council Constitution;
- m) Approval of a programme of Ordinary Meetings of the Council for the ensuing Municipal Year;
- n) Consider any business set out in the notice convening the meeting;
- o) Authorise the sealing of documents not otherwise authorised;

## **8 Annual Meeting of Council**

The Annual Meeting of Council shall transact the following business:

- a) Election of a Chair Pro Tem (if the Presiding Member or Deputy Presiding Member is not present);
- b) Election of the Presiding Member for the ensuing Municipal Year;
- c) Election the Deputy Presiding Member for the ensuing Municipal Year;
- d) Apologies for Absence;
- e) Disclosures of Personal and Prejudicial Interests;
- f) Minutes of Council;
- g) Presiding Member and/or Chief Executive Announcements;
- h) Receive the names of Councillors that the Leader of the Council has chosen to be members of the Cabinet;
- i) Councillors' Handbook;
- j) Constitutional Matters (Appoint Council bodies; Decide the size of these Council bodies; Decide the allocation of Seats to these Council Bodies; Receive nominations and appoint Councillors to serve on these Council bodies)
- k) Reaffirmation of the adoption of the Council Constitution;
- l) Approve a programme of Ordinary Meetings of the Council for the ensuing Municipal Year;
- m) Consider any business set out in the notice convening the meeting;
- n) Authorise the sealing of documents not otherwise authorised.

## **9 Ordinary Meeting of Council**

Except as otherwise provided by this Council Procedure Rule, the Order of Business at any meeting of the Council shall transact the following business

- a) Election of a Chair Pro Tem (if the Presiding Member or Deputy Presiding Member is not present);
- b) Apologies for Absence;
- c) Disclosures of Personal and Prejudicial Interests;
- d) Minutes of Council;
- e) Deal with any business having precedence by statute;
- f) Written responses to questions asked at the last Ordinary Meeting of Council;
- g) Announcements/Communications from the Presiding Member;
- h) Dispose of business (if any) remaining from the previous meeting;
- i) Announcements/Communications from the Leader of the Council;
- j) Public Questions;
- k) Presentations by Third Sector Organisations;

- l) Receive and consider recommendations, reports or minutes from Cabinet, Standards Committee, Overview & Scrutiny Boards any matters referred from regulatory committees, any matters from the Presiding Member or from any statutory Officer;
- m) Fill vacancies and appoint Members on other bodies on a recommendation from Cabinet;
- n) Reports from Officers;
- o) Councillor Questions;
- p) Consider Notices of Motion in the order in which they have been received;
- q) Other business, if any, specified in the summons;

**Note:**

With the consent of the Presiding Member, the Council may, by Resolution at any meeting, vary the order of business set out in the foregoing paragraph with the exceptions of items a, b, c, d and e and may deal with any items of urgent business brought forward pursuant to Section 100B(4) of the Local Government Act 1972. This shall also apply to other Bodies of the Council.

## **10 Extraordinary Meeting of Council**

An Extraordinary Meeting of the Council may be called at any time at the request of the Presiding Member or any 5 Members, addressed in writing to the Proper Officer and setting out the business to be considered thereat. The Extraordinary Meeting of Council shall transact the following business:

- a) Election of a Chair Pro Tem (if the Presiding Member or Deputy Presiding Member is not present);
- b) Apologies for Absence;
- c) Disclosures of Personal and Prejudicial Interests;
- d) Announcements / Communications from the Presiding Member;
- e) Announcements / Communications from the Leader of the Council;
- f) Public Questions;
- g) Consider any business set out in the notice convening the meeting;
- h) The signing of the minutes of Extraordinary meetings of the Authority (called under paragraph 3 (Extraordinary Meetings) of Schedule 12 to the Local Government Act 1972), shall be undertaken at the next Ordinary meeting of the Authority which shall be treated as a suitable meeting for the purposes of paragraph 15(1) and (2), (signing of Minutes) of that Schedule.

## **11 Ceremonial Meeting of Council**

- 1 Ceremonial Meeting of Council shall be presided over by the Lord Mayor (or Deputy Lord Mayor in his/her absence).
- 2 The Ceremonial Meeting of Council shall deal with the Inauguration of the Lord Mayor, granting Honorary Freedom of the City and County of Swansea status and/or any ceremonial duty as deemed appropriate by the Lord Mayor in conjunction with the Presiding Member and Chief Executive.
- 3 The Ceremonial Meeting of Council shall transact the following business:

- a) Election of a Chair Pro Tem Elect (if the Lord Mayor/Deputy Lord Mayor is not present);
- b) Apologies for Absence. (These apologies will not be orally read out but shall be reflected in the minutes);
- c) Disclosure of Personal and Prejudicial Interests;
- d) Consider any business set out in the notice convening the meeting.

## 12 Chair of Meetings

- 1 The Chair of Council shall be the Presiding Member and the Vice Chair of Council shall be the Deputy Presiding Member. References in these Procedure Rules to Chair and Vice Chair shall be interpreted accordingly where necessary.
- 2 In the absence from a meeting of the Presiding Member, the Deputy Presiding Member shall take the Chair but in the absence of the Presiding Member and Deputy Presiding Member, a Chair for that meeting shall be appointed.

### **Provided that:**

Where a person is chosen to preside in the absence of the Presiding Member or Deputy Presiding Member and the Presiding Member or Deputy Presiding Member arrives at the meeting after such a choice has been made, then the person chosen shall complete the item in hand and thereupon relinquish the Chair to the Presiding Member or Deputy Presiding Member as the case may be.

- 3 Any power or duty assigned to the Presiding Member in relation to the conduct of any meeting shall be exercised by the person presiding at that meeting.
- 4 Other than where specified, the period of office of an Officeholder of a Body of the Council shall be deemed to terminate at the Council's Annual Meeting in a non-election year, the last day before the day of a Local Government Election in an election year or the day a Member ceases to be a Member, in which case the period of office shall terminate on dissolution, alteration or termination of office.

## 13 Quorum

- 1 The quorum of the Council shall be one quarter of all Members and if during any meeting of the Council the Presiding Member after counting the number of Members present declares that there is not a quorum present the meeting shall stand adjourned immediately after the count.
- 2 Except where specifically authorised by statute or ordered by the Council, business shall not be transacted at a meeting of any Committee unless at least one quarter of the whole number of the voting Members of the Committee is present.

### **Provided that:**

In no case shall the quorum of any Body of the Council be less than three voting Members.



- 3 The consideration of business not transacted shall be adjourned to a time fixed by the Presiding Member at the time the meeting is adjourned, or, if s/he does not fix such a time, to the next ordinary meeting of the Council or Committee.
- 4 Members will be regarded as present at a meeting where they attend that meeting either physically at the place specified on the summons or by remote means in accordance with the Council's arrangements for multi-location meetings provided that they can speak to, hear and be heard by, other attendees at the meeting.
- 5 For the purposes of section 4 above, attendance by "remote means" means attendance in a different physical location to that of other participants and participating through an online meeting platform.
- 6 All Members present during the whole or part of a physical meeting must accurately record their attendance on the record of attendance provided for that purpose.

## **14 Record of Attendance and/or Interest**

- 1 Members will be regarded as present at a meeting where they attend that meeting either physically at the place specified in the summons or by remote means in accordance with the Council's arrangements for multi-location meetings provided that they can speak to, hear and be heard by, other attendees at the meeting.
- 2 For the purposes of section 1 above, attendance by "remote means" means attendance in a different physical location to that of other participants and participating through an online meeting platform.
- 3 All Members present during the whole or part of a physical meeting must accurately record their attendance on the record of attendance provided for that purpose.
- 4 Member's Interests sheet or register shall be provided by the Monitoring Officer at every meeting on which each Member present at the meeting shall enter all declarable interests relevant to the business to be conducted at that meeting.

## **15 Minutes**

- 1 The Presiding Member shall put the question: "That the minutes of the previous meeting held on (the day in question) be approved as a correct record".
- 2 No discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Presiding Member/Deputy Presiding Member shall duly sign the minutes.

## **16 Interests, Gifts and Hospitality of Members**

- 1 **Personal Interests**

- a) If any Member of the Council has a personal interest within the Code of Conduct as adopted by the City and County of Swansea, in any business of the Authority, and attends a meeting at which that business is considered, such Member must disclose orally to the meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent. Such disclosure is notwithstanding the fact that s/he may previously have disclosed the said personal interest by entering it into the Register kept by the Monitoring Officer under the Code of Conduct and/or section 81 of the Local Government Act 2000.
- b) A Member who has declared a personal interest may remain to speak and vote unless it is also a Prejudicial Interest.

## 2 **Sensitive Information**

Where a Member has agreement from the Monitoring Officer that the information relating to the Member's personal interest is sensitive information, as defined in the Code of Conduct, the Member's obligations to disclose such information, whether orally or in writing, are replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.

## 3 **Prejudicial Interests**

- a) Subject to paragraph b where any Member has a personal interest in any business of the Authority which is also a prejudicial interest as defined in the Code of Conduct, such Member must, unless s/he has obtained a dispensation from the Authority's Standards Committee, withdraw from the room, chamber or place where the meeting considering the business is being held.
- b) Where a Member has a prejudicial interest in any business of the Authority, s/he may attend the 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. In such a case, the Member must, unless s/he has obtained a dispensation from the Authority's Standards Committee, withdraw from the room, chamber or place where the meeting considering the business is being held, 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.
- c) If the Member is relying on a grant of a dispensation by the Standards Committee, the Member shall, before the matter shall be under consideration, (i) disclose orally both the interest concerned and the existence of the dispensation; and (ii) before or immediately after the close of the meeting give written notification to the Authority containing:
  - i) details of the prejudicial interest;
  - ii) details of the business to which the prejudicial interest relates;
  - iii) details of, and the date on which, the dispensation was granted; and
  - iv) the Member's signature.

**Note:**

Members must declare all interests verbally at the relevant meeting. Members shall enter all declared interests on a sheet provided for that purpose in accordance with Procedure Rule 14(2).

- d) Members must register their financial interests and other interests, where they fall within a category mentioned in Paragraph 10(2)(a) of the Code in the Register maintained by the Monitoring Officer under section 81(1) of the Local Government Act 2000 by providing written notification to the Monitoring Officer. Members must also, within 28 days of becoming aware of any new Personal Interest or change to any Personal Interest registered in the said Register, register that new Personal Interest or change by providing written notification to the Monitoring Officer.
- e) Registration does not apply to sensitive information as defined in the Code.
- f) The said Register shall be open to inspection by any member of the public without charge during office hours.
- g) All disclosures, declarations, withdrawals and dispensations shall be recorded in the minutes of the meeting in which they are made.
- h) Immediately on making her/his Declaration of Acceptance of Office any Member shall in accordance with the City and County of Swansea's Code of Conduct, sign an undertaking to be bound by that Code, (or any amendment or re-enactment) and enter on the form provided for that purpose, a list of her/his personal interests, such form shall be open to public inspection, and shall be kept up to date by the Member concerned by notifications of any revisions or updates. The form shall be placed on deposit with the Monitoring Officer.

**4 Gifts and Hospitality**

The Monitoring Officer shall maintain a Register for the declaration of any gifts or hospitality of more than £25 in value in accordance with Paragraph 17 of the Code of Conduct and the said register shall be open to inspection by any member of the public without charge during office hours.

Any gift accepted by a Member on behalf of that Member's relevant Authority need not be notified to the Monitoring Officer, but must be notified to the Lord Mayor's Office. The gift shall then be recorded in the Lord Mayor's gift register and the said register shall be open to inspection by any member of the public without charge during office hours. The member shall deliver the gift to the appropriate officer.

**5 Interests, Gifts and Hospitality of Officers**

- a) It shall be the duty of all Officers to declare all or any offer in writing or acceptance of any gift or hospitality of more than £25 in value. Chief Officers shall make such declarations to the Chief Executive, all other Officers to their Chief Officer. A Register shall be maintained by the

relevant Officer, for the purpose of recording all gifts and hospitality offered, in writing or received.

- b) The Monitoring Officer shall record in a register to be kept for the purpose particulars of any notice given by an officer of the Council under Section 117 “Disclosures by Officers of Interests in Contracts” of the Local Government Act, 1972, for the personal inspection of any Member of the Council and particulars of any interests which Officers of the Council are required to register under any rules set out in the Staff Handbook;
- c) It shall be the duty of any member of staff to declare interests in accordance with any rules set out in the Staff Handbook;
- d) The register mentioned in Procedure Rule 16.5(a) shall be open during office hours only to the personal inspection of Members and not otherwise.

**Note:**

There is no provision for dispensations (i.e. removal or exclusion of disability to participate in a meeting, including the giving of advice) in the case of an officer.

## **17 Rules of Debate**

### **1 Respect for Chair**

When the Presiding Member speaks during a debate all Councillors must immediately stop speaking and the Council must be silent.

### **2 Showing respect when Speaking**

A Councillor, when speaking at Council, must address the Presiding Member; all others must remain silent, unless indicating to the Presiding Member that he/she wishes to raise a point of order or a personal explanation or on a point of information.

This Procedure Rule does not apply to other Council Body meetings such as Cabinet, Committees etc.

When a Councillor raises a “Point of Order” or a “Personal Explanation” or a “Point of Information”, Paragraph 17(12) “Personal Explanation, Points of Order and Points of Information” applies. If this occurs, the Councillor shall be heard immediately and shall be allowed to speak without interruption.

### **3 Order of Speaking**

If two or more Councillors indicate their wish to speak, the Presiding Member will call on one and the other(s) must remain silent. The Presiding Member may decide and announce that Councillors will be called in a given order at specified points during the debate. Alternatively, the Presiding Member may also decide to

open a list of Councillors wishing to speak and to restrict the speakers to those that indicate an intention to speak prior to the closure of the list. The Presiding Member shall announce when this list is closed.

Once a Motion has been proposed and seconded the Presiding Member shall invite Councillors to speak in the following order:

- a) The Leader of the Largest Opposition Political Group;
- b) The Leader of the next Largest Opposition Political Group;
- c) The Leader of the Other Political Group(s). If there is more than one, the Leader of the largest of the Opposition Political Groups will be invited to speak first. If two or more Political Groups have the same number of members it is a matter for the Presiding Member which Political Group Leader will be invited to speak first;
- d) The Leader of the Council;
- e) Other Councillors.

When invited to speak by the Presiding Member a Leader of a Political Group may nominate another member of his/her Group to speak in his/her place. The Group Members will then be invited to speak. S/he will have 3 minutes in which to make a speech.

#### **4 Content and Length of Speeches**

A Councillor's speech must relate solely to the matter under discussion and no speech shall exceed 5 minutes in the case of:

- a) The mover of a motion;
- b) The Political Group Leaders or Deputy Political Group Leader in the absence of the Political Group Leader;
- c) A Cabinet Portfolio Holder who is presenting a report to Council or moving the adoption of the recommendation of the Executive (Cabinet);
- d) In all other cases, except with the consent of the Presiding Member of Council no speech will exceed 3 minutes.

#### **5 When a Councillor may Speak Again**

A Councillor who has spoken on any motion may not speak again whilst it is still the subject of debate except:

- a) To speak once on an amendment moved by another Councillor;
- b) If the motion has been amended since s/he has last spoke, to move a further amendment;
- c) If the Councillor's first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- d) In exercise of a right of reply given by this Council Procedure Rule;
- e) In the case of the Political Group Leaders, a Chair of a Committee or Cabinet Portfolio Holder, to respond to a question directed to him/her or on any other matter that may not have arisen during the debate at the Chair's discretion;
- f) On a Point of Order or Point of Information or by way of Personal Explanation;
- g) With the consent of the Presiding Member;
- h) Leader of the Council prior to the proposer of the Motion.

## 6 **Procedure for Motions or Amendment**

Before a motion or amendment can be discussed at a Council meeting:

- a) It must be proposed and seconded; and
- b) It must be put in writing by the proposer and presented to the Presiding Member (unless the Presiding Member agrees that the motion or amendment is so brief as to make this unnecessary).

An amendment must be relevant to the Motion and will be either:

- a) To refer a subject of debate to the Executive (Cabinet) or to a Committee;
- b) To leave out words;
- c) To leave out words and insert or add others;
- d) To insert or add words.

No amendment may be moved which would have the same effect as voting against the motion.

Only one amendment may be moved and discussed at a time.

No further amendment may be moved until the amendment under discussion has been disposed of.

If an amendment is lost, then other amendments may be moved upon the original motion.

If there are no further amendments, the original motion will be put to the vote;

If an amendment is carried, the amended motion takes the place of the original motion. This then becomes the substantive motion to which further amendments may be moved.

After an amendment has been carried, the Presiding Member will read out the amended motion before accepting any further amendments.

If there are no further amendments, the final amended motion will be put to the vote.

## 7 **Secunder's Speech**

A Councillor when seconding a motion or amendment may reserve his or her speech until later in the debate.

## 8 **Alteration to Motion**

With the consent of the Council, a Councillor may alter a motion of which notice has been given or (with the consent of the seconder) alter a motion which s/he has moved, subject to such alterations being those which could be made as amendments.

## 9 **Withdrawal of Motion**

A motion or amendment may be withdrawn by the proposer with the consent of the seconder and of the Council signified without discussion.

No Councillor may speak on a motion or amendment after the proposer has asked to withdraw it, unless permission to withdraw it has been refused.

## 10 **Right of Reply**

The proposer of a motion has a right of reply prior to the close of the debate on a motion immediately before it is put to the vote. Normally, the reply should not exceed 1 minute in length.

At the close of a debate on an amendment the proposer of the original motion and the proposer of the amendment each have a right of reply (in that order). Normally neither should exceed one minute in length.

## 11 **Closure Motions**

- a) At the end of a speech by another Councillor, provided another Councillor has not been called to speak by the Presiding Member, a Councillor who has not taken any part in the debate may move without comment that:
  - i) The question be put immediately to the vote;
  - ii) The debate be adjourned;
  - iii) The meeting be adjourned;
  - iv) The Council move on to the next business.
- b) This motion will need to be seconded, and if it is seconded, the Presiding Member will proceed as follows if, in his/her opinion, the question before the meeting has been sufficiently discussed:
  - i) In the case of a motion under 17.9 above, invite the mover of the original motion to reply, and then put the closure motion to the vote.
- c) If a motion under 17.11 a) above is carried the motion under debate when the closure motion was moved shall be put immediately to the vote after the proposer has exercised his/her right of reply.

## 12 **Personal Explanation, Points of Order and Points of Information**

- a) A Personal Explanation must relate to an important part of an earlier speech by the Councillor in relation to which a misunderstanding has occurred.
- b) A Point of Order is a request by a Councillor to the Presiding Member to rule upon an alleged breach of the Council Rules of Procedure or the law at the meeting.
- c) A Point of Information may be made where a Councillor is aware that the Council has incorrect information before it on a material point.

- d) A Councillor may make a personal explanation, a point of order or point of information at any time and is entitled immediately to address the Presiding Member on the matter; but:
  - i) The Councillor who raises a Point of Order must refer immediately to a Council Procedure Rule or statutory provision and say with reasons how it has been broken or infringed;
  - ii) The Councillor who raises the Point of Information must be able to immediately cite evidence to support their statement;
  - iii) In each case the Councillor's speech must be limited solely to the Personal Explanation or Point of Order or Point of Information;
  - iv) The ruling of the Presiding Member on a Point of Personal Explanation, Point of Order or Point of Information is final and not open to discussion.

## 18 Notice of Motion

- 1 Every Notice of Motion (except as provided in Council Procedure Rule 18.6) for inclusion with the Council Summons shall be submitted to the Proper Officer (Monitoring Officer and/or Head of Democratic Services) by NOON at least 12 clear working days prior to the meeting in order for it to be considered. On receipt of the Motion, the Head of Democratic Services shall date the Motion, number it to show the order in which it was received and enter it in a register which shall be open to inspection by Councillors. The Motion may be submitted either:
  - a) By e-mail listing the Councillor(s) submitting the Motion. The e-mailer MUST ensure that permission has been obtained from those named as submitting the Motion; or;
  - b) In writing signed by the Councillor(s) submitting the Motion.
- 2 The Proper Officer shall insert in the summons for every meeting of the Council all notices of motion duly given in the order in which they were received unless the Member giving the notice at the time it is submitted stated in writing that s/he proposes to move it at a specific later meeting or, subsequently, given written notice that s/he withdraws it.
- 3 A notice of motion published in the summons shall require a seconder and shall specify the name(s) of the Member(s) giving it and if there be more than one, then any one of them may move it but a Motion not so moved shall be treated as withdrawn.
- 4 The mover and seconder of such a motion shall be allowed to formally move and second the motion.
- 5 On the moving and seconding of a motion, the Presiding Member shall have absolute discretion either to allow the motion to be dealt with immediately or to direct that it shall be referred without debate to any other Body of the Council.
- 6 If the Presiding Member so directs, all referrals to have an agreed timescale as to the date the report should return to Council. The referral should also contain the reason for the deferral in order to assist the Council Body which will have to consider the deferred matter.



- 7 Every notice of motion shall be relevant to matters over which the Council has power or which affects the City and County of Swansea. If, in the opinion of the Presiding Member, a notice of motion does not come within the terms of this Council Procedure Rule s/he may reject the motion.

## **19 Other Motions**

Motions relating to the following may be moved and seconded orally and without notice:

- a) Appointment of a Chair at the meeting at which the motion is made;
- b) Motions relating to the accuracy of the minutes, including their approval under Council Procedure Rule 15;
- c) Reference of a matter to a Body of the Council;
- d) The appointment of Members to Bodies of the Council, the filling of casual vacancies thereon, so far as such matters arise from an item mentioned in the summons to the meeting;
- e) Adoption, amendment or rejection of reports and recommendations of a Body of the Council or Officers and any consequent resolutions;
- f) That leave be given to withdraw a motion;
- g) Amendments to motions;
- h) Deferral of a report or motion to a later part of the meeting;
- i) A request to bring a report or motion forward in the agenda;
- j) Authorising the sealing of documents;
- k) Extending the time limit of speeches;
- l) That the question be now put;
- m) The debate be now adjourned;
- n) The Council do now adjourn;
- o) An item of business specified in the summons has precedence;
- p) Suspending Procedure Rules;
- q) Motions under Section 100A of the Local Government Act 1972 to exclude the public.

## **20 Debates on the Budget and the Accounts**

- 1 This rule applies only to Council meetings where the Council Budget and/or its Accounts are to be discussed. In these circumstances, in addition to the relevant Council Procedure Rules, the following rules will apply:
- 2 The relevant Council Officer will be invited to give a presentation to Council of the information in the report. The presentation to Council shall last for no more than 15 minutes.
- 3 Following the conclusion of the presentation the Presiding Member will then allow questions to the Officers on the information presented and any technical matter.
- 4 The relevant member of the Executive (Cabinet) will then be asked to present the report for no more than 5 minutes.
- 5 Following the presentation the Presiding Member will allow questions to be put to the Executive (Cabinet) Member.

- 6 The Presiding Member will then allow the report to be debated.
- 7 The Presiding Member can vary any of the time limits set out in this paragraph.
- 8 Any amendments which any Councillor/Political Group wishes to propose to the Council's budget must be given in writing (e-mail) to the Chief Executive, Monitoring Officer, Section 151 Officer and relevant Cabinet Member no later than 10.00 a.m. on the working day before the day on which the Council meeting to consider the budget is held.

## **21 Motions Involving Exempt or Confidential Information**

If any matter arises which would be likely to result in the disclosure to members of the public of exempt information (relating to particular employees etc.) of the categories described in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended, such matters shall not be the subject of any discussion until a motion to exclude the public has been proposed and voted upon.

## **22 Councillors Questions**

- 1 A Councillor who wishes to ask a question must give notice of the text thereof in writing to the Proper Officer by Noon at least 17 clear working days before the date of the meeting of the Council at which the question is to be considered.
- 2 Following the close of receipt of Councillors Questions, the Presiding Member shall meet with the Proper Officer or his/her representative and draw lots for the order in which Supplementary Questions (Part A Questions) will be considered at Council.
- 3 The Presiding Member shall set a date in consultation with the Proper Officer.
- 4 Subject to Council Procedure Rules 22 (1) and 22 (2) above the questioner may ask the Leader or any Cabinet Member within their portfolio or the Chair of any Body one or more questions on matters within the purview of that Body
- 5 Questions submitted by Councillors and the written response to those Questions will appear with the relevant Council Summons.
- 6 Councillor Question Time will be dealt with in 2 parts, the first (Part A Questions) dealing with those questions on which Supplementary Questions may be asked and the second dealing with those Questions where Supplementary Questions shall not be asked (Part B Questions). These questions will henceforth be referred to as Part A and Part B Questions.
- 7 When submitting Questions, Councillors shall be required to make it clear whether their questions will be the subject of Supplementary Questions or not. If no such indication is given (or subsequently obtained 12.00 noon, 2 clear working days prior to the Council Summons being published) then they will be considered as Part B Questions;
  - a) All questions will be answered;

- b) The Executive (Cabinet)/Presiding Member and Deputy Presiding Member shall not be allowed to ask questions/Supplementary Questions.

## 23 Supplementary Questions (Part A Questions)

- 1 The first Supplementary Question on each question will be invited from one of those Councillors listed as asking that question. All contributions shall be in the form of questions. Statements and speeches shall not be allowed. A maximum of 1 minute will be allowed for such Supplementary Questions;
- 2 Answers to Supplementary Questions shall take no more than 3 minutes per question. The Presiding Member shall have the discretion to extend the time.
- 3 Thereafter with the consent of the Presiding Member that Councillor or any other may ask further supplementary questions on the same matter. A maximum of 1 minute will be allowed for such supplementary questions. There shall be no debate on any answer given.
- 4 Supplementary Questions shall be put and answered without discussion, but the person to whom a question has been put may decline to answer in public session. They may also and in addition provide a written answer. **Such written answers will be made available to all Councillors.**
- 5 Supplementary Questions will be considered within a 30 minute period. The Presiding Member shall have the discretion to extend this time period.

## 24 Questions Not Requiring Supplementary Questions (Part B Questions)

No Supplementary Questions shall be allowed to questions asked under Part B Questions.

## 25 Answers to Questions

- 1 An answer may take the form of:
  - a) A direct oral answer, when the information is available at the meeting;
  - b) A reference to a publication of the Council when the answer is contained in that publication;
  - c) When the reply to the question cannot conveniently be given forthwith, a written answer sent to the Councillor asking the question. **Such written answers will be made available to all Councillors.**
- 2 Notwithstanding the above, questions may only be asked under this Procedure Rule in respect of those matters that are not already provided for discussion within the documentation before that meeting of the Council.
- 3 The provisions of Council Procedure Rule 22 "Councillor Questions" shall not apply to the First Annual Meeting Council of Council, the Annual Meeting of Council, Ceremonial Meetings of Council or to Extraordinary Meetings of Council.

## 26 Presentations and Public Question Time

- 1 After giving notice of the text thereof in writing to the Proper Officer not later than noon on the previous working day, any Member(s) of the public present may, at the appointed time of the open session of each Council meeting, ask question(s) of any Cabinet Member, Chair or Vice Chair of any Committee or Board of the City and County of Swansea on any matter included on the open part of the agenda of the respective meeting excluding Apologies for Absence, Councillors Disclosures of Interest, Minutes of Previous Meetings, Written responses to questions asked at the last ordinary meeting of Council, Announcements and Presentations.
- 2 If a member of the public wishes to ask a question of which s/he has not given notice, then, if there is time remaining after those questions dealt with under Council Procedure Rule 26 "Presentations and Public Question Time" s/he may ask a question on any item on the agenda of the meeting. All contributions shall be in the form of questions. Statements and speeches shall not be allowed.
- 3 The Presiding Member may reject a question if:
  - i) It is substantially the same as a question which has been put at a meeting of the Council in the last 6 months
  - ii) it relates to a matter which is subject to legal challenge or enforcement proceedings
  - iii) it would require the expenditure of a disproportionate amount of time to prepare an answer
  - iv) it does not relate to a matter for which the Council has a responsibility
  - v) it does not relate to a matter in which the residents of the City and County of Swansea would have an interest
  - vi) it is defamatory, vexatious or offensive
  - vii) it requires the disclosure of confidential information
  - viii) it relates to the personal circumstances or conduct of an officer or member
  - ix) it relates to an individual/ group or business or the questioners own personal circumstances

The Decision of the Presiding Member is final.

- 4 Any questions asked shall receive an answer either within a 10 minute time allocation at the meeting, or subsequently in writing. No debate shall be allowed as a result of the question asked.
- 5 Thereafter, subject to the consent of the Presiding Member, the questioner may ask further supplementary questions on the same matter provided that no general debate shall take place upon any answer given.
- 6 At the discretion of the Presiding Member any Third Sector Organisation or other Organisation may make a presentation to Council on a matter for which the Council has responsibility. Presentations will be allocated on a first come, first served basis.
- 7 One, 10 minute presentation will be permitted per meeting providing that a full summary and the final copy of the presentation is received by the Proper Officer

at least 11 clear working days prior to the meeting.

- 8 The relevant Cabinet Member will subsequently be asked to provide a brief response.
- 9 The provisions of Council Procedure Rule 26 "Presentations and Public Question Time" shall not apply to the First Annual Meeting of Council, the Annual Meeting of Council, Ceremonial Meetings of Council or to Extraordinary Meetings of Council.

## **27 Disorderly Conduct**

If the person presiding at any meeting of Council or Committee or other Constitutional Body is of the opinion that a member has mis-conducted, or is mis-conducting, himself/herself by persistently disregarding the ruling of the Presiding Member, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of Council, he/she may notify the meeting of that opinion, warn the Member about his/her behaviour and, if the misconduct continues following that warning, may take any of the following courses, either separately or in sequence:

- a) he/she may direct the member to refrain from speaking during all, or part, of the remainder of the meeting:
- b) he/she may direct the member to withdraw from all, or part, of the remainder of the meeting:
- c) he/she may order the member to be removed from the meeting;
- d) he/she may adjourn the meeting for fifteen minutes or such period as shall seem expedient to him/her.

## **28 Disturbance by Members of the Public**

If any Member of the public interrupts the proceedings of any meeting the Presiding Member shall warn her/him. If she/he continues the interruption the Presiding Member shall order her/his removal from the meeting. In the case of general disturbance in any part of the meeting place open to the public who are physically in attendance the Presiding Member of Council shall order that that part shall be cleared.

If during an interruption of proceedings or during a general disturbance the Presiding Member of Council is of the opinion that the orderly dispatch of business is impossible he/she may without question suspend/adjourn the sitting of the Meeting for such period as he/she shall consider expedient.

## **29 Rescission of Preceding Resolution**

- 1 No motion shall be moved:
  - a) To rescind any resolution passed within the preceding six months; or
  - b) To the same effect as a motion which has been rejected within the preceding six months.

- 2 This Council Procedure Rule shall not apply to motions that are in pursuance of a report from the Monitoring Officer or Chief Financial Officer.
- 3 This Council Procedure Rule shall not apply to Committees exercising quasi-judicial powers, where the relevant legal rules shall be followed, particularly those that ensure that all such Committees act in accordance with the rules of Natural Justice, and which shall be set out at the relevant meetings.

### **30 Voting**

- 1 Every question shall be determined by a show of hands unless there is an Electronic Voting system available, in which case that system shall be used. . At the conclusion of an electronic vote the Democratic Services officer shall declare whether the motion or recommendation was carried or not.
- 2 On the requisition of any Member supported by ten other Members who promptly and together signify their support by either rising in their places where physically present or by a show of hands if attending remotely, the voting on any question shall be recorded in the minutes to show how each Member present and voting gave their vote or abstained as the case may be.
- 3 For the avoidance of doubt it is declared that in the case of an equality of votes on any question in Council, including voting on appointments, the Presiding Member of Council shall have a casting or second vote whether or not s/he shall have voted when the question was put.
- 4 Immediately after a vote is taken at a meeting any Member may request that the Minutes of the proceedings of the meeting reflect whether that person cast a vote for the question or against the question or whether that person abstained from voting.
- 5 All results of e-votes taken at Council and any other Council Bodies will be published online but not as part of the minutes.

### **31 Common Seal**

The Common Seal of the Council shall be kept in a safe place in the custody of the Chief Legal Officer.

### **32 Sealing of Documents**

- 1 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a decision of the Council, a Body of the Council, or an Officer to whom the Council have delegated their powers in that behalf, but a resolution of the Council authorising acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate, order or contract, or

any other transaction, matter or thing shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

- 2 The Seal shall be attested (including by electronic means) by the Chief Legal Officer or by persons authorised to do so by the Chief Legal Officer and an entry of every sealing of a document shall be made in a register to be provided for the purpose.

### **33 Signature of Documents**

Where it is proper that any document be signed on behalf of the Council, (including by electronic means), it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings be signed by the Chief Legal Officer (also the Monitoring Officer) and any persons authorised by the Chief Legal Officer, or Chief Executive where relevant.

### **34 Inspection of Documents**

- 1 Subject to the provisions of Council Procedure Rule 29 a Member of the Council may for the purposes of her/his duty as such Member, but not otherwise, inspect any document in the possession or control of the Council if it contains material relating to any business to be transacted at a meeting of the Council, (subject to the provisions of Schedule 12A Local Government Act 1972) and if copies are available shall on request be supplied for the like purposes with a copy of such document.

**Provided:** That a Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which s/he is professionally interested or in which s/he has directly or indirectly any pecuniary interest within the meaning of Section 95 of the Local Government Act, 1972, or in which s/he has an interest declarable under the Members Code of Conduct as adopted by this Council which is of such a nature as would prevent him/her from taking part in a debate and voting on the matter, and that this Procedure Rule shall not preclude the Chief Legal Officer from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client.

All such requests for documents shall be recorded in a register which the relevant member shall sign. All documents which are disclosed under this provision shall be treated with the utmost confidence.

- 2 All public minutes shall be open for the personal inspection of any Member of the Council or the public during office hours.

### **35 Inspection of Lands, Premises and Projects**

A Member of the Council, unless authorised to do so by the Council or a Committee, shall not inspect any lands or premises which the Council have the right or duty to inspect, or issue any order respecting any work which are being carried out by or on behalf of the Council.

## **36 Politically Restricted Posts**

The Chief Executive shall establish and maintain a Register of all Officers holding Politically Restricted Posts. Information held therein shall be released only at the absolute discretion of the Chief Executive.

## **37 Canvassing of Members, Recommendations and Testimonials**

- 1 Canvassing of Members of the Council or any Committee of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment. The purport of the Procedure Rule shall appear in every form of application for that appointment to the Council's service;
- 2 A Member of the Council shall not solicit for any person any appointment under the Council;
- 3 A Member of the Council shall be precluded from giving a written or oral testimonial of the candidate's ability experience or character for submission to the Council with an application for appointments.

## **38 Membership and Meetings of Constitutional Bodies**

- 1 Membership of all established constitutional bodies shall be available on request from the Proper Officer;
- 2 Meetings of each Body set out there in shall take place at such principal place or building as shall be resolved by the Council at an hour to be determined by its Chair save that if circumstances so justify, a Chairman of such a Body may direct that a particular Body shall be held at such other place as s/he thinks fit.

## **39 Appointment of Constitutional Bodies**

- 1 The Council shall:
  - a) At the Annual Meeting appoint such Bodies as they are required to appoint by or under any statute or under Procedure Rule 40 and may at any time appoint such other Bodies, as are necessary to carry out the work of the Council but, subject to any statutory provision in that behalf;
  - b) Not appoint any Member of a Body whether elected or co-opted to hold office later than the last day before a Local Government Election, subject to Procedure Rule 12 4 above.
- 2 Receive a report from the Leader on the names of the Councillors chosen to be members of the Cabinet.



- 3 The Council may at any time dissolve a Committee, or alter its Membership.
- 4 The Council may remove any officeholder by way of a vote following a Notice of Motion carried by a majority of all Serving Member of Council.

## **40 Terms of Reference and Delegation to Constitutional Bodies**

Subject as otherwise provided by Statute or a Scheme made under statutory authority, the Terms of Reference and Delegation to Bodies of the Council shall be such as may be determined from time to time by the Council, after considering where appropriate a recommendation from the Cabinet.

## **41 Family Absence for Councillors**

The Local Government (Wales) Measure 2011 (as amended) provides Councillors with legal entitlement to periods of Family Absence. The Local Authorities (Wales) Regulations 2013 require Local Authorities to have standing orders securing requirements contained within Regulations 38 and 39.

- a) A Councillor on maternity absence or parental absence may, subject to paragraphs 41b) to 41f) below:
  - i) Attend particular meetings;
  - ii) Attend particular descriptions of meetings;
  - iii) Perform particular duties; or
  - iv) Perform duties of a particular description.
- b) The Councillor must obtain the permission of the Chair of Council (Presiding Member) before attending any meeting or performing any duty.
- c) The Chair of Council (Presiding Member), must inform the Leaders of each Political Group of the Council before granting permission under paragraph 41b) above.
- d) A Councillor may complain in writing to the Head of Democratic Services regarding a refusal of permission under paragraph 41b) above.
- e) The Head of Democratic Services must refer a complaint under paragraph 41d) above to the Chair of Council (Presiding Member).
- f) The Family Absence Complaints Committee must determine a complaint made under paragraph 41d) above.
- g) The Family Absence Complaints Committee may:
  - i) Confirm the decision of the Chair of Council (Presiding Member) made under paragraph 41b) above; or
  - ii) Substitute its own decision as to the Councillor attending any meeting or performing any duty.
- h) For Maternity Absence or Parental Absence the duties applicable shall be those determined by the Chair of Council (Presiding Member) or the Family Absence Complaints Committee (in the event of an appeal). For all other types of family

absence it shall be such duties as the individual Councillor concerned chooses to undertake in consultation with the Chair of Council (Presiding Member).

## 42 Speaking Rights at Planning Committee

- 1 Members of the public, Community Councils, residents groups and amenity groups and applicants and their agents have the right to address the Planning Committees in relation to planning applications. These speaking rights can only be exercised in accordance with the terms of this CPR. Speaking rights may only be exercised if prior notification of the intention to speak has been received by the Democratic Services team by 12 noon on the working day prior to the committee meeting.
- 2 At any meeting of the Planning Committee where applications are being considered, when indications have been received that a person wishes to exercise their speaking rights, the applications where there are speakers should be dealt with in the following order:
  - a) The Chair of the Committee will introduce the item;
  - b) The Planning Officer will provide information on the nature of the application and the material considerations, together with the presentation of images of plans and elevations submitted with the application and photos where relevant describing the proposed development. In respect of this, it is to be the practice that photos will be taken on Committee Site Visits at the request of Committee Members for display at the subsequent Committee meeting;
  - c) Objectors/Interested Parties to the application (including individuals, petitioners, Community Councils and amenity groups) can address the meeting for a maximum of 5 minutes in total between them, however many objectors there are.
  - d) Applicants and/or their agents and any supporters of an application can address the meeting for a maximum of 5 minutes in total between them, however many supporters there are. This rule also applies to any application made by the Council;
  - e) The Members of the Committee shall debate the application with questions to officers. If any member of the Committee wishes to clarify a point of fact with any speaker who has addressed the Committee they may at the end of the speaker's presentation ask the Chair to put a question to the speaker;
  - f) The Planning Officer will comment/answer questions on any relevant issues raised by any speakers and Members, provide any updates on the information contained in the report to Committee and advise Committee as to the material considerations and relevant issues to be taken into account with regard to the application;
  - g) If necessary, amendments to the recommendation are put to the meeting, and voted on where appropriate;
  - h) Committee will vote on the officer recommendation;
  - i) Recommendation accepted or rejected. When the latter occurs, then the provisions of the two stage voting protocol are to be followed.
- 3 No speaker will be able to ask questions of any other speaker, or to any officer or to any member of the Committee.

- 4 All speakers must refer only to planning matters relevant to the application under discussion and if any speaker starts to raise any irrelevant matters the Chair of the Committee can ask them to stop speaking and/or to speak only on relevant matters.
- 5 The Chair of the Committee can (with the consent of the Committee) vary the time allowed for speakers to address Committee so long as a consistent time is allowed for all speakers to address Committee.
- 6 The Chair of the Committee can (with the consent of the Committee) vary the order in which speakers will address Committee as set out in CPR 41 2 c and d above.
- 7 If a matter is deferred/withdrawn/deferred for a site visit, speakers will not be able to speak until the matter comes back to Committee.

### **43 Variation and Revocation of Procedure Rules**

Any motion to vary or revoke these Procedure Rules shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council except when such motion is contained in a recommendation from Cabinet when it may be dealt with by the Council forthwith or at their discretion provided that at least one half of the whole number of the Council shall be present at the meeting of the Council where such motion is discussed.

### **44 Suspension of Procedure Rules**

- 1 Subject to Procedure Rule 44.2, any Procedure Rule may be suspended so far as regards any business at the meeting where its suspension is moved, unless specifically forbidden by action of Statute;
- 2 A motion to suspend Procedure Rules shall not be moved without notice (ie under Procedure Rule 17 6) unless there shall be present at least one half of the whole number of the Members of the Council Body.

### **45 Procedure Rules to be given to Members**

A printed copy of these Procedure Rules and of such parts of the Local Government Act, 1972, as govern the Procedure at meetings of the Council shall be given to each Member of the Council upon delivery to her/him of the Members' declaration of acceptance of office on the Member being first elected to the Council.

### **46 Interpretation / Amendment of Procedure Rules**

- 1 The Interpretation Act, 1978 or any statutory re-enactment thereof shall apply to these Orders and the supplementary orders concerning Contracts, Terms of Reference and Financial Procedure Rules as though these were an Act of Parliament.

- 2 The Monitoring Officer may cause to be issued or amended such written amendments, interpretations and Codes of Practice as are necessary to secure the effective operation of these Procedure Rules. Such interpretations and Codes of Practice shall be complied with as if they form part of these Procedure Rules.

## **47 Co-opted Members**

Other than provided to the contrary by statute or in the resolution authorising their appointment or in respect of appointees to the Standards Committee, persons co-opted to the Council or to a Committee thereof shall while attending meetings be treated in all respects as though they were elected Members of the Committee save that they shall not:

- a) Count towards a quorum;
- b) Vote on any motion authorising the expenditure of money or the incurring of expense by the Council;
- c) Be eligible to serve as a Chair or Vice-Chair of any Committee of the Council;
- d) Vote on any motion as to the appointment, promotion, dismissal, salary, superannuation or conditions of service of any person employed by the Council.

## **48 Members Attending Meetings**

Where a Member who is not a Member appointed to that Body is invited by or is otherwise given the opportunity by the Chairman to attend a meeting of a Body then that Member shall:

- a) Attend only if it is lawful to do so as directed by the Chair;
- b) Have the right to speak to any item if called by the Chair but not to vote.
- c) Councillors are entitled to remain during the consideration of exempt reports and not be excluded from the meeting.

### **Note:**

For the avoidance of doubt such a Member shall not have the right to move or second a motion, nor shall they count towards establishing a quorum.

If Members attend in accordance with this Procedure Rule they have no right to speak or vote, but must nevertheless declare any interest in accordance with Procedure Rule 16.

## **49 Welsh Language**

In all proceedings of the Council, the Welsh Language and English Language shall have the same status and validity.

## Council Constitution, Part 4.2 - Rules of Procedure (Access To Information Procedure Rules)

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### 1 Scope

These rules apply to all meetings of the Council, the Cabinet, Overview/Scrutiny Boards, Planning Committee, the Standards Committee, Regulatory Committees, and any other constitutional bodies established by the Council. All meetings are held in accordance with the Multi-Location Meetings Policy which allows meetings to be attended remotely by persons who are not all in the same physical place.

### 2 Additional Rights to Information

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

### 3 Freedom of Information Act

- 1 The public have a right of access to recorded information held by the Authority, subject to a number of exemptions. The Act is completely retrospective so that all recorded information held by the City and County of Swansea falls within the scope of the Act.
- 2 Although the Freedom of Information Act presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. Some exemptions are absolute, where there is no right to the information; some exemptions are qualified, where even though information falls within the exemptions it may still have to be disclosed if it is in the public interest to do so.
- 3 Examples of exemptions include information that is commercially sensitive, confidential information, certain personal information, protection of national security, information where disclosure is prevented by other legislation, information intended for future publication, law enforcement matters and information that is accessible by other means, such as via the Publication Scheme (which is available on the Authority's internet site at [www.swansea.gov.uk](http://www.swansea.gov.uk)).
- 4 In addition to the Freedom of Information Act, there are two other access to information regimes:
  - a) The Data Protection Act 2018, which enables individuals to access certain information on themselves; and
  - b) The Environmental Information Regulations 2004, which enables people to access environmental information.
- 5 The Data Protection Act and the Environmental Information Regulations are also subject to exemptions and exceptions.

## 4 Rights to Attend Meetings

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

## 5 Notices of Meeting

- 1 The Council will give at least 3 clear working days' notice of any meeting posting details of the meeting on the Council's website ([Swansea.gov.uk](http://Swansea.gov.uk)) and at the Guildhall, Swansea. With regard to meeting of Council and Cabinet, where possible at least 5 clear working days' notice shall be given.
- 2 Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.
- 3 Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.
- 4 Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.
- 5 Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

## 6 Access to Agenda and Reports before the Meeting

- 1 The Council will make copies of the Council Summons and Cabinet Agenda open to the public and available for inspection on the Council's website ([www.swansea.gov.uk/democracy](http://www.swansea.gov.uk/democracy)) and at the designated office at least 5 clear working days before the meeting. However in exceptional circumstances the 5 clear working day notice period may be waived providing prior written agreement (via e-mail) is received from the Presiding Member / Leader of the Council, Monitoring Officer and / or Head of Democratic Services or their respective Deputies.

**Note:** This provision does not allow the Authority to waive its legislative duty to meet the 3 clear working day requirement'. If an item is added to the Council Summons or Cabinet Agenda later, the revised Council Summons / Cabinet Agenda will be open to inspection for the time the item was added to the Council Summons / Cabinet Agenda. Where reports are prepared after the Council Summons / Cabinet Agenda has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

- 2 The Council will make copies of the all other Committee Agendas open to the public and available for inspection on the Council's website ([/www.swansea.gov.uk/democracy](http://www.swansea.gov.uk/democracy)) and at the designated office at least **3** clear working days before the meeting. If an item is added to the Agenda later, the revised Agenda will be open to inspection for the time the item was added to the Agenda. Where reports are prepared after the Agenda has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.
3. Where a meeting is open to the public and is not held through remote means only, the Council will make available for use by members of the public present a reasonable number of copies of the agenda and reports for the meeting.

## **7 Supply of Copies**

The Council will publish on the Council website [www.swansea.gov.uk/democracy](http://www.swansea.gov.uk/democracy):

- a) Any agenda and reports which are open to public inspection;
- b) If the proper Office thinks fit, copies of any other documents supplied to Councillors in connection with an item;
- c) Where a member of the public is not able to access documents published on the website, those documents will be available for inspection or copies provided upon payment of a charge for postage/photocopying and admin costs;

Where a meeting of the council is open to the public and is not held through remote means only, a reasonable number of copies of the Agenda and reports will be made available for the members of the public present at the meeting.

## **8 Access to Minutes etc after the Meeting**

- 1 The Council will publish on the Council's website and make available electronic and hard copies of the following for six years after a meeting:
  - a) The minutes of the meeting 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;
  - b) 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;
  - c) The agenda for the meeting; and
  - d) Reports relating to items when the meeting was open to the public.
- 2 The Council will within 7 working days (beginning on the day the meeting is held) publish on the Council's website a note setting out:
  - a) the names of the members who attended the meeting and any apologies for absence;
  - b) any declarations of interest
  - c) any decision taken at the meeting, including the outcome of any votes but excluding anything relating to any decision taken when the meeting was not open to the public as discloses exempt information.

## **9 Background Papers**

### **List of Background Papers**

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

- a) Disclose any facts or matters on which the report or an important part of the report is based; and
- b) Which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

## **10 Public Inspection of Background Papers**

The Council will publish background papers on the Council website, unless it is not reasonably practicable to do so. Background papers shall remain accessible for members of the public for six years after the date of the meeting.

## **11 Exclusion of Access by the Public to Meetings**

### **1 Public and Private Meetings of the Cabinet**

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with Article 13 and these Procedure rules. This does not prevent the Cabinet from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

### **2 Confidential Information - Requirement to Exclude Public**

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

### **3 Exempt Information – Discretion to Exclude Public**

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

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.

### **4 Meaning of Confidential Information**

Confidential Information means information given to the Council by a Government



Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 5 Meaning of Exempt Information

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

	<b>Category of Exempt Information</b>	<b>Condition (Qualification)</b>
12	Information relating to a particular individual.	Public interest test applies (below)
13	Information which is likely to reveal the identity of an individual.	Public interest test applies (below)
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under – 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 (below)
15	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 Welsh Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (below)
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
17	Information which reveals that the authority proposes:	Public interest test applies (below)
17a	To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	Public Interest test applies (below)
17b	To make an order or direction under any enactment.	Public Interest test applies (below)
18	Information relating to any action taken or to be taken in connection with the prevention,	Public Interest test applies (below)

	investigation or prosecution of crime.	
	A meeting of a Standards Committee, or a Sub-Committee of a Standards Committee 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) the following descriptions of exempt information are inserted	
18a	Information which is subject to any obligations of confidentiality.	Public Interest test applies (below)
18b	Information which relates in any way to matters concerning national security.	Public Interest test applies (below)
18c	The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part of the Local Government Act 2000 in reaching any finding on a matter referred to it.	Public Interest test applies (below)

**Note:**

*Information falling within paragraphs 12 to 18 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.*

**Public Interest Test:**

Information which:

falls within any of paragraphs 12 to 15, 17 and 18 above; and is not prevented from being exempt by virtue of the 'qualifications' above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **12 Exclusion of Access by the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion related to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

## **13 The Forward Work Programme**

- 1 The Forward Work Programme will be prepared by the Proper Officer to cover a period of four months. It will be updated quarterly.
- 2 The Forward Work Programme will contain matters which the Cabinet, Overview/Scrutiny Boards and the Council Meeting are likely to consider. It will contain information on:
  - a) The timetable for considering the budget and any plans forming part of the Policies and requiring Council approval, and which body is to consider them;
  - b) The timetable for considering any plans which are the responsibility of the Cabinet;
  - c) Any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
  - d) The work programme of the Overview/Scrutiny Boards to the extent that it is known (it may not be possible to provide full details since Overview/Scrutiny Boards will be determining their own work programme);
  - e) The Forward Work Programme will be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in the Swansea Leader, stating that a forward work programme will be published and giving the publication dates for that year.

## **14 Record of Decisions of the Cabinet**

A record will be made of all Cabinet decisions, whether taken at a meeting of the Cabinet or its Committees (whether in public or private) or by an individual Member of the Cabinet. The Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement, for each decision of:

- a) The reason for that decision;
- b) Any dispensation to speak granted by the authority's Standards Committee;
- c) The consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

## **15 Overview / Scrutiny Boards Access to Documents**

### **1 Rights to Copies**

Subject to Rule 2.15 below, an Overview & Scrutiny Board will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

- a) Any business transacted at a meeting of the Cabinet [or its Committees] or;
- b) Any decision taken by an individual member of the Cabinet.

## 2 **Limit on rights**

An Overview & Scrutiny Board will not be entitled to:

- a) Any document that is in draft form;
- b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

# 16 **Additional Rights of Access for Members**

## 1 **Rights of Access**

- a) All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a decision making meeting of that authority.
- b) All members shall be entitled to submit written questions to any cabinet member about a matter within their portfolio. These questions will receive responses in writing within 10 working days, which will be posted to the Member's intranet site, subject to paragraph 10 above.

## 2 **Limitation on Rights**

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

- a) It would disclose exempt information falling within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972, or
- b) It would disclose exempt information relating to the business of the Standards Committee and falling within sections 18A-18C of paragraph 4 Local Authority (Executive Arrangements)(Decisions, Documents and Meetings) and the Standards Committees (Wales)(Amendment) Regulations 2007.
- c) It would disclose the advice of a political advisor or assistant.

## 3 **Nature of Rights**

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

## **Council Constitution, Part 4.3 - Rules of Procedure (Budget and Policy Framework Rules)**

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### **1 The Framework for Cabinet Decisions**

The Council will be responsible for the adoption of its policy framework and budget as set out in Article 4. The policy framework and budget adopted by the Council will be based on that proposed by the Cabinet. Once a budget or a Policy is in place, it will be the responsibility of the Cabinet to implement it.

### **2 Process for Developing the Framework**

Cabinet will make recommendations to Council as to the adoption of the budget or any addition to, emission from or amendment of the policy framework (as defined in Article 4).

### **3 Decisions Outside the Budget or Policy Framework**

- 1 Subject to the provisions of **Paragraph 5** (virement) the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet and any Officers, Area Committees or Joint Arrangements discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework where there exists an approved policy. If any of these bodies or persons wishes to make a decision which is contrary to the Policies, or contrary to or not wholly in accordance with the budget approved by the Council Meeting, then that decision may only be taken by the Council, subject to 4 below.
- 2 If the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet and any Officers, Area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial 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. If the advice of either to those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in **Paragraph 4** (urgent decisions outside the budget and Policies) shall apply.

### **4 Urgent Decisions Outside the Budget or Policy Framework**

- 1 The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or Officers, Area Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's Policies or contrary to or not wholly in accordance with the budget approved by the Council Meeting if the decision is a matter of urgency. However, the decision may only be taken:

- a) If it is not practical to convene a quorate meeting of the Council Meeting; and
  - b) If the Chair of a relevant Overview & Scrutiny Board agrees that the decision is a matter of urgency.
- 2 The reasons why it is not practical to convene a quorate meeting of the Council Meeting and the Chair of the relevant Overview & Scrutiny Boards' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Overview & Scrutiny Board the consent of the Presiding Member, will be sufficient.
  - 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.

## **5 Virement**

- 1 The Council shall have the following budget heads:
  - Business Improvement & Efficiency
  - Community Leadership and Democracy
  - Community Regeneration
  - Culture, Recreation and Tourism
  - Economic and Strategic Development
  - Education
  - Environment
  - Finance
  - Housing
  - Social Services
- 2 Steps taken by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or Officers, Area Committees or joint arrangements discharging executive functions to implement Council Policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads up to a maximum of 5% of the Council's net revenue budget per year in aggregate. Beyond that limit, approval to any virement across budget heads shall require the approval of the Council Meeting.

## **6 In-Year Changes to Policies**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet must be in line with it. No changes to any policy strategy or plan which makes up the policy framework may be made by Cabinet except those changes:

- a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) Which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) Which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

## Council Constitution, Part 4.4 - Rules of Procedure (Cabinet Procedure Rules)

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### 1 Notice

The Proper Officer or, in her/his absence the Head of Democratic Services, shall summon all meetings of the Cabinet. A notice period of 5 clear working days shall be given to Council meetings and to Cabinet Meetings. However in exceptional circumstances the 5 clear working day notice period may be waived providing written agreement (via e-mail) is received from the Leader of the Council, Monitoring Officer and / or Head of Democratic Services or their respective Deputies in advance.

**Note:**

*This provision does not allow the Authority to waive its legislative duty to meet the 3 clear working day requirement'. A notice period of 3 Clear working days will apply to all other Committee meetings.*

### 2 Cabinet Functions

Cabinet functions as set out in The Terms of Reference - '**Portfolios**' in **Part 3** of this Constitution will be discharged by:

- a) The Cabinet as a whole;
- b) A Committee of the Cabinet;
- c) An Officer;
- d) An Area Committee;
- e) Joint Arrangements.

### 3 Delegation By The Leader

The Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at **Part 3** to this Constitution. The document presented by the Leader will contain the following information about Cabinet functions in relation to the coming year:

- a) The names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- b) The Terms of Reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- c) The nature and extent of any delegation of Cabinet functions to Area Committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint Committee for the coming year; and
- d) The nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 4 Sub-Delegation of Cabinet Functions

- 1 Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to an Area Committee, joint arrangements or an Officer.
- 2 Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an Officer.
- 3 Unless the Leader directs otherwise, an individual Cabinet member or a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- 4 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## **5 The Council's Scheme of Delegation and Cabinet Functions**

- 1 Subject to 1.4.2 below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in **Part 3** of this Constitution.
- 2 The Leader may amend the scheme of delegation relating to Cabinet functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 3 Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.

## **6 Job Sharing by Leaders and Cabinet Members**

- 1 Any election or appointment to the Cabinet (including the Leader) may include the election of two or more Councillors to share office.
- 2 Where two or more Members have been elected or appointed to share the same office of the Cabinet the maximum number of members of the Cabinet including the Leader 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.
- 3 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. When casting the vote at the meeting, the Cabinet Job Sharing Councillors will agree which of them is to cast their vote at the meeting. If they cannot agree on the vote then they must make



the chair of the meeting aware that they have not agreed a position and their vote will not be counted.

## **7 Role of Assistants to the Cabinet**

- 1 Other Councillors may, from time to time, be designated by the Leader as Assistant to the Cabinet. No more than 5 Assistants to Cabinet will be appointed at any given time. Such Councillors will not be:
  - a) a Member of the Cabinet
  - b) The Presiding Member and Deputy Presiding Member of the Council
- 2 Assistants to the Cabinet will not participate in Executive decision making, but may work closely with a Cabinet Member. He/she will not be a Member of the Scrutiny Committee.
- 3 An Assistant to the Cabinet may support the Cabinet Member through the delegation of tasks as agreed for his/her area of responsibility. An Assistant to the Cabinet 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.
- 4 Assistants to the Cabinet are entitled to attend and speak at any meeting of the Cabinet or a Committee of the Cabinet but cannot vote or count towards the quorum. Assistants to the Cabinet cannot move or second any report/recommendation to the Cabinet

## **8 Conflicts of Interest**

- 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 **Part 5** of this Constitution.
- 2 If every 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 **Part 5** of this Constitution.
- 3 If the exercise of a Cabinet 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 **Part 5** of this Constitution.

## **9 Timetable of Cabinet Meetings**

The Cabinet will meet at times to be agreed by the Council. The Cabinet meetings shall include provision for attendance remotely and in accordance with the Council's Multi-Location Meetings Policy.

## **10 Public Access to Meetings of the Executive**

The Access to Information Rules in **Part 4** of this Constitution set out the legal requirements covering public and private meetings.

## **11 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the total number of members of the Cabinet.

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.

## **12 Decision-Making**

- 1 Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in **Part 4** of the Constitution.
- 2 Where Cabinet decisions are delegated to a Committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.
- 3 No decision of Cabinet will be implemented until the 3 clear working days allowed for the Call IN Procedure has passed.

## **13 Conduct of Cabinet Meetings**

If the Leader is present he /she will preside. In his /her absence, then the Deputy Leader shall preside. In the absence of both the Leader and the Deputy Leader, a person appointed to do so by those present shall preside.

## **14 Attendance**

Details of entitlement to attend Cabinet Meetings are set out in the Access to Information Rules in **Part 4** of this Constitution.

## **15 Order of Business**

Except as otherwise provided by the Cabinet Procedure Rules, the order of business at any Cabinet meeting shall be:

- a) To receive any apologies for absence;

- b) To receive disclosures of interest under **Council Procedure Rule 8**;
- c) To confirm and sign the Minutes of the last meeting of the Cabinet;
- d) Announcements / Communications from the Leader of the Council;
- e) Public Question Time;
- f) Councillors Question Time;
- g) Matters referred to the Cabinet, whether by the Challenge Panel, by Overview & Scrutiny Board or by the Council, for reconsideration by the Cabinet in accordance with the provisions contained in the **Scrutiny Procedure Rules** or the **Budget and Policy Framework Procedure Rules** set out in Part 4 of this Constitution;
- h) Consideration of reports from Overview & Scrutiny Boards;
- i) Matters set out in the agenda for the meeting.

## 16 Consultation

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 with stakeholders 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.

## 17 Compilation of Agendas

- 1 The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- 2 Any Member of the Cabinet may ask the Leader to put an item on the agenda of a Cabinet Meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet.
- 3 The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview & Scrutiny Board or the Council Meeting have resolved that an item be considered by the Cabinet.
- 4 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 the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no such meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## 18 Councillor Question Time

- 1 Councillors shall be allowed to ask questions of the Leader of the Council relating to any item on the Cabinet agenda being considered at the meeting. A period of 15 minutes is allocated for this purpose.
- 2 Should a Councillor wish to ask a question relating to a 'Not for Publication' report, then s/he must inform the Chair of the meeting of their intention to ask.
- 3 The Chair of the meeting will then allocate an element of the 15 minutes for such questions. Actual questions relating to 'Not for Publication' reports shall be asked after the Cabinet has formally moved into private session.

## 19 Call In Procedure

### 1 **Executive Decisions**

- a) Where a decision is made by Cabinet, the minutes of the decision shall be published electronically and made available at the Guildhall within 2 clear working days of the decision being made by the Head of Democratic Services.
- b) The Chair and Vice Chair of the Scrutiny Programme Committee shall also be sent electronic copies of the minutes of all such decisions.
- c) The minutes shall:
  - i) Bear the date on which they are published; and
  - ii) Specify that the decision will come into force and may then be implemented on the expiry of 3 clear working days (the Call In period) after the publication of the decision, unless called in pursuant to these Procedure Rules.

### 2 **How to Call In an Executive Decision?**

The Chair and / or Vice Chair of the Scrutiny Programme Committee or any 4 Councillors may Call In a decision by giving notice and stating the reason(s) for a Call In, in writing (preferably via e-mail) to the Head of Democratic Services within the Call In period. The Head of Democratic Services will then notify the decision taker of the Call In via e-mail.

### 3 **Validity of Call In**

The Head of Democratic Services upon consultation with the Monitoring Officer and Presiding Member may rule that a Call In is not valid if:

- a) It is not made by 23.59 on the 3rd clear working day of the publication of the decision;
- b) The decision is exempt from Call In on account of urgency provisions as set out below and also where:

- i) The decision being called in is the same, or broadly the same, as a previous Call In within the last six months;
- ii) The decision has been subject to pre-decision scrutiny and there is no material change in relevant information/evidence;
- iii) The Call In does not specify precisely which aspects of the decision is to be challenged or provides too little information.

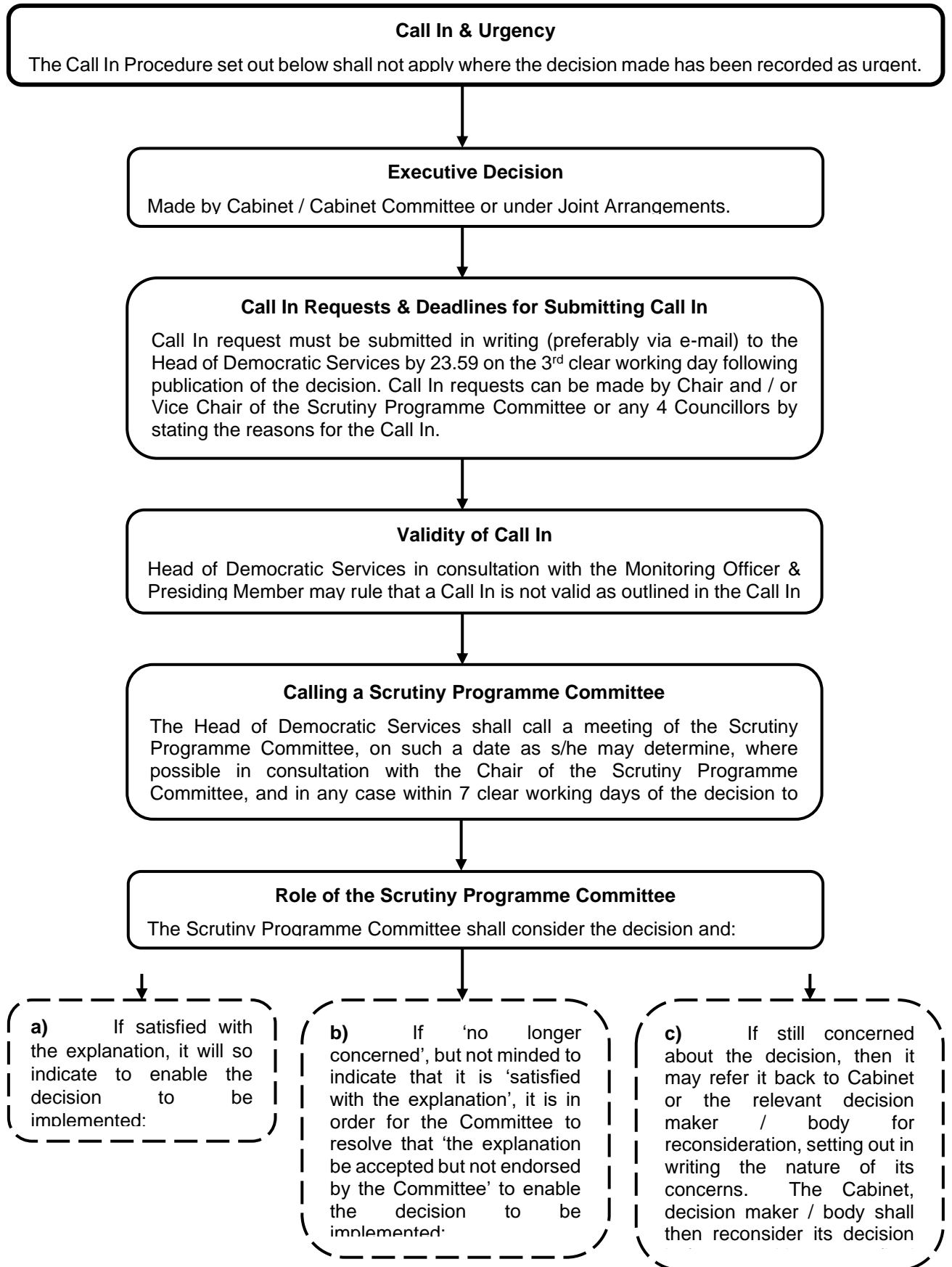
#### 4 **Role of the Scrutiny Programme Committee**

- a) The Head of Democratic Services shall call a meeting of the Scrutiny Programme Committee on such date as s/he may determine, where possible after consultation with the Chair of the Scrutiny Programme Committee, and in any case within 7 clear working days of the decision to Call In.  
**Note:** For the purpose of this paragraph, the last working day before Christmas and the working days between Christmas and the New Year shall not be counted as working days.
- b) At its meeting, the Scrutiny Programme Committee will consider the called in decision.
- c) The Scrutiny Programme Committee shall consider the reasons for the Call In and the decision and:
  - i) If satisfied with the explanation it will so indicate to enable the decision to be implemented;
  - ii) If 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for the Committee to resolve that 'the explanation be accepted but not endorsed by the Committee';
  - iii) If still concerned about the decision, then it may refer it back to Cabinet or the relevant decision maker / body for reconsideration, setting out in writing the nature of its concerns. The Cabinet, decision maker / body shall then reconsider its decision before making a final decision.

#### 5 **Call In and Urgency**

- a) The Call In procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if either the Chief Executive, the Section 151 Officer or the Monitoring Officer certifies that any delay likely to be caused by the Call In procedure could seriously prejudice the Council or the public interest including failure to comply with statutory requirements;
- b) The record of the decision, and notice by which it is made public, shall state whether the decision is an urgent one, and therefore not subject to Call In.
- c) The operation of the provisions relating to Call In and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

## 20 Call In Procedure Flowchart



## **Council Constitution, Part 4.5 - Rules of Procedure (Contract Procedure Rules)**

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### **Definitions**

Except where the context otherwise requires, the terms listed below shall have the following meanings assigned to them. The term 'person' shall include persons and anybody of persons, corporate or non-corporate.

#### **'Agent'**

Any person acting on the Council's behalf.

#### **'Authorised Officer'**

An officer of the Council authorised by a Responsible Officer to exercise some of the powers set out in these CPR.

#### **'Award Criteria'**

The criteria as defined in CPR 13 used to evaluate Tenders or Quotations or the terms of a Framework Agreement used to award a Contract under that Framework Agreement.

#### **'Bidder'**

Any person who has submitted to the Council a Tender or Quotation.

#### **'Cabinet'**

The Cabinet of the Council of the City and County of Swansea.

#### **'Cabinet Member'**

A member of the Cabinet.

#### **'Call-Off Contract'**

A Contract awarded under a Framework Agreement.

#### **'Chief Finance Officer'**

The person designated by the Council to act in this role.

#### **'Chief Legal Officer'**

The person designated by the Council to act in this role.

#### **'Chief Social Services Officer / Director of Social Services'**

The person designated by the Council to act in this role

#### **'Closing Date'**

The time limit specified in the Procurement Documents for the submission of Quotations or Tenders (or any later time limit that is notified to all Bidders where such notification is provided before the previous Closing Date).

#### **'Commercial Manager'**

The person designated by the Council to act in this Role.

#### **'Consultant'**

A person engaged to advise the Council.

#### **'Contract'**

A legally binding agreement between the Council and one or more third parties for the supply of goods, provision of services or execution of works (or a combination of these), whether the Council is acting as contractee or as a contractor to any external person and whether payment is to be made or received by the Council. Unless otherwise stated, or unless the context explicitly requires otherwise, the term 'Contract' shall also refer to a Framework Agreement and a Dynamic Purchasing System.

**'Contract Award Report'**

A report produced in a standard form (available from Staffnet and Procurement), detailing the Procurement Process adopted and the recommendation for award relating to a particular Contract, Framework Agreement or Dynamic Purchasing System.

**'Contract Manager'**

An Officer assigned by the Responsible Officer to conduct Contract Management.

**'Contract Management'**

The process undertaken by Contract Managers to ensure that risk and cost are managed within the terms of a Contract, and that the intended outcomes of a Contract are delivered.

**'Contractor'**

Any person awarded a Contract by the Council.

**'Contract Value Bands' and 'Bands'**

Contract value ranges as defined in CPR 4 for the purpose of determining the procedures relating to each Procurement Process.

**'Corporate Agreement'**

A Contract, Framework Agreement or Dynamic Purchasing System made by the Council or an external organisation which serves, or is capable of serving, the purposes of more than one department of the Council.

**'The Council'**

The Council of the City and County of Swansea.

**'Dynamic Purchasing System'**

A procurement system that is identical to a Framework Agreement, except that it shall be open throughout the full period of its operation to any Supplier that satisfies defined Pre-Qualification Criteria. Dynamic Purchasing Systems shall be awarded and operated in accordance with CPR 9.4 to 9.8.

**'Electronic Sourcing System'**

An electronic system, approved for use by Officers by the Head of Commercial Services.

**'Electronic Tenders'**

Tenders received by the Electronic Sourcing System.

**'EU Thresholds'**

The threshold amounts applicable to Contracts for goods, services and works as defined in regulation 5 of the Public Contracts Regulations. A Contract of a value estimated to be in excess of the relevant threshold shall be subject to these regulations.

**'Evaluation Panel'**

A meeting of a group of officers to consider a Contract Award Report, convened on the instruction of the Head of Commercial Services in accordance with CPR 18.6 and 18.11.



Evaluation Panels shall be assembled by the Authorised Officer or the Responsible Officer in accordance with CPR 18.17 to 18.19.

**‘Finance Officer’**

A representative of the Chief Finance Officer

**‘Framework Agreement’**

An agreement between the Council and one or more Suppliers which establishes the terms under which the Suppliers will enter into one or more Contracts with the Council in the period during which the framework agreement applies. Framework Agreements can be established by the Council or another public body.

**‘Head of Commercial Services’**

The person designated by the Council to act in this role.

**‘Internal Audit’**

The Council’s Internal Audit Service Unit.

**‘Invitation to Tender’**

A set of documents constituting a formal invitation, from the Council to one or more suppliers, to submit a legally binding offer.

**‘Invitation to Quote’**

A set of documents constituting a formal invitation, from the Council to one or more suppliers, to submit a legally binding offer.

**‘Legal Officer’**

A representative of the Chief Legal Officer.

**‘Local Area’**

As defined in CPR 14.6.

**‘Member’**

A Member / Councillor of the Council of the City and County of Swansea.

**‘Monitoring Officer’**

The person designated by the Council to act in this role.

**‘Officers’**

A duly appointed employee of the Council.

**‘Pre-Qualification Criteria’ and ‘Pre-Qualification Questions’**

Questions designated for the purpose of assessing the suitability of Suppliers to be invited to submit a Tender or Quotation or to be awarded a Contract.

**‘Pre-Qualification Documents’**

Documents consisting of Pre-Qualification Questions.

**‘Procurement Documents’ and ‘Procurement Documentation’**

The documents constituting an Invitation to Quote or an Invitation to Tender. This shall include Pre-Qualification Documents.

**‘Procurement Notification Form’**

A document in a standard form (available from Staffnet) submitted by the Authorised Officer or the Responsible Officer to the Head of Commercial Services in accordance with

CPR 5, which sets out the details of a proposed Procurement Process and must be approved by the Head of Commercial Services prior to the commencement of the Procurement Process.

**‘Procurement Officer’**

A representative of the Head of Commercial Services.

**‘Procurement Process’**

A process undertaken with the aim of awarding a Contract.

**‘Public Contracts Regulations’**

The Public Contracts Regulations 2015, including any existing or future amendments.

**‘Quotation’**

A formal response to an Invitation to Quote received by the Council from a Bidder.

**‘Responsible Officer’**

An officer with budgetary, statutory or operational responsibility (at Head of Service level) or any Officer duly authorised by this person.

**‘Sales and Tenders Proforma’**

A document in a standard form (available from Staffnet) submitted by the Authorised Officer or the Responsible Officer to the Head of Commercial Services in accordance with CPR 1.14 to 1.17, which sets out details of a proposed Trade Exchange or Contract regarding advertising, sponsorship or promotions, or a proposed offer for a contract to be awarded by an external organisation.

**‘School With a Delegated Budget’**

A school where the governing body of the school is entitled to manage the school’s budget share.

**‘Spending Restrictions’**

A document published by the Council setting out specific instructions designed to control expenditure across the Council.

**‘Trade Exchange’**

An exchange of services or products, in lieu of a cash or invoice transaction.

**‘Sell2Wales Website’**

[www.sell2wales.gov.wales](http://www.sell2wales.gov.wales)

**‘Staffnet’**

The Council’s intranet.

**‘Suppliers’**

Any person or public entity or group of such persons and entities, which offers the supply of goods, the provision of services or the execution of works.

**‘Tender’**

A formal response to an Invitation to Tender received by the Council from a Bidder.

**‘Value for Money’**

The optimum balance of price, quality and risk.

**‘Waivers/Waiver Application’**

An application in a standard form to waive one or more CPR submitted in accordance with CPR 8 (Waivers) to the Head of Commercial Services.

**‘Written’ or ‘in Writing’**

Information conveyed in hard-copy (paper) or electronically transmitted documents. This shall not include the transmission of information via mobile telephone text messages, social media outlets or Skype for Business.

## **1 Scope of Contract Procedure Rules**

### **Officer responsibilities**

- 1 Officers responsible for purchasing goods, services or works must comply with these Contract Procedure Rules (‘CPR’), Financial Procedure Rules (‘FPR’) and all UK and EU legislative requirements. Officers must ensure that any Agents and Consultants also comply.
- 2 These CPR do not apply to any Contract awarded by persons employed by a School with a Delegated Budget, who must comply instead with ‘Contract Procedure Rules for School Governing Bodies with Delegated Budgets’.
- 3 These CPR apply equally to Members when they are spending Council funds.
- 4 No Contract shall be let unless the expenditure involved has been included in approved capital or revenue budgets and any relevant policies have been complied with, or has been otherwise approved by or on behalf of the Council.
- 5 Officers must:
  - (a) check with a Procurement Officer whether a suitable Corporate Agreement exists before seeking to award a Contract;
  - (b) keep the records required (please see paragraph 23 of these Contract Procedure Rules (CPR));
  - (c) take all necessary commercial, technical, legal and financial advice (officers must seek the advice of a Procurement Officer if required).
- 6 If the employment status of any employee of the Council or of a Contractor may be affected by any action in relation to the award or termination of any Contract, Officers must seek advice from the Chief Legal Officer as to the application of the Transfer of Undertaking (Protection of Employment) Regulations to those actions. This must, wherever possible, be undertaken prior to inviting Tenders or Quotations.

### **The Public Contracts Regulations**

- 7 In respect of Contracts with a value estimated to be equal to or greater than the relevant EU Threshold, the Public Contracts Regulations shall take precedence over these CPR.
- 8 EU Thresholds vary from time-to-time. Officers unaware of current EU Thresholds shall verify these with a Procurement Officer prior to commencing any Procurement Process.

## Grant funding conditions

- 9 Where a proposed Contract is to be financed, wholly or partly, by a grant offered by any organisation or person external to the Council, Officers must comply with any and all conditions attaching to the grant prior to accepting the grant or commencing any Procurement Process.

## Exclusions

- 10 These CPR apply in all but the following cases:
- (a) contracts of employment which make an individual a direct employee of the Council (this shall not include agreements for the provision of agency staff or consultants);
  - (b) agreements regarding the acquisition, disposal, or transfer of land (for which Land Transaction Procedure Rules shall apply);
  - (c) advice or instruction of counsel but no instructions will be permitted without prior approval from the Chief Legal Officer;
  - (d) the engagement of costs draughtsmen or expert witnesses within or in the contemplation of legal proceedings;
  - (e) the engagement of designated artists, performers, productions for public entertainment purposes or items of art for public display;
  - (f) transactions made in relation to investments and borrowings made by the Chief Finance Officer including those related to the Pension Fund;
  - (g) arrangements for the supply of goods/ provision of services/ execution works by one Council department to another (i.e. internally);
  - (h) contracts awarded to any wholly owned 'arm's length' trading companies established by the Council, where it is legally permitted to do so;
  - (i) contracts awarded to any organisation defined within regulation 12 of the Public Contracts Regulations ('TECKAL organisations');
  - (j) the purchase of professional membership fees and any training specifically required to attain a professional membership (this shall not include any training required to continue or renew a professional membership except where this is explicitly conditional on the engagement of a specific Supplier/s);
  - (k) the payment of membership fees to professional bodies;
  - (l) at the discretion of the Director of Social Services only (with the Director to maintain the appropriate records for audit purposes) —
    - i. where the decision to award a social care Contract has been made on the Council's behalf (e.g. a court directed order);
    - ii. the award of an emergency social care Contract and/or individual placement if it is considered to be in the interest of the Council or necessary to meet its obligations under relevant legislation and demonstrates Value for Money.
    - iii. residential and nursing care contracts which the Council has a duty to provide if it is considered to be in the interest of the Council or necessary to meet its obligations under relevant legislation and demonstrates Value for Money.
- 11 For the avoidance of doubt, unless a proposed Contract relates to one or more of the exclusions specified in CPR 1.10, Officers must assume that the Contract is subject to the full extent of these CPR. Where in doubt, Officers must seek the advice of a Procurement Officer.
- 12 Where a requirement for goods, services or works may be met internally (i.e. provided by one Council department to another), the internal provider/s must be used

unless specifically agreed with the appropriate Director and the Head of Commercial Services.

### **Disposal of assets**

- 13 For procedures relating to the disposal of assets (excluding land and buildings which are dealt with by the Council's Land Transaction Procedure Rules), Officers must refer to Financial Procedure Rules.

### **Submitting offers for Contracts awarded by external organisations**

- 14 Officers shall not submit an offer (for example, a tender) for a Contract to be awarded by any organisation external to the Council without the prior approval of the Head of Commercial Services.
- 15 For the purposes of CPR 1.14, the Authorised Officer or the Responsible Officer must submit a Sales and Tenders pro forma to the Head of Commercial Services for approval prior to submitting any offer.

### **Contracts for sponsorship, advertising and promotions**

- 16 Officers shall not enter into a Trade Exchange or into any Contract regarding advertising, sponsorship or promotions of a value up to £140,000 without the prior approval of the Commercial Manager. Where the value exceeds £140,000, officers must obtain the approval of the Head of Commercial Services.
- 17 For the purposes of CPR 1.16, the Authorised Officer or the Responsible Officer must submit a Sales and Tenders pro forma to the Commercial Manager and or the Head of Commercial Services (where required) for approval prior to entering into any agreement.

## **2 Conflict of Interest**

- 1 Responsible Officers shall take appropriate measures to prevent, identify and remedy conflicts of interest arising in the conduct of Procurement Processes or Contract Management. Conflicts of interest shall include any situation where Officers or Members involved in the procurement process directly or indirectly have a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a Procurement Process or of Contract Management.

## **3 Sanctions**

- 1 Officers shall be aware that failure to comply with CPR could be construed as misconduct and may lead to disciplinary proceedings.

## 4 Contract Value Bands

- 1 The Contract Value Bands determine the procedures relating to each Procurement Process. The Contract Value Bands are:
  - 'Band A': up to £10,000**
  - 'Band B': £10,001 - £140,000**
  - 'Band C': £140,001 - £1,000,000**
  - 'Band D': £1,000,001 and over**
- 2 The value of a Contract means the total estimated value of the Contract over its full period, including any optional extension periods, excluding VAT. The Responsible Officer or the Authorised Officer must estimate the total value. Framework Agreements and Dynamic Purchasing Systems shall be valued as a single Contract.
- 3 Officers are not permitted to subdivide Contracts if the effect is to amend or prevent the application of these CPR, unless justified by objective reasons.
- 4 All Contracts, including those within Band A, shall be open to scrutiny by internal and external auditors.

## 5 Procurement Notification Form

- 1 The Authorised Officer or the Responsible Officer shall in advance of inviting quotations or tenders or utilising a Corporate Agreement for Contracts in Band B, Band C or Band D submit to the Head of Commercial Services a Procurement Notification Form (available from Staffnet).
- 2 After consideration of a Procurement Notification Form, the Head of Commercial Services shall respond in Writing to the Authorised Officer or Responsible Officer and either:
  - (a) approve the Procurement Notification Form;
  - (b) decline the Procurement Notification Form.
- 3 Officers shall not be permitted to commence a Procurement Process until the Head of Commercial Services has responded to the Procurement Notification Form in accordance with CPR 5.2.
- 4 The Head of Commercial Services may decline a Procurement Notification Form on the following grounds:
  - (a) where it is proposed to conduct a Procurement Process in breach of these CPR;
  - (b) where it is proposed to conduct a Procurement Process on the basis of technical specifications and/or contract conditions which are incomplete;
  - (c) where requirements (including, but not necessarily limited to, quantities, contract periods, pricing or payment mechanisms or additional/optional purchases) are unknown or have not been precisely determined;
  - (d) Any other reasons which may prevent Value for Money from being obtained.

- 5 Under no circumstances shall the Head of Commercial Services provide a verbal response to a Procurement Notification Form.
- 6 Where the use of a consultant or consultancy services is envisaged to a value exceeding £100,000 then the Authorised Officer or Responsible Officer will ensure that Procurement Notification Form has also received written approval from the relevant Cabinet Member before submission in line with 5.1 above.

## **6 Preliminary market consultations**

- 1 Before commencing a Procurement Process, Officers may conduct market consultations with a view to preparing the Procurement Process and informing Suppliers of the Council's plans and requirements.
- 2 When conducting preliminary market consultations, Officers may seek or accept advice from Suppliers or Consultants. Such advice may subsequently be used in the planning and conduct of a Procurement Process provided that it does not have a discriminatory effect or distort competition.

## **7 Duration of Contracts, Framework Agreements and Dynamic Purchasing Systems**

- 1 No Contract (excluding Framework Agreements and Dynamic Purchasing Systems) shall be let for a period exceeding five years without prior consultation with the Head of Commercial Services.
- 2 No Framework Agreement or Dynamic Purchasing System shall be let for a period exceeding four years without prior consultation with the Head of Commercial Services.

## **8 Waivers**

- 1 Waivers enable the Authorised Officer to partly suspended CPR to authorise a particular course of action to be taken in respect of Contracts in Band B, Band C and Band D. This can include the requirement to seek market competition by obtaining a quotation or tendering. This does not remove the need to ensure that adequate and robust process is undertaken in accordance with these CPR.
- 2 Where the particular course of action is permitted by the Public Contract Regulations 2015 a Waiver Application is not required and the award process in CPR 18 is to be followed. Where the Waiver Application proposes actions which may be in breach of the Public Contracts Regulations 2015 the application will be declined
- 3 A Waiver can be sought, including approval to seek only a single quotation or tender. The grounds for justifying a waiver may include one or more of the following criteria although this list is not exhaustive:
  - i. where an offer has been made to the market by the Council using the Procurement Process, but where no quotations or tenders have been submitted, or where those that have been submitted are disqualified through

the evaluation procedure. In this circumstance an exception can only be granted where the original terms of the proposed contract are not substantially altered;

- ii. the goods, services or works can only be provided by a particular contractor for reasons that are technical, or connected with the protection of exclusive rights;
- iii. extreme urgency brought about by events unforeseeable by the Council;
- iv. where the products involved are manufactured purely for the purpose of research, experimentation, study or development;
- v. for supplies quoted and purchased on a commodity market;
- vi. where a design competition is run where the rules of that competition require the contract to be awarded to one or more of the successful candidates, provided that all successful candidates are invited to negotiate;
- vii. in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- viii. for the purchase of supplies on particularly advantageous terms from a supplier that is definitely winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors or similar procedure;
- ix. where delay attributable to the quotation or tendering process would, in the estimation of the Responsible Officer concerned, create or increase danger to life or limb;
- x. where relevant UK or EU legislation not otherwise referred to in these CPR permits.

4 The Authorised Officer shall submit a Waiver Application, in the standard format and in accordance with the procedures specified on Staffnet. The Waiver Application must specify:

- (a) the reasons for the proposed waiver/s; and
- (b) evidence that the waiver/s will not prevent Value for Money from being obtained.

5 No Waiver Application will be considered retrospectively, except in exceptional circumstances.

6 A Waiver Application based on the reasons listed in CPR 8.3 may be granted in the following manner:

- i. **£10,000 - £1,000,000** – Written approval to be obtained from the Responsible Officer and Head of Commercial Services.



- ii. **Works Only £1,000,001+:** Where a Waiver Application is for a works contract with a value in excess of £1m the Authorised Officer must obtain the written approval of the Responsible Officer and Head of Commercial Services and relevant Cabinet Member. The Cabinet Member, or any of the other Officers detailed above, can refer the decision to Cabinet where they consider there are relevant issues pertaining to the Waiver Application
  - iii. Where the use of a **consultant or consultancy services is envisaged to a value exceeding £100,000** then the Responsible Officer will ensure that the waiver has also received written approval from the relevant Cabinet Member before submission.
- 7 CPR 8.6 shall not apply in cases of extreme urgency. In this circumstance, the Head of Commercial Services can approve the Waiver Application.
  - 8 An approved Waiver Application form constitutes authority to enter into the Contract under these Contract Procedure Rules and the Council's Constitution.
  - 9 Officers shall not be permitted to implement the waiver/s proposed in a Waiver Application until the approval process in CPR 8.6 has been complied with.
  - 10 Where a Waiver of one or more CPR is approved all CPR other than those waived shall remain in full force and effect. In particular the need to complete supplier suitability assessment and due diligence and to put in place a contract on the Council's standard terms and conditions will be required for all approved Waiver Applications.
  - 11 The Head of Commercial Services shall keep a register of all Waiver Applications.

## 9 Framework Agreements and Dynamic Purchasing Systems

### Framework Agreements

- 1 Contracts shall be awarded under Framework Agreements in one of the following ways.
  - a) **'direct award'**: without reopening competition, provided that the Framework Agreement specifies in full the terms (including the technical specifications, contract conditions and, where applicable, price) governing the works/ services/ supplies concerned and the Award Criteria;
  - b) **'further competition'**: by reopening competition amongst the Suppliers party to the Framework Agreement, whether or not the Framework Agreement specifies in full the terms (including the technical specifications, contract conditions and, where applicable, price) governing the works/ services/ supplies concerned.
- 2 Where a Framework Agreement is awarded to only one Supplier, Contracts based on that Framework Agreement shall be awarded on a 'direct award' basis only, in accordance with CPR 9.1(a).
- 3 Contracts awarded under a Framework Agreement shall in no circumstances entail modifications to the terms of the Framework Agreement.

## **Dynamic Purchasing Systems**

- 4 A Dynamic Purchasing System ('DPS') shall be identical to a Framework Agreement, except that any Supplier may apply for admittance to a DPS throughout the full period of its operation by satisfying defined Pre-Qualification Criteria.
- 5 All DPS shall be openly advertised on the Sell2Wales Website, irrespective of estimated value.
- 6 A Dynamic Purchasing System may be divided into categories of goods, services or works. In such cases, it is permissible to stipulate Pre-Qualification Criteria appropriate to each category.
- 7 At the time of inviting Tenders or Quotations under a DPS, Officers shall ensure that all applications for admittance to the DPS received by that time have been processed and all applicants have been notified of whether or not they have been admitted to the DPS.
- 8 Officers shall, in Writing, invite all Suppliers admitted to a DPS to respond to all Tenders/ Quotations issued under a DPS. Where the DPS has been divided into categories of goods, services or works, Officers shall invite all Suppliers having been admitted to the category corresponding to the procurement concerned to submit a Quotation/Tender.

## **10 Procurement Documents**

- 1 All Quotations shall be sought using the Council's standard Invitation to Quote, obtainable from Commercial Services.
- 2 All Tenders shall be sought using the Council's standard Invitation to Tender, obtainable from Commercial Services.
- 3 Procurement Documentation shall always include a copy of the Council's relevant Contract conditions.
- 4 All Procurement Documentation shall be made available to all Bidders at the same time.
- 5 The period for the return of Quotations shall be determined by the Responsible Officer or the Authorised Officer.
- 6 The usual period for the return of Tenders shall not be less than 28 days from the issue date of the Invitation to Tender, with exceptions allowed by agreement of the Head of Commercial Services.

## 11 Competition requirements

### Contracts within Band A

- 1 For Contracts in Band A, the Responsible Officer or the Authorised Officer shall consider that Value for Money has been obtained by maintaining appropriate records in accordance with CPR 23 (for example by providing evidence of a catalogue search or internet search).

### Contracts within Band B

- 2 For Contracts in Band B, it is sufficient for Officers to invite Quotations.
- 3 **Goods and services only**
  - a) £10,001 - £25,000: At least four written Quotations shall be sought from appropriate Suppliers using Sell2Wales; if the Responsible Officer wishes to use an alternative process this must be agreed by the Head of Commercial Services.
  - b) £25,001 - £140,000: requirements shall be openly advertised on Sell2Wales with exceptions allowed by agreement of the Head of Commercial Services.
- 4 **Works only (£10,001 - £140,000):** At least four Quotations shall be sought from appropriate Suppliers using Sell2Wales or constructionline.co.uk in accordance with the following procedure:
  - a) a minimum of two Suppliers shall be chosen at random using the 'generate a list' function;
  - b) a maximum of two Suppliers shall be chosen by Officers;
  - c) at least one of the four Suppliers shall be from the Local Area and Officers shall consider increasing this number in accordance with CPR 14;
  - d) Officers shall contact all Suppliers (including those chosen at random and those chosen by Officers) within 14 days prior to the commencement of the Procurement Process to determine their interest in submitting a Quotation. Officers shall substitute all Suppliers not interested in submitting a Quotation with alternative Suppliers, and shall choose those alternative in compliance with this CPR 11.4.
- 5 *Dynamic Purchasing Systems:* All Dynamic Purchasing Systems shall be openly advertised on the Sell2Wales Website.

### Contracts within Band C and Band D

- 6 *Goods and services only* – For Contracts in Band C and Band D, Tenders shall be invited. All Contracts shall be openly advertised on the Sell2Wales Website.
- 7 *Works only – £140,001 - £500,000:* Requirements shall be openly advertised on the Sell2Wales Website. Tenders shall be invited. Alternatively, at least six Tenders shall be sought from Suppliers registered on constructionline.co.uk in accordance with the following procedures:
  - a) a minimum of four Suppliers shall be chosen at random using the 'generate a list' function;
  - b) a maximum of two Suppliers shall be chosen by Officers;

- c) at least two of the six Suppliers shall be from the Local Area (where the subject of the Contract allows);
  - d) Officers shall contact all Suppliers (including those chosen at random and those chosen by Officers) within 14 days prior to the commencement of the Procurement Process to determine their interest in submitting Tenders. Officers shall substitute all Suppliers not interested in submitting a Tenders with alternative Suppliers, and shall choose those alternative Suppliers in accordance with this CPR 11.8.
- 8 *Works only – £500,001 and above:* All Contracts shall be openly advertised on the Sell2Wales Website.
- 9 *Dynamic Purchasing Systems:* All Dynamic Purchasing Systems shall be openly advertised on the Sell2Wales Website.

## 12 Supplier suitability

- 1 Officers are responsible for ensuring that Suppliers have been suitably assessed prior to being awarded a Contract. Suppliers shall be assessed against appropriate Pre-Qualification Criteria relating to one or more of the following:
- a) suitability to pursue a professional activity;
  - b) economic and financial standing;
  - c) technical and professional ability;
  - d) social, economic and/or environmental considerations in relation to the Local Area, in accordance with CPR 14.
  - e) the supplier's safeguarding policy
  - f) the supplier's policies relating to ethical employment and practices.
- 2 Prior to awarding a Contract to a Supplier, Officers shall ensure that the Supplier has adequate insurance cover in place for the performance of the Contract. Where in doubt, Officers shall seek the advice of a Finance Officer. The Responsible Officer is responsible for ensuring that the Supplier remains adequately insured for the duration of the Contract.

## 13 Award Criteria

- 1 In conjunction with a Procurement Officer, the Responsible Officer or the Authorised Officer must define Award Criteria that are appropriate to the procurement and designed to secure an outcome that will provide Value for Money for the Council. The basic criteria shall be one or more of:
- a) 'Most Economically Advantageous Offer', where considerations of quality and price or cost apply;
  - b) 'lowest price';
  - c) 'highest price' (if payment is to be received by the Council).

## 14 Community Benefits

- 1 Officers shall have regard to any current guidance in relation to CPR 14 issued by the Head of Commercial Services on Staffnet.

- 2 None of the requirements set out within CPR 14 shall prevent Officers from complying with the requirements set out within CPR 11 (Competition requirements).
- 3 CPR 14 shall not apply to any Contract awarded under a Framework Agreement.
- 4 Prior to commencing a Procurement Process, the Authorised Officer or the Responsible Officer must give consideration to how the Contract could provide social, economic and/or environmental benefits to the Local Area ('Community Benefits') and the measures that may be taken to secure these benefits. Such measures may include (as long as the measures are fair, transparent and proportionate):
  - a) particular requirements or minimum standards within the technical specifications or Contract conditions
  - b) appropriate Pre-Qualification Criteria;
  - c) appropriate Award Criteria;
  - d) awarding a Contract in the form of separate lots.
- 5 For the purposes of CPR 14.4, the Authorised Officer or the Responsible Officer shall also be permitted to restrict competition for Contracts with an estimated value not exceeding £140,000 to Suppliers based in the Local Area.
- 6 The Local Area shall mean the area within the Swansea local authority boundary. However, taking into account factors such as the complexity of the Contract and the capacity of Suppliers based within the Swansea local authority boundary to perform the contract, Officers shall have discretion to broaden the definition of Local Area to either—
  - a) The combined local authority boundaries of Swansea and one or more of the following: Carmarthenshire, Neath Port Talbot, Bridgend; or
  - b) Wales.
- 7 For the purposes of CPR 14.4, Officers must only consider measures that are relevant and proportionate to the subject matter of the Contract. Officers are not required to comply with CPR 14.4 in the following circumstances—
  - a) where its application would impose burdensome, excessive or disproportionate requirements on the Council, Bidders or Suppliers; or
  - b) where the subject matter of the Contract is such that Community Benefits are not reasonably attainable; or
  - c) where the subject matter of the Contract is such that Community Benefits are likely to materialise without the need for additional measures.
- 8 A Community Benefit must not be attained by the creation of a social, economic and/or environmental dis-benefit. For example, Officers must not create an economic benefit to the Local Area dependant on the creation of an environmental dis-benefit.
- 9 For the purposes of CPR 14, a Supplier shall be deemed to be based in the Local Area if it performs any part of the Contract from premises with an address in the Local Area.

- 10 Members may at any time require of any Responsible Officer a Written report setting out details of the Community Benefits they have secured pursuant to CPR 14 during the 12 months preceding the date of the request.

## **15 Opening of Quotations and Tenders**

- 1 Under no circumstances should any Quotation or Tender be opened before the Closing Date.
- 2 Electronic Tenders shall be opened after the Closing Date by a Procurement Officer.
- 3 Quotations shall be opened after the Closing Date by any Officer.
- 4 No Tender or Quotation received after the Closing Date shall be accepted.
- 5 Quotations and Tenders received by any method other than by the method specified in the Procurement Documents shall be rejected.
- 6 The procedures set out in CPR 15 will apply to the opening of Pre-Qualification Documents except where these are submitted together with a Tender or Quotation or in accordance with the procedures specified in the Procurement Documents.

## **16 Clarification procedures**

- 1 Where information or documentation submitted by a Bidder is incomplete, or where specific documents are missing, the Responsible Officer or the Authorised Officer may request the Bidder to submit or complete the relevant information or documentation within an appropriate time limit. However, Bidders shall not be permitted to submit any missing information or documentation that is subject to the Award Criteria (such as but not limited to pricing schedules and method statements).
- 2 No opportunity shall be given to complete or amend any information contained in a Tender or Quotation that is subject to the Award Criteria, other than where due to a demonstrable arithmetical or interpretive error attributable to the Bidder, or due to errors contained in the Procurement Documents attributable to the Council.
- 3 Under no circumstances shall clarification procedures be used in lieu of Post-Tender Negotiation with a view to obtaining adjustments in price, quality, delivery, quantity or scope as a means of improving offers being considered.
- 4 In respect of Quotations or Tenders to be received by the Electronic Sourcing System, all clarifications sought in accordance with CPR 16 must be issued and received by the Electronic Sourcing System.

## 17 Negotiation of Quotations and Tenders

- 1 Negotiation of Tenders and Quotations in accordance with CPR 17 shall only be undertaken following consultation with the Head of Commercial Services, who shall advise on the appropriate procedures to be followed.
- 2 Negotiations must be conducted by a team of at least two Officers, one of whom must be a Procurement Officer who shall lead the negotiations.
- 3 Officers appointed to carry out negotiations shall ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing. All documentation shall be retained in accordance with CPR 23.

### Competitive Negotiation of Quotations or Tenders

- 4 Competitive Negotiation of Quotations or Tenders shall mean a Procurement Process involving the negotiation of Quotations or Tenders with Suppliers where it is determined prior to the commencement of the Procurement Process that the negotiation of Quotations or Tenders may be necessary during the course of the Procurement Process.
- 5 Competitive Negotiation of Quotations/Tenders may only be undertaken in the following circumstances:
  - a) the needs of the Council cannot be met without adaptation of goods/services/works available on the open market;
  - b) the Contract will include design or innovative solutions;
  - c) the Contract cannot be awarded without prior negotiation because of specific complexities (legal, financial or technical) relating to the Contract;
  - d) the technical specifications cannot be established with sufficient precision without prior negotiation with Bidders
- 6 The intention to undertake a Competitive Negotiation of Quotations or Tenders shall be clearly stated in the Procurement Documents.
- 7 When undertaking a Competitive Negotiation of Quotations or Tenders the minimum requirements of the Contract shall be specified in the Procurement Documents.
- 8 The minimum requirements of the Contract and the Award Criteria shall not be subject to negotiation, and this shall be specified in the Procurement Documents.

### Post-Tender Negotiation

- 9 Post-Tender Negotiation shall be understood as negotiation with a Bidder/s after the submission of Tenders/Quotations and before the award of a Contract with a view to obtaining adjustments in price, quality, delivery, quantity or scope, and where the need for such negotiation was not reasonably foreseeable before the commencement of the Procurement Process.
- 10 In general, Post-Tender Negotiation shall only be undertaken in circumstances where no suitable Quotations or Tenders have been received in response to an Invitation to Quote/ Invitation to Tender. A Quotation or Tender shall be deemed

not to be suitable where it is demonstrably incapable, without adaptation, of meeting the Council's requirements as specified in the Procurement Documents.

- 11 Where there is an adjustment in the scope or quantity included in the Procurement Documents, negotiations shall be undertaken with all Bidders. This shall not include any Bidders having already been excluded from the Procurement Process.
- 12 The minimum requirements of the Contract and the Award Criteria shall not be subject to negotiation.

## **18 Evaluation and award of Quotations and Tenders**

- 1 The confidentiality of Quotations and Tenders must be preserved at all times and information about one Bidder's Quotation/Tender must not be given to another Bidder.

### **Evaluation of Quotations and Tenders in Band A (up to £10,000)**

- 2 Procedures for the evaluation of Quotations shall be determined by the Responsible Officer or the Authorised Officer with the aim of ensuring that Value for Money has been obtained.

### **Evaluation of Quotations and Tenders in Band B (£10,001 - £140,000)**

- 3 Quotations and Tenders shall be evaluated in accordance with the Award Criteria specified in the Procurement Documents.
- 4 Prior to the award of a Contract, a Contract Award Report in a standard form shall be drafted by the Authorised Officer for written approval by the Responsible Officer and a Procurement Officer.
- 5 The Authorised Officer shall obtain written approval of the Contract Award Report as required by CPR 18.4 prior to awarding a Contract.
- 6 If deemed necessary by the Head of Commercial Services, and in particular where complex legal, financial or technical issues attach to the award of the Contract, an Evaluation Panel shall be convened in accordance with CPR 18.17 to 18.19.

### **Evaluation of Quotations and Tenders in Band C (£140,001 - £1,000,000)**

- 7 Quotations and Tenders shall be evaluated in accordance with the Award Criteria specified in the Procurement Documents.
- 8 Prior to the award of a Contract, a Contract Award Report in a standard form shall be drafted by the Responsible Officer or the Authorised Officer for Written approval by the following persons:
  - (a) a Procurement Officer;
  - (b) a Legal Officer.
  - (c) a Finance Officer



- 9 After the Contract Award Report has been approved in accordance with CPR 18.7 and 18.8, the Responsible Officer or the Authorised Officer shall obtain Written approval of the Contract Award Report from the following persons:
- (d) the Responsible Officer;
  - (e) the Head of Commercial Services;
  - (f) the Chief Legal Officer.
  - (g) The Chief Finance Officer
- 10 The Authorised Officer shall obtain written approval of the Contract Award Report as required by CPR 18.8 and 18.9.
- 11 If deemed necessary by the Head of Commercial Services, and in particular where complex legal, financial or technical issues attach to the award of the Contract, an Evaluation Panel shall be convened in accordance with CPR 18.17 to 18.19.

### **Evaluation of Tenders in Band D (£1,000,001 and over)**

- 12 All Tenders shall be evaluated in accordance with the procedures applicable to Band C, with approval of the Contract Award Report also to be obtained from the relevant Cabinet Member.
- 13 In the event that any of the officers with delegated authority or Cabinet Member referred to in CPR 18.12 decline to approve the Contract Award Report, then the Contract Award Report shall be referred to Cabinet for approval.

### **Evaluation of Framework Agreements, Dynamic Purchasing Systems and Call-Off Contracts**

- 14 The evaluation of Quotations and Tenders for Framework Agreements and Dynamic Purchasing Systems awarded by the Council shall be in compliance with CPR 18.
- 15 The evaluation of Quotations and Tenders invited under a Framework Agreement or Dynamic Purchasing System ('Call-Off Contracts') shall be in compliance with CPR 18.
- 16 Where it is anticipated that a series of Call-Off Contracts are to be awarded over the term of a Framework Agreement or Dynamic Purchasing System, it is permissible for a single Contract Award Report to authorise the award of those Contracts provided that the Contract Award Report is in compliance with the relevant provisions of CPR 18.

### **Evaluation Panels**

- 17 Subject to CPR 18.6 and 18.11 Evaluation Panels shall be assembled by the Responsible Officer or the Authorised Officer who shall inform the Procurement Officer of the proposed arrangements.
- 18 Evaluation Panels may include:
- (a) a Procurement Officer;
  - (b) the Authorised Officer;
  - (c) the Responsible Officer;
  - (d) a Legal Officer;
  - (e) a Finance Officer;

(f) any other person/s requested to attend by invitation of the Authorised Officer, the Responsible Officer or the Procurement Officer.

19 The Responsible Officer or the Authorised Officer shall ensure any actions agreed by the Evaluation Panel are recorded in the Contract Award Report to be approved in accordance with CPR 18.

## **19 Notifying successful and unsuccessful Bidders**

1 Prior to awarding a Contract, the Head of Commercial Services shall forward a copy of the Contract Award Report to the Head of Democratic Services for publication. The threshold contract value for publication shall be determined by the Monitoring Officer and communicated to the Head of Commercial Services. Following publication and subject to the outcome of any “call-in” procedure the Responsible Officer may proceed to award the contract.

2 Following the publication of the award, the Responsible Officer or the Authorised Officer shall in writing notify all Bidders of the outcome of the Procurement Process using notification letters approved by a Procurement Officer . This shall not include any Bidders that have already been excluded from the Procurement Process.

3 The Responsible Officer or the Authorised Officer may, on receipt of a written request from an unsuccessful Bidder, provide that Bidder with a debriefing, verbally or in writing. When being conducted verbally, a written record of all discussions shall be made and such record shall be retained in accordance with CPR 23.

## **20 Terms and conditions, and signing and sealing of Contracts**

1 Subject to CPR 20.6, no work shall commence until the Contract is signed by all parties and (if required by CPR 20.3) sealed.

2 The relevant Contract conditions of the Council shall form the basis of Contracts. No conditions attached to Quotations or Tenders, and no modifications to the relevant Contract conditions of the Council, shall be accepted without consultation with the Chief Legal Officer and the Head of Commercial Services.

3 Contracts of a value of up to £140,000 shall be signed by the Responsible Officer or the Authorised Officer. Contracts of a value exceeding £140,000 shall be made under the Common Seal of the Council, except for Contracts awarded by external organisations where different rules may apply.

4 Contracts of a value exceeding £140,000 shall be prepared by a Legal Officer.

5 Call-Off Contracts, whether awarded under a Framework Agreement or Dynamic Purchasing System established by the Council or an external organisation, shall be signed and sealed in accordance with CPR 20.

6 Where a Bidder is required to provide goods, services or works prior to entering into a formal written Contract with the Council a letter of intent may be submitted to the Bidder with the agreement of the Responsible Officer. A letter of intent shall not be

submitted without prior consultation with the Chief Legal Officer and until an award decision has been made in accordance with CPR 18.

## **21 Suspension and termination of Contracts and Modifications to Contracts**

- 1 No Contract in Band B, Band C or Band D shall be suspended or terminated without prior written consultation with the Head of Commercial Services and the Chief Legal Officer.
- 2 No modifications shall be made to the terms of an existing Contract without the approval of the Head of Commercial Services and the Responsible Officer unless provided for in the initial procurement documents, irrespective of value.
- 3 The relevant Cabinet Member must also approve where the proposed modification exceeds £1 million.

## **22 Contract management**

- 1 Responsible Officers must assign an Officer or Officers designated as Contract Manager/s for all new Contracts. Responsible Officers and Authorised Officers are responsible for monitoring the expenditure on Contracts.
- 2 Contract Managers must ensure that all appropriate contract documentation is maintained and available for review, so for example where a contract specifies Key Performance Indicators or Service Levels then appropriate performance monitoring data relating to these will be maintained and managed by the Contract Manager and the contract's Responsible Officer (this data will be need to be reviewed, for example, should the product or service need to be retendered at a future date, so a history of the contract performance is essential).

## **23 Record Keeping**

- 1 All documentation relating to successful Quotations and Tenders must be retained for six years following the end date of the Contract.
- 2 All documentation relating to unsuccessful Quotations and Tenders must be retained for 12 months from award of Contract, provided that there is no dispute regarding the award, in which case all such documentation shall be retained until the date that the dispute has been fully concluded plus a further 12 months.

## **24 Contracts register**

- 1 The Head of Commercial Services shall maintain a register of all Contracts in and above Band B. Relevant information shall include:
  - (a) Contract title
  - (b) name of Contractor/s;

- (c) Contract period (including any optional extension periods) and value;
- (d) if applicable, details of the Framework Agreement or Dynamic Purchasing System under which the Contract was awarded;
- (e) the name of the Contract Manager.

2 A register of all Contracts in Band A shall be maintained by the relevant Responsible Officer for the procurement.

## **Council Constitution, Part 4.6 - Rules of Procedure (Financial Procedure Rules)**

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#### **1 Glossary Als**

Accounting Instructions, which are detailed regulations issued by the Chief Finance Officer, and which support these FPR.

#### **2 Budget Headings**

Budget headings are each separately identified budget item as approved by Council in the annual budget.

#### **3 Corporate Management Team**

The team consists of the Chief Officers.

#### **4 Responsible Officer**

Chief Executive, Corporate Directors, Chief Officers and Heads of Service as identified in the Council's approved management structure.

## 5 Further Information

Detailed guidance on the application of these rules can be found in the Accounting Instructions, which are referenced in the appropriate FPR. Accounting Instructions can be viewed on the Council's internet site.

**Guidance is also available from the Chief Finance Officer.**

# 1 FPR 1 - Role and Scope of Financial Procedure Rules (FPR)

## 1 The Role of Financial Procedure Rules.

- a) FPR provide the control framework for managing the Council's financial affairs, enabling financial management within a system of delegated responsibility and accountability.

The objectives of FPR are

- i) to protect the assets and financial resources of the Council
  - ii) to regulate for systematic financial planning
  - iii) to provide for management of budgets, expenditure and income.
- b) As well as protecting the Council, FPR also protects members and officers of the Council. FPR provides a framework within which responsibilities are allocated. Compliance with FPR therefore provides protection to individuals undertaking financial management and transactions.
- c) FPR should be read in conjunction with the Council's other regulatory documents. Note that the Chief Finance Officer has issued Accounting Instructions (AIs) which provide detailed guidance and instructions on financial control arrangements and systems. The AIs are available in the Finance section of the Intranet.
- d) Failure to comply with FPR and AIs could be construed as misconduct and could lead to disciplinary proceedings.

## 2 The Scope of Financial Procedure Rules

- a) FPR shall apply to every member and employee of the Council and anyone authorised to act on its behalf.
- b) All financial transactions of the Council shall comply with FPR. (Note here that FPR 19 provides for overriding exigencies in the interests of the Council).
- c) Application in Schools.

**Note:** *Separate detailed Financial Regulations apply to schools but they still need to abide by all of the principles set out in these Financial Procedure Rules.*

## **2 FPR 2 - General Responsibilities**

### **1 Reasonable Actions**

All members and employees have a general responsibility to take reasonable action to provide for the security of the assets under their control and to ensure that the use of resources under their control is legal, properly authorised and achieves best value.

### **2 Training and Awareness**

Each Responsible Officer must ensure that arrangements are in place to provide that all staff under their control are aware of the existence and content of FPR and that suitable training is provided to staff.

### **3 Compliance**

All members and employees must comply with FPR. Responsible officers are responsible for ensuring that adequate and appropriate arrangements are in place to monitor and ensure compliance. In this regard, Responsible Officers will be supported by the work of Internal and External Audit.

## **3 FPR 3 - Financial Management Responsibilities**

### **1 The Council**

- a) Is responsible for agreeing the annual revenue and capital budgets and three year forward plans and programmes. It approves the Prudential Indicators for borrowing and long term liabilities and the Treasury and Investment Strategies.
- b) It is responsible for the approval and amendment of Financial Procedure Rules and the system of delegation of financial controls.

### **2 The Cabinet and its Members**

Are responsible for approving new schemes and variations to budgets above financial limits as set out in these FPR.

### **3 Chief Financial Officer**

- a) Section 151 of the Local Government Act 1972 requires that "...every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their offices has responsibility for the administration of these affairs".
- b) The Chief Financial Officer is appointed for this purpose and this role is currently filled by the Chief Finance Officer. He has overarching responsibility for the financial affairs of the Council.
- c) He is also the responsible officer in respect of Sections 26 and 114 of the Local Government Finance Act 1988. This requires that he must report

to Council if there has been or may be a decision which would result in an unlawful payment, or an act of wilful misconduct, which may cause the loss of money, or that the council may exceed its resources.

- d) He has operational responsibility for the provision of Financial Services. He is responsible for maintaining a continuous review of the Financial Procedure Rules and for reporting any breaches where appropriate. He is responsible for issuing advice and guidance to underpin FPR through detailed Accounting Instructions, which constitute part of these FPR.
- e) He is responsible for the co-ordination and development of financial planning, resourcing of the Council's Revenue and Capital programmes, and the preparation of the annual budget. He is responsible for the co-ordination and reporting of regular budget monitoring.

#### **4 Responsible Officers**

- a) As stated above (2.3) Responsible Officers are responsible for ensuring that adequate and appropriate arrangements are in place within their service to monitor and ensure compliance with FPRs and Accounting Instructions.
- b) Responsible officers are required to manage their services efficiently and as economically as possible in providing services at the Council's approved service levels.

#### **4 FPR 4 - Budget and Financial Planning**

- 1 The Council is responsible for agreeing the annual budget and forward financial plans. The Cabinet is responsible for preparing budgets and financial plans for recommendation to Council.
- 2 The detailed format and timescale of revenue and capital estimates are determined by the Chief Finance Officer. Responsible officers must comply with his requests.
- 3 Responsible officers are required to prepare revenue and capital estimates and to undertake reviews as instructed by the Chief Finance Officer.

#### **5 FPR 5 - Budgetary Control**

- 4 The Chief Finance Officer is responsible for providing appropriate and timely financial information to enable budgets to be monitored effectively.
- 5 The Chief Finance Officer is responsible for coordinating the system of corporate monitoring of budgets as agreed from time to time. He will ensure that regular monitoring reports are presented to Cabinet identifying variances and virement as appropriate.
- 6 As stated in FPR 3.6, Responsible Officers are required to provide services as economically as possible. Should a saving or underspending be identified within



a budget which is not required to provide the approved service level, Responsible Officers must report this to the Chief Finance Officer for consideration corporately.

7 Virement - Revenue Budget

Responsible Officers must manage their budgets within budget headings as approved by Council, subject to any detailed framework issued by the Chief Finance Officer.

Virement between budget headings is subject to approval as follows:

Up to £75,000	By Responsible Officer
£75,000 to £150,000	By the relevant Member of the Corporate Management Team
£150,000 to £1 million	By the Chief Finance Officer
Above £1 million	By Cabinet

Virement between Responsible Officers must be with the agreement of the relevant Member(s) of the Corporate Management Team. Virement between Portfolios must only be in consultation with the relevant Cabinet Members.

- 8 Responsible Officers are required to monitor and regulate their spending programmes and income within their approved budgets. They must report on variances within the corporate monitoring framework and take appropriate action to avoid exceeding their budget allocation. This reporting requirement applies equally to Revenue and Capital budgets (but see also the further requirements for variations to capital schemes FPR 7.3).
- 9 Responsible Officers are required to maintain budgetary control within their services, in adherence to the principles below.
- 10 They must ensure that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- a) a new policy or
  - b) a variation of existing policy or
  - c) a new capital, leasing or revenue project
- which may affect the Council's annual revenue finances by more than £75,000 per annum (excluding borrowing costs) is proposed, notwithstanding that it may be included in the budget, a report must be made to and approved by Cabinet.
- 11 The report must provide estimates of cost, income and funding together with appraisals of any financial issues, appraisal of service options considered and links to the Council's corporate plan.
- 12 Where the gross cost of a proposed new policy, variation to a policy, or a new project, exceeds £75,000 per annum, but is estimated to be partly or wholly offset by income, so that the net cost will be below £75,000, a report must be made to and approved by the Chief Finance Officer.

## 6 FPR 6 - Financial Planning and Appraisal

13 This section regulates any new policy or scheme, revenue capital or leasing, which will materially affect the Council's finances and budgets.

14 Where

- a) a new policy or
- b) a variation of existing policy or
- c) a new capital, leasing or revenue project

which may affect the Council's annual revenue finances by more than £75,000 per annum (excluding borrowing costs) is proposed, notwithstanding that it may be included in the budget, a report must be made to and approved by Cabinet.

15 The report must provide estimates of cost, income and funding together with appraisals of any financial issues, appraisal of service options considered and links to the Council's corporate plan.

16 Where the gross cost of a proposed new policy, variation to a policy, or a new project, exceeds £75,000 per annum, but is estimated to be partly or wholly offset by income, so that the net cost will be below £75,000, a report must be made to and approved by the Chief Finance Officer.

## 7 FPR 7 - Capital Programming and Appraisals

1 All Responsible Officers must prepare each year within detailed guidelines and in accordance with the Asset Management Plan, a capital programme for the following three years for approval by the Council.

2 The following reporting Procedure will apply to schemes included in the capital and leasing programmes before approval can be given to start:

Where the estimated cost of an individual project exceeds £1 million, the relevant Cabinet Portfolio Member must obtain the approval of Cabinet. Such reports must include the following information:

- a) The objective to be met by the proposal related to the Authority's current service delivery plan;
- b) A description of the project including a summary of the design brief, and any requirement for acquisition of land or interests in land with an assurance of availability of land by the anticipated start date;
- c) A summary of estimated capital costs, and anticipated dates of start and completion;
- d) The revenue consequences of the scheme including capital financing charges for the budget and following 2 years;
- e) An assessment of financial risks within the project;
- f) An appraisal of service options considered and links to the Council's corporate plan.

3 Where the estimated cost of an individual project exceeds £150,000 but not £1 million, and the project is not materially changed from the scheme included in the approved capital programme, then a report, as detailed above, must be approved

by the relevant Cabinet Member and Director, the Chief Finance Officer and the Chief Legal Officer. The relevant Director shall forward a copy of the report to the Head of Democratic Services for publication. Following publication and subject to “call-in” the relevant Director and the Chief Finance Officer may proceed to implement the report decision.

4 Once a report has been approved, no material alteration to the design brief or the approved estimate (by more than £25,000 or 5% whichever is the greater) for the scheme, shall be made without further approval by the approval body/group which considered the original scheme.

5 Schemes not included in the approved capital programme

Schemes which are not included in the approved capital programme may be added to it subject to

- a) compliance with paragraphs 7.2 or 7.3 as appropriate and
- b) agreement of funding for the scheme, accepted by the Chief Finance Officer.

## **8 FPR 8 - Grant Applications and Acceptances**

1 The Council provides a range of services, activities and schemes which may be funded, in whole or in part, by external grants from other agencies and organisations. Such grants carry additional responsibilities and risks for the Council in that the Council must comply with grant conditions, or risk repayment and most grants are cash and/or time limited.

2 In view of these risks there is a need to exercise close control of grant bidding and administration.

3 In order to ensure compliance with financial planning and budgeting, the Chief Finance Officer must approve all grant applications to external bodies.

4 In order to ensure compliance with Financial Procedure Rules and internal controls, the Chief Finance Officer must approve and sign all grant acceptances.

5 Responsible Officers must inform the Chief Finance Officer of all grant approvals.

6 Administration of grant-funded schemes and grant claims will be closely controlled through Accounting Instruction 16. The Chief Finance Officer must approve and sign all grant claims.

7 Responsible officers must ensure that all grant claims are completed correctly and on time and passed to Financial Services for certification.

8 See also Accounting Instructions 13, 16.

## **9 FPR 9 - Reserves and Year-End Balances**

- 1 The Chief Finance Officer has responsibility to ensure that prudent levels of resources are maintained and to advise Cabinet and Council accordingly.
- 2 Within this general duty he will determine any detailed arrangements for maintaining specific or ear-marked reserves.

## **10 FPR 10 - Internal Control of Resources**

- 1 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.
- 2 The Chief Finance 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. They 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.
- 3 It is the responsibility of all Responsible Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## **11 FPR 11 - Accounting for Income and Expenditure**

- 1 All accounting Procedures, recording arrangements, receipts, forms, tickets. etc. must be approved by the Chief Finance Officer, through his staff.
- 2 Through Accounting Instructions and other means, the Chief Finance Officer will issue advice, guidance and requirements for accounting systems, form of accounts and supporting financial records.
- 3 Responsible Officers must ensure that their organisational structure provides an appropriate segregation of duties to provide adequate internal control and to minimise the risk of error, fraud, or other malpractice.
- 4 Responsible Officers must ensure that:
  - a) Financial systems within the service are documented, that staff are correctly trained to operate them and that any changes to systems are agreed in advance with Finance.
  - b) There is a complete audit trail allowing financial transactions to be traced to/from the accounting records to the original documents.
  - c) There is a scheme of delegation identifying officers authorised to place orders, make payments and collect income, showing the limits of their authority.

- d) All income due to the Authority is identified and charged correctly in accordance with an approved charging policy.
  - e) Payment for goods and services should normally be received at the time of supply by the Council. If credit cannot be avoided, invoices must be raised promptly and be supported by sufficient documentary evidence to prove the debt, and Responsible Officers that any further support required to collect the debt is provided to Finance or Legal.
  - f) In order to conform with the Money Laundering Regulations of 2003, any payments worth 15,000 euros or more received in cash must be reported to the Chief Finance Officer. (15,000 euros are currently worth about £13,500).
- 5 The Chief Finance Officer is responsible for agreeing arrangements for systems to recover debts due to the Council.
- 6 Debts which are not recoverable must be written off. The Chief Finance Officer must approve all write off of debts up to £10,000. Debts above £10,000 must be written-off with the approval of the Chief Finance Officer and the Chief Legal Officer.
- 7 Responsible officers must maintain a charging policy for the supply of goods or services and review it regularly. All fees and charges within the Council's discretion must be reviewed in line with guidance issued within the annual budget process.

See Also Accounting Instructions 7, 8, 12 and 13.

## **12 FPR 12 - Internal Audit**

- 1 The requirement for an internal audit function is implied by Section 151 of the Local Government Act 1972. The Internal Audit Section operates in accordance with the principles contained in CIPFA's Code of Practice for Internal Audit and has to be compliant with the Public Sector Internal Audit Standards (PSIAS). It comes under the direction of the Chief Finance Officer but it is independent in terms of its planning and operation.
- 2 Internal Audit is an assurance function that primarily provides an independent and objective opinion to the Council on the control environment (which comprises of risk management, control and governance) by evaluating its effectiveness in achieving the Council's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.
- 3 The Chief Internal Auditor will maintain an adequate and effective internal audit and he, or his authorised representative have authority to:
- a) Enter at all reasonable times on any Council premises or land;
  - b) Have access to, and removal if necessary into his custody of, all records, documents and correspondence relating to any financial and other transactions of the Council;
  - c) Require and receive such explanations as are necessary concerning any matter under examination and

- d) Require any employee of the Council to produce on demand cash, stores or any other Council property under his/her control.
- 4 Where any Responsible Officer has cause to suspect financial irregularity he/she shall inform the Chief Finance Officer immediately and provide facilities for investigation, in accordance with the Council's anti-fraud and corruption policy.
- 5 The external auditors appointed by the Wales Audit Office are responsible to central government and have a statutory duty to carry out an independent audit of the Council including the annual accounts, financial aspects of corporate governance and performance management arrangements. Internal audit co-operate with them to ensure effective audit coverage and to avoid duplication of effort.

### **13 FPR 13- Borrowing, Investments, Trust Funds, Unofficial Funds and Leasing**

- 1 The Council has adopted CIPFA's "Code of Practice for Treasury Management in Local Authorities".
- 2 An Annual Treasury Management Strategy must be approved by the Council. Thereafter its implementation and monitoring are delegated to the Chief Finance Officer who will present an Annual Report on Treasury Management by the 30 September of the succeeding financial year. Quarterly Treasury Management progress reports will be made to the relevant Cabinet Member and made available to all Members.
- 3 All money in the hands of the Council, excluding schools, shall be aggregated for the purposes of Treasury Management and shall be under the control of the Chief Financial Officer.
- 4 All executive decisions on borrowing, investment or financing shall be made by the Chief Finance Officer or through him to his staff who shall all be required to act in accordance with CIPFA's "Code of Practice for Treasury Management in Local Authorities" and the annual Treasury Management Strategy.
- 5 All borrowing and investment shall be effected in the name of the Council.
- 6 The Chief Finance Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 7 The raising and repayment of loans shall normally be effected through the Council's bankers.
- 8 All funds shall, whenever possible, be in the name of the Council.
- 9 All officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust, with the Chief Finance Officer unless the deed otherwise provides. Payments out of Trust Funds after approval by the Council shall be made by the Chief Finance Officer.
- 10 Responsible Officers are responsible for the financial management and audit of unofficial funds held by officers within their departments and must consult the

Chief Finance Officer before formulating regulations which will apply to such funds.

- 11 An "unofficial fund" is any fund controlled by an employee of the Authority in the course of his/her official duties which is not a fund belonging to the Council.
- 12 All credit arrangements including operating and finance leases, must be made by Chief Finance Officer.

See also Accounting Instructions 4, 11, 13.

## **14 FPR 14 - Stocks and Stores**

- 1 Each Responsible Officer shall be responsible for the care and custody of the stocks and stores in his/her department.
- 2 Stores records shall be kept in a form to be approved by the Chief Finance Officer.
- 3 Responsible Officers shall arrange for physical stocktaking by persons independent of all the storekeeping function, either on a cyclical basis, covering all stocks at least once in the financial year and completely at the year end. Physical stocktaking records should be signed, both by the person(s) conducting the stocktaking, and the storekeeper acting as witness.
- 4 The Chief Finance Officer shall be entitled to receive from each Responsible Officer such information as he/she requires in relation to stores for the accounting, costing and financial records.
- 5 Surplus materials, stores or equipment shall be disposed of by transfer within the Council, competitive tender, part exchange or by other method as determined by Corporate Management Team.
- 6 At the end of the financial year, each Responsible Officer shall certify the value of stores held in his/her department and submit details to the Chief Finance officer.
- 7 Adjustments to write off deficiencies, or to account for surpluses, must be prepared by the appropriate Responsible Officer and effected by the Chief Finance Officer. Recurring deficiencies or major discrepancies in quantities or values must be reported to Internal Audit.

See Also Accounting Instruction 9 (Parts 1 and 2).

## **15 FPR 15 - Inventories**

- 1 Inventories must be maintained by all departments and record an adequate description of furniture, fittings and equipment, vehicles, plant and machinery and computer software and hardware.

- 2 Each Responsible Officer is responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 3 The Council's property must not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Responsible Officer.
- 4 Surplus property of any description must be disposed of by transfer within the Council, competitive tender, part exchange or public auction or such other arrangements as determined by Corporate Management Team.

See also Accounting Instruction 9 (Part 1).

## **16 FPR 16 - Risk Management and Insurance**

- 1 The Council has a Risk Management Policy. Within this policy the Chief Executive is responsible for the development and maintenance of a Risk Management Strategy.
- 2 Responsible Officers are responsible for the management of risk in accordance with the strategy.
- 3 The Chief Finance Officer is responsible for maintaining insurance cover for the Council through external and/or internal insurance funding.
- 4 Responsible Officers must prompt/notify the Chief Finance Officer of all new risks, properties or vehicles which require to be insured and of any alteration affecting existing insurances.
- .5 Responsible Officers must notify the Chief Finance Officer of any loss, liability or damage or any event likely to lead to a claim and inform the police where appropriate.
- 6 Responsible Officers must consult the Chief Finance Officer and the Chief Legal Officer in respect of the terms of any indemnity which the Council (or an officer acting on its behalf) is required to give.

See also Accounting Instructions 10, 13.

## **17 FPR 17 - Security of Assets**

- 1 Each Responsible Officer is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture equipment, cash, etc. under his/her control.
- 2 There is a general limit of £500 for cash holdings which must not be exceeded without permission from the Insurance Section.
- 3 See Accounting Instruction 8 para. 7.4.



- 4 All arrangements for the carrying of cash by way of a security carrier must be made by the Chief Finance Officer. For advice on cash carrying Procedures, see Accounting Instruction 9, part 4).
- 5 For advice on computer security, see Accounting Instruction 9, Part 5 (and ICT policies).

## **18 FPR 18 - Intellectual Property**

- 1 Certain activities undertaken by an employee during the course of employment could give rise to inventions and writings. As a general rule, they belong to the employer, not the employee. It is the responsibility of Responsible Officers to ensure that there are no conflicts of interest and staff are prohibited from conducting private work in Council time.

## **19 FPR 19 - Emergencies**

- 1 Nothing in these Financial Procedure Rules shall prevent the Authority from incurring expenditure in circumstances where:
  - a) There is a serious risk of significant cost to the Council or loss of income resulting from lack of immediate action; or
  - b) The Council's property or staff will otherwise be placed at serious risk; or
  - c) An emergency or disaster involving destruction or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster and such action is calculated to avert, alleviate or eradicate the effects or potential effects of the event, subject to consultation with the Chief Executive and such action being reported forthwith to Council.

## **20 FPR 20 - Salaries, Wages and Pension**

- 1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made by the Service Centre Manager under arrangements approved by the Chief Finance Officer.
- 2 Each Responsible Officer shall notify the Service Centre as soon as possible and in the form prescribed by him/her, of all matters affecting the payment of such emoluments, and in particular:
  - a) appointments, resignations, dismissals, secondments and transfers;
  - b) absences from duty for sickness or other reason;
  - c) changes in remuneration, other than normal increments and pay awards and agreements of general application.
- 3 Likewise, each Responsible Officer shall provide the Service Centre with all information necessary to maintain records of service for pensions, income tax, national insurance and the like.

- 4 Appointments of all employees shall be made in accordance with the appropriate Procedures of the Council and the approved departmental structures, grades and rates of pay.
- 5 All time records or other pay documents shall be prescribed or approved by the Chief Finance Officer and shall be authorised by or on behalf of the Responsible Officer. The names of officers permitted to authorise such records shall be sent to the Service Centre Manager by each Responsible Officer.
- 6 Where any employee is working for more than one service department etc. their pay will be aggregated to properly account for income tax and national insurance.

See also Accounting Instructions 2, 13.

## **21 FPR 21 - Orders for Work Goods and Services**

### **Note:**

*See also Contract Procedure Rules which deal with tendering Procedures, contract formalities, orders placed within framework agreements etc.*

- 1 Official orders must be issued for all work, goods, or services to be supplied to the Authority except for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.
- 2 Official orders must be in a form approved by the Chief Finance Officer and are to be authorised only by officers of appropriate seniority authorised by the relevant Responsible Officer.
- 3 Official orders shall indicate clearly the nature and quantity of the works, goods, equipment or services required and any contract or agreed prices relating thereto.
- 4 Responsible Officers may place orders for work, goods and services, in accordance with Contract Procedure Rules, providing the expenditure is covered by an approved budget.

See also Accounting Instructions 4, 13.

## **22 FPR 22 - Payment of Accounts**

- 1 The processing of accounts for payment shall be under the control of the appropriate Responsible Officer in accordance with arrangements approved by the Chief Legal Officer.
- 2 The Responsible Officer of the department issuing an order (or any officer authorised by him/her to do so) is responsible for the examination, verification and certification of the relevant invoices. The certification will include:

- a) that the goods have been received, examined and approved as to quality and quantity or the work has been done satisfactorily, and that the orders have been complied with;
  - b) that the expenditure is within budget;
  - c) that the prices, arithmetic, VAT and expenditure code are correct;
  - d) that the proper entries have been made in the inventories or stores records, where appropriate;
  - e) that the account has not been previously certified for payment and is a proper liability of the Council.
- 3 The certification of accounts for payment shall be by the Responsible Officer concerned or by any officer authorised by him/her to do so.
  - 4 Accounts for payment shall be certified and sent to the Chief Finance Officer as soon as possible, and in accordance with the timetable which has been devised to avoid penalties imposed under the Late Payment of Commercial Debts (Interest) Act 1998.
  - 5 The Chief Finance Officer shall examine, as far as he/she considers necessary, certified accounts passed to him/her for payment, and he/she shall be entitled to receive such information and explanation as he/she may require.
  - 6 Payments to individuals for services provided must be treated correctly for Income Tax and National Insurance purposes particularly the self-employed and casual workers including those covered by the Construction Industry Tax Deduction Scheme.

See also Accounting Instructions 5, 13.

## **23 FPR 23 - Petty Cash**

- 1 Where any Petty Cash Accounts are authorised by the Chief Finance Officer, any single payment therefrom shall not exceed the sum of £50 unless otherwise agreed by the Chief Finance Officer. Salaries, Wages and Car Allowance Payments must not be paid out of petty cash.
- 2 Such accounts must be kept on the Imprest System, and the petty cash books and vouchers must be retained in departments and be available for inspection if required at time of reimbursement. No income received on behalf of the Council may be paid into such accounts but must be banked or paid to the Council as provided elsewhere in these rules.
- 3 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Responsible Officer or the Imprest holder's successor for the amount advanced to him/her. The same principles apply to all other cash floats.
- 4 Reimbursement of the petty cash account must be effected regularly to avoid overdrawn balances and by no later than 31st March in each financial year.

See also Accounting Instruction 6.

## **24 FPR 24 - Value Added Tax**

- 1 Accounts and records in connection with Value Added Tax shall be kept by the Chief Finance Officer or under arrangements approved by him/her.
- 2 The Chief Finance Officer will submit monthly returns as required by HM Customs and Excise and ensure that all VAT reclaimed is promptly paid to the Authority.
- 3 Responsible Officers must ensure that:
  - a) the amount of VAT due is properly included on the supplier's invoice which must include the VAT Registration Number and comply fully with the requirements of a valid tax invoice.
  - b) in the case of certified sub-contract payments, the documentation must indicate that the payment is to a sub-contractor.
  - c) in other "exceptional" cases, the payment is allowed under the Valued Added Tax Act 1994 and outlined in HM Customs and Excise Notice 700 (or other amending Act or regulation).
  - d) VAT on all relevant income is accounted for properly, in accordance with the provisions of the Council's VAT Manual issued and updated by the Chief Finance Officer and available on the Intranet.
  - e) In proposing schemes of capital expenditure or capital disposals, officers must consider the VAT implications of making exempt supplies and consult with the Chief Finance Officer as necessary.

See also Accounting Instructions 5, 6, 7, 8, 13 and 15.

## **25 FPR 25 - Banking Arrangements**

- 1 All arrangements with the Council's banker shall be made by or under arrangements approved by the Chief Finance Officer who shall be authorised to operate such banking accounts, as he/she may consider necessary.
- 2 All cheques shall be ordered only on the authority of the Chief Finance Officer who shall make proper arrangements for their safe custody.
- 3 The Procedures for the prompt reconciliation of the Council's principal bank accounts as specified by the Chief Finance Officer shall be followed by the officers involved.
- 4 Cheques on the Council's principal banking accounts, shall bear the facsimile signature of the Chief Finance Officer or be signed by the Chief Finance Officer or other officer authorised to do so.
- 5 Personal cheques must not be cashed out of moneys held on behalf of the Council unless under arrangements approved by the Chief Finance Officer.

See also Accounting Instructions 8 and 14.

## **26 FPR 26 - Members and Staff Expenses**

- 1 All employees' claims for payment of car allowances, travelling and incidental expenses shall be submitted, duly certified in a form approved by the Chief Finance Officer to the Service Centre Manager, or as he/directs, made up to the last day of each month, within seven days thereof. The names of officers authorised to sign such records must be sent to the Chief Finance Officer (or the Director of Education where appropriate), by each Responsible Officer together with specimen signatures and shall be amended immediately on the occasion of any change.
- 2 Payments to Members, including co-opted Members of the Council and Standards Committee who are entitled to claim travelling or other allowances, will be made by the Service Centre Manager upon receipt of the prescribed form duly completed and checked by the Head of Democratic Services. All claims are to be submitted on a monthly basis and within one month of the end of the financial year.
- 3 The certification of officers' claims by or on behalf of the Responsible Officer will be taken to mean that the certifying officer is satisfied that the journeys were authorised, that expenses were properly and necessarily incurred and that allowances are properly payable by the Council and there is sufficient budget provision.
- 4 Any claims submitted more than three months after the end of the month in which expenses were incurred will be paid only with the express approval of both Head of Democratic Services and the Chief Finance Officer. Payment of the expenses may not be approved unless there are special reasons why the claim was delayed.
- 5 Where an advance payment is made in respect of anticipated large expenditure, it must be supported by a final claim form after the event duly certified by the claiming officer/member and any surplus must be repaid to the Council.

See also Accounting Instruction 3.

## **27 FPR 27 - External Arrangements and Partnerships**

- 1 Unless otherwise agreed by the Chief Finance Officer the principles and terms of Financial Procedure Rules apply as appropriate to all contracted partnerships which the Council is a party to.
- 2 Responsible officers must consult the Chief Finance Officer in this respect in relation to any new partnerships to be entered or any variation.
- 3 Responsible Officers may provide services to outside bodies in accordance with relevant statutory provisions, following consultation with the Chief Legal Officer and the Chief Finance Officer.
- 4 Responsible Officers must provide appropriate information to the Chief Finance Officer on any partnership arrangements to enable any required entry to be made in the Statement of Accounts.

## **Council Constitution, Part 4.7 - Rules of Procedure (Land Transaction Procedure Rules)**

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### **1 General**

- 1 These Rules will be followed when dealing with all acquisitions and disposals of Land, whether freehold, leasehold or by grant of a tenancy, except as provided below.
- 2 In these Procedure Rules “Land” shall mean all and any interest in land (including buildings), or any right in, on, over or under land.
- 3 These Rules apply to:
  - a) The freehold acquisition or disposal of Land;
  - b) The appropriation of Land in accordance with paragraphs 4.5 and 4.6 below;
  - c) The grant of a lease or tenancy exceeding 7 years in duration; and
  - d) The taking of a lease or tenancy of any duration.
- 4 These procedure Rules do not apply:
  - a) To disposals under the Leasehold Reform Act 1967, Leasehold Reform Housing and Urban Development Act 1993, Commonhold and Leasehold Reform Act 2002.
  - b) To the renewal or restructuring of an existing lease or tenancy.
  - c) Where Cabinet decides they will not apply.
- 5 Note: Where there is any conflict between these Procedure Rules and s.123 LGA 1972 or any other mandatory statutory provision, the relevant statutory provision must be followed.

### **2 Acquisitions, Disposals & Leases - Authority**

In accordance with the Scheme of Delegation as set out in Part 3.1 of the Constitution, and subject to paragraph 5.4 below, the authority for approving disposals, acquisitions and leases shall be vested in:

- a) Responsible Officers in relation to:
  - i. Acquisition of freehold or leasehold property (where a premium only is payable) up to £1,000,000;
  - ii. Acquisition of freehold or leasehold property where a rent is payable – up to £250,000 per annum;
  - iii. Disposal of freehold property or leasehold property (where a premium only is payable) up to £1,000,000;
  - iv. Disposal of leasehold property where a rent is payable – up to £250,000 per annum.
- b) In cases where the consideration is not straightforward such as involving varying rents or a combination of rental and premium the Head of Property shall assess

the total capital value of the transaction to establish if such value exceeds the limits of this delegation.

- c) Subject to any limitations imposed by the Leader, all Responsible Officers may authorise another Officer to exercise their delegated functions provided that the Responsible Officer has line management responsibility for that Officer. In those circumstances it is expected that a written “chain of authority” will be maintained.

### 3 Definition of Surplus/Under-used Land

- 1 Identification of surplus/under-used Land is the responsibility of individual Departments. The Head of Service should keep all Land holdings under review and where the Land is deemed surplus or under-used Land shall prepare a report to be approved by Head of Property Services in consultation with the relevant Cabinet Member which states that the Land is surplus to requirements or under-used Land.
- 2 In making a decision to determine whether Land is surplus, the Head of Service should consider if:
  - a) The Land is currently required to deliver their operational functions.
  - b) There is a clearly evidenced plan to use the Land to deliver their future operational functions.
  - c) The Land is held for commercial purposes and/or is integral to the continuity of service delivery.
  - d) The Land is vital for business contingency, in line with the Department's strategic and operational plans.

If Land satisfies any of the above criteria it is unlikely surplus.

- 3 Land may be deemed to be surplus to the Council's requirements if:
  - a) It is not used for current delivery or required for future delivery of the Department's operational functions and policies.
  - b) The Department has no formal approved strategy and timetable for bringing the Land back into permanent full operational use.
  - c) The Land makes no contribution to the delivery of;
    - i. a Council's service, or
    - ii. a strategic, financial, corporate objective.
  - d) An alternative site or method of service delivery i.e. Community Asset Transfer (Appendix 2) has been identified which would be more cost effective in delivering the Department's service.
  - e) It will not contribute to the provision of a sustainable pattern of development.
- 4 Land is deemed to be under-used if:
  - a) Part of the land is vacant and is likely to remain vacant for the foreseeable future; or
  - b) The income being generated from the land is consistently below that which could be achieved from:

- i) Disposing of the land and investing the income;
  - ii) An alternative use;
  - iii) Intensifying the existing use; or
- c) Only part of the land is used for service delivery and this could be delivered from an alternative site or by alternative methods.

## 4 Land Identification

- 1 Land for possible disposal may be identified in the following ways:
  - e) Through the Asset review activity undertaken by the Head of Property Services
  - f) Through a structured corporate property portfolio or area review;
  - g) Through Service Units declaring specific sites as being surplus to requirements;
  - h) Through direct property enquiries to the Council;
  - i) Where an under-used asset is generating an income, a cost/benefit analysis has been carried out to establish whether it is in the Council's best interests to dispose of the site.
- 2 Once potential land has been identified as surplus or under used the Head of Property Services will undertake an initial feasibility test to establish if the land could be disposed of to generate a capital receipt for the general fund/HRA.
- 3 If the initial feasibility test indicates it is possible then there will be further consultation with Planning and Highways colleagues and with Legal Services to generate a Report on Title to establish if there are any legal constraints, including but not limited to Title restrictions and legislative restrictions e.g. disposal of public open space and school playing fields.
- 4 Subject to these investigations and if the Land has been declared surplus or underutilised for operational purposes by a service department, then there will be discussion between the appropriate Head of Service and the Head of Property Services, for an appropriate handover for all relevant premises budgets to enable the ongoing management of the asset up to disposal and then the appropriate saving being returned to the Corporate Centre. At that time, the Head of Property Services will also discuss with the Chief Legal Officer whether a formal appropriation is required or desirable prior to disposal.
- 5 The Head of Property Services and Head of Housing and Public Protection (in the case of Land held under the HRA) shall have delegated authority to appropriate Land for any purpose under the provisions of Section 122 of the Local Government Act 1972 or Section 232 of The Town and Country Planning Act 1990, subject to any statutory limitations and to the written agreement of the relevant Director or Head of Service who has responsibility for the Land prior to its appropriation.
- 6 Where the Land is HRA land consideration must be given when appropriating such Land to the Local Government and Housing Act 1989 (S74 and Sch 4) and whether such Land may be appropriated pursuant to the general powers under Section 122 of the Local Government Act 1972. Further, that consideration is given to whether consent of the Secretary of State or the Welsh Government is



required for the disposal of such Land pursuant to S32 or S43 of the Housing Act 1985 (as amended).

## 5 Disposals - Best Consideration

- 1 The general power of disposal is section 123 of the Local Government Act 1972 which gives a local authority the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained except where the disposal is for a short tenancy (the grant of a term not exceeding seven years or the assignment of a term which has not more than seven years to run) or the local authority has the consent of the Secretary of State or the Welsh Ministers
- 2 The Secretary of State and the Welsh Ministers have issued a general consent for disposals of land under section 123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2m.
- 3 Subject to the exemptions set out in paragraph 5.1, there is a legal obligation as noted above placed upon the Council to achieve the best consideration reasonably obtainable for land. Best consideration does not necessarily mean the highest financial premium and other matters of commercial or monetary value (such as an overage provision) can be taken into account when assessing best consideration but caution will need to be exercised and a full review of relevant case law will need to be undertaken. An alternative may be to utilise the General Disposal Consent above. It is also possible to seek approval from Welsh Government to a particular transaction.
- 4 Any disposal at undervalue other than a disposal in accordance with a Concessionary Lettings Policy (Appendix 1) shall require Cabinet approval and shall be set out in a Cabinet Report and include the following:
  - a) the policy background supporting the proposal;
  - b) the potential consequences of not approving the disposal;
  - c) whether the disposal needs the consent of Welsh Government or falls within the General Disposal Consent;
  - d) whether it confers any commercial advantage on the prospective purchaser;
  - e) details of the sale price and any relevant terms of the disposal
- 5 Any disposal of public open space shall comply with the requirements of Section 123 of the Local Government Act 1972.
- 6 Any disposal of playing fields shall comply with the requirements of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015. Any disposal of allotments shall comply with the Allotments Act 1925.
- 7 Where a disposal has the potential (a) to confer an economic advantage that is not available on market terms and (b) to affect international trade, it must comply with the UK-EU Trade and Cooperation Agreement, World Trade Organisation agreements and/or other Free Trade Agreements as applicable

- 8 Where a disposal is or is part of a public contract within the scope of the Public Contracts Regulations 2015, the requirements of those Regulations shall be complied with.
- 9 It is the Head of Property Services who will be providing the best consideration certification but if there are situations where officers wish to consider a lower financial bid in terms of overall best consideration, the Chief Legal Officer must be consulted and the appropriate legal implications advice given.
- 10 In any dealings with Land, proper regard will be had to professional advice from the Head of Property Services and/or the Chief Legal Officer (as appropriate) at all relevant stages during the process.
- 11 No disposal shall progress except in consultation with the Head of Property Services.
- 12 Procedures will be followed precisely so that probity and accountability can be demonstrated and value for money achieved. Further and in order to provide for transparency and a proper audit trail, every procedure step or decision taken under these rules must be recorded in writing and be available for inspection at any time.

## **6 Invitation of Offers - Disposal of Land**

- 1 The Head of Property Services will determine a marketing strategy where appropriate, either in-house or through an appropriate agent. Where possible, costs (both surveyors and legal) will be recovered from the eventual purchaser.
- 2 The timing of any marketing/disposals will need to be considered against the background of the Council's budgetary requirements, together with the current state of the market. Before recommending that a disposal is to proceed, the following factors are to be taken into consideration.
  - a) Current market conditions;
  - b) Potential for the site value to increase in the future;
  - c) Current and proposed Development Plans;
  - d) Any legal constraints or factors.
- 3 In any disposals of Land which do not fall within the delegated authority of Responsible Officers (as defined in this Constitution) and have to be reported to Cabinet, the Responsible Officers shall consult with the relevant Electoral Ward Members and any responses received from Electoral Ward Members shall be reported to Cabinet. On any proposed disposals or acquisitions falling within the delegated authority of the Responsible Officers, the officers shall consult with Electoral Ward Members where the proposal under consideration would involve a change of use in the Land requiring planning consent. Any consultation required to be carried out under this paragraph shall be in writing (letter or e-mail) and any Members consulted shall be given 10 working days in which to respond. If there is no response within this timescale it shall be assumed that the member has no comments to make. Responsible officers shall take any consultation responses received into account in making their decision.

- 4 No offers for the disposal of land will be invited except with the prior approval of the Head of Property Services.
- 5 The Head of Property Services will determine whether disposals will be made by way of a sealed offer, private treaty or auction and such determination will be made as to the most appropriate method of disposal.
- 6 If there has been no marketing of the Land or only one person has indicated an interest to purchase, the Council will not proceed to a disposal of the Land by private treaty unless the Head of Property Services is satisfied that the disposal would be in accordance with the applicable statutory requirements. In the case of a disposal under s123 of the Local Government Act 1972 the Head of Property Services will need to be satisfied that the disposal would either (i) be for the best consideration that can reasonably be obtained, (ii) meet the requirements of a general or specific consent granted by the Welsh Ministers, or (iii) be for a short tenancy (as defined). In considering this, the Head of Property Services may have regard to the following matters (among others):
  - a) The robustness of the valuation evidence.
  - b) The likely market for the Land now and in the future given its relevant physical, legal or other characteristics
  - c) The potential for the Land to be transferred to and used by a community council or Third Sector/Community Group in accordance with the Community Asset Transfer Policy set out in Appendix 2.
  - d) The responses (if any) received by the Council following reasonable marketing of the Land.
  - e) Whether the disposal would achieve a corporate objective or contribute to the promotion or improvement of the economic, social or environmental wellbeing of people or communities in its area (taking into account all considerations including subsidy controls).
- 7 Where Land is to be the subject of a marketing exercise The Head of Property Services will decide upon the method of advertisement as he thinks appropriate.
- 8 Any advert will, generally (but with a general discretion in favour of the Head of Property Services), set out:
  - a) A description of the Land;
  - b) The terms and conditions upon which offers are to be submitted;
  - c) Whether further particulars may be obtained;
  - d) The last date and time when offers will be received;
  - e) The mechanism and form of receipt and consideration of offers.

## **7 Evaluation and Acceptance of Offers**

- 1 The final offer that represents the best consideration obtainable by the Council will be accepted (save for any utilisation of any relevant general disposal consent or reference to Welsh Government in respect of any proposed disposal at an under value).
- 2 If there is to be a sale by auction, a designated employee may be authorised under the Scheme of Delegation for that particular sale. This authorisation will

extend to making a decision on reserve price and to sign a contract at the auction providing that this accords with the general principles of these Procedures Rules.

- 3 Nothing in these rules binds the Council to accept any offer.

## **8 Completion of Contracts**

- 1 All contracts and transactions for disposals of Land (and for the avoidance of doubt this shall include any letting licence lease or hire agreement notwithstanding that such disposal is to a charitable organisation or one in which the Council has a close working relationship) will be in writing and executed in accordance with **Article 14** of the Constitution and as may be required in law to give effect to the transaction.
- 2 Only the Head of Property Services may issue instructions to the Chief Legal Officer for the preparation and completion of documentation in respect of any transaction in land.
- 3 Every contract will comply with relevant UK, EU, Welsh Government Law, Directives and any appropriate guidance.

## **9 Retention of Documents**

- 1 Deeds, title documents, leases, charges on land, guarantees and documents of a similar nature may only be destroyed with the consent of the Chief Legal Officer.
- 2 Details of all offers will be retained for a period of six years.

## **10 Acquisition of Property**

- 1 The general power of acquisition of land by agreement is section 120 of the Local Government Act 1972 which gives a local authority the power to acquire by agreement any land, whether situated inside or outside their area, for the purposes of any of their functions under the Local Government Act 1972 or any other enactment or for the benefit, improvement or development of their area.
- 2 A local authority also has the power to acquire land compulsory in accordance with section 121 of the Local Government Act 1972 or by appropriation in accordance with section 122 of the Local Government Act 1972.
- 3 On each occasion that the Council wishes to acquire Land the relevant Responsible Officer will instruct the Head of Property Services to negotiate, settle or confirm the terms of such acquisition after taking into account any relevant statutory provisions or guidance and any advice from the Chief Legal Officer.
- 4 Once terms are finalised, the Head of Property Services will instruct the Chief Legal Officer in writing to proceed with an acquisition of the Land including for avoidance of doubt the utilisation of compulsory purchase powers.

- 5 The terms of such acquisition will be in accordance with the market value of the interest to be acquired and the body of statute and case law together known as the “compensation code” and in accordance with the principles of best value.
- 6 The terms of acquisition may only be approved in writing by the Head of Property Services save for acquisition by auction or sealed offer wherein a designated employee may be authorised in writing by the Head of Property Services for that particular acquisition to make an offer that accords with the general principles of these Procedure Rules.

## **11 Miscellaneous**

- 1 In considering and determining all matters under these Rules the Head of Property Services shall have regard to taxation law and practice and in particular to VAT; further the Head of Property Services will be expected to seek the advice of the Chief Legal Officer and/or the Chief Finance Officer (as appropriate) and shall have a duty to so consult prior to any disposal.
- 2 In the absence for whatever reason of the Head of Property Services these Rules shall be read in conjunction with the Scheme of Delegation set out in Part 3 of the Constitution.

## **12 Appendix 1 - Concessionary Lettings Policy**

### **Background**

- 1 The Council has in the past, leased land and buildings at less than full market value. Often these disposals have been to the trustees of leisure, recreational or sports clubs and societies who have limited resources. In addition to rent reviews and lease renewals which occur with such previous lettings, a number of new requests are received from similar organisations for disposals at less than market value. The land disposal rules set out the guidance / rules which the Interim Director of Place or his nominee should normally follow.
- 2 In addition to the Land Disposal Rules the Local Government Act 1972 (Section 123) provides that a Council should not dispose of land other than at the best consideration reasonably obtainable without the specific consent of the Welsh Government or the application of the General Disposal Consent. This applies to leases exceeding 7 years in duration.
- 3 The General Disposal Consent (Wales) 2003 Order came into force on 31 December 2003. This Order removed the former requirement for the Council to seek a specific consent for a disposal at an undervalue where the Council considers that the disposal is in the interests of the economic, social or environmental well-being of the whole or part of its area, or any or all persons resident or present in its area and the undervalue is up to and including £2,000,000 or less.
- 4 Under Part 3 of the Council’s Constitution a Responsible Officer has delegated authority to exercise functions for which he or she has budgetary, managerial,

operational or statutory authority provided that the Cabinet does not itself make a decision in a particular case.

- 5 The Audit Commissions Report on Local Authority Property Management highlighted the need for any such concessionary disposals to be identified and the amount of the concession to be quantified. There is also a practical need for all such disposals to be identified and recorded in this way, if consistency between the amounts of concessions granted is to be maintained. In view of the current financial pressures faced by the Council it is appropriate to consider this financial burden on the Council and in addition a periodic review of these allowances should be undertaken as a matter of good management practice.

### **Application of Policy**

- 1 It is recommended that the following approach is adopted as a consistent basis for implementing the policy framework described above subject to the LTPR that:
- a) The full market value of the interest to be leased should be assessed. This could occur at a rent review, at a lease renewal or at the proposed granting of a new tenancy. The market rent would be assessed in the usual way taking account of the nature of the property, its current state, the interest which is to be created with the obligations to be carried out by both parties and any other relevant factors;
  - b) The tenant who is seeking a reduction from that market value should be asked to identify all the relevant circumstances in support of his case, including alignment with the Council's corporate objectives, accounts and financial evidence relating to the activity to be undertaken either on or relating to the premises. This would also require a declaration of any grant or assistance which has been obtained from Council or any other party;
  - c) The Council shall allow a rent concession only when it can be clearly demonstrated that such grant is necessary for the organisation to continue to deliver its service. There shall be an expectation that grant recipients will develop a financial strategy steadily to diminish the level of grant required. This strategy must be demonstrated as part of the grant application;
  - d) The level of rent grant should be the minimum necessary to ensure continuity of the operation and in any event should not exceed 75% of the rental value of the premises. The precise level shall be determined by careful analysis of the current financial position and financial strategy of the organisation;
  - e) Ideally each payment of rent grant shall be given explicitly. The mechanism for this will be to charge the full rental value for the premises and separately make an explicit grant payment to that organisation;
  - f) Decisions whether to grant rent concessions for leases of less than 7 years and, if so, at what level, will be undertaken by the relevant operational Head of Service and the Head of Property Services, after consultation with the relevant Cabinet or Council Members. Ultimately

however under the LTPR, it is the responsibility of the Head of Property Services to determine whether a concession should be granted.

## **13 Appendix 2 - City and County of Swansea Community Asset Transfer Policy 2021**

### **What is a Community Asset Transfer?**

Community Asset Transfer is an established mechanism used to enable the community ownership and management of publicly owned land and buildings.

The General Disposal Consent allows a range of public bodies to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' – at less than full market value.

Communities can enter into discussions with public bodies about Community Asset Transfer where it is their intention to promote social, economic or environmental well-being.

Any proposal for a Community Asset Transfer must be supported by a Head of Service and the relevant Cabinet Member. If the proposal does not have internal support then it cannot proceed.

If supported then under the Council's Land Transaction Procedure Rules (LTPR), the Head of Property Services must be consulted. The latter will assess the status of the property, its tenure, open market value and potential for realisation of a capital receipt and liaise with the supporting department. Property Services and Finance must be consulted prior to reporting to consider the financial implications of the CAT and to ensure it does not breach subsidy controls. Legal, financial and any possible Equality and Engagement Implications will also need to be considered and discussed at this stage.

The supporting department must then be willing to present a report to Cabinet detailing how the proposal benefits both the Council and the community by promoting social, economic or environmental well-being in the relevant area.

The ultimate aim of Community Asset Transfer is community empowerment – that is, to ensure that land and buildings are retained or transformed for public benefit through community asset ownership and management.

### **Purpose of this Policy**

- This Policy describes how the Authority will work with communities to support the transfer of Authority-owned and operated land and buildings to town/community council or third sector organisations, for the benefit of the community.
- This Policy explains what is meant by the term Community Asset Transfer and sets out how it will be achieved. It provides a clear framework to support the transfer of land and buildings from the Authority to a town/ community council or a strong community based group of local people, and will maximise the likelihood that the transfer will be successful and sustainable in the longer term.
- This Policy is not generally intended to cover property that is surplus to the Authority's requirements; such property should continue to be disposed of in accordance with the Land Transaction Procedural Rules.

- This Policy will apply to all potential Community Asset Transfers, but where the expression of interest was received prior to adoption of the Policy, any necessary adaptations to this Policy will be made to accommodate previous different practice.

## **Asset Transfers within the City and County of Swansea**

The Authority recognises that:

- The way its physical assets are managed can have a very positive impact on the long-term strength of local communities and the third sector more generally.
- Through asset ownership or management, community based groups can grow and become more secure, gaining access to sources of additional investment that the Authority itself may not be able to access.
- Successful asset transfer requires a long-term partnership approach between the Authority and the community based groups that take over the management of an asset.

## **Rationalisation of Assets**

The Authority is continually reviewing its property assets and over recent years there has been an ongoing rationalisation programme. Those assets which have been, and will in the future be identified as surplus to the Local Authority's requirements, will continue to be disposed of in accordance with existing policies, which are described in the Land Transaction Procedure Rules

Through discussions with service providing departments the Authority is also aware of properties that could potentially be run and managed by suitable community groups, Town and Community Councils and other local groups.

This Policy is intended to cover those assets which are being used for current service delivery and could be managed more effectively by local groups.

Given the current financial pressures on the public sector it is anticipated that a number of non-statutory services will need to be delivered in different ways and it is expected that the delivery of these services by community based organisations (and the assets necessary to deliver those services) will play a significant role in reducing future costs.

## **Community Asset Transfer – Key Principles**

The Authority's procedures on Community Asset Transfer are underpinned by the following principles: -

- Generally the transfer will only be approved of property required for continuation of a service;
- The transfer must create a mutual benefit to both the Council and the Community by promoting social, economic or environmental wellbeing and supporting the aims and priorities of the Authority;



- More often than not there should be an initial element of financial benefit to the Authority.
- The Authority will encourage collaboration between community based groups and the sharing of assets to optimise social value and value for money;
- The proposed use of the asset must be for the benefit of the community, and would offer real opportunities for successful and independent, community or third sector organisations to become more sustainable in the long term;
- The Authority is not obliged to undertake Community Asset Transfers.
- The basic terms of any transfer will generally be non-negotiable and will be on the basis that the organisation that the asset is being transferred to will be taking full responsibility for repair and all outgoings of that land or asset.

### **Who can apply?**

Expressions of interest (see Appendix 2) are welcome from community and voluntary sector groups or Town / Community Councils. Ideally interested parties should meet the following criteria:

- They should be community-led, with strong links with the local community and local people must be able to control the organisation's decision making processes;
- Their primary purpose must be to enhance service provision to the local community;
- The organisation and key individuals managing the asset and associated project have appropriate skills, knowledge and expertise to sustain the project in the long term.
- They must be open to and demonstrate an inclusive approach to members of the wider community.
- They must not duplicate activities, services or facilities already provided in the local community.

### **The basis of transfer**

- The Council will transfer on a leasehold basis in order to ensure continuation of use. In the event that the use ceases the asset would return to the Authority. Transfer for a new use will be considered in exceptional circumstances and only on a leasehold basis.
- The Authority will discuss with interested parties what length of lease would be most suitable to meet the needs and expectations of the groups and local people. Funding bodies may have requirements that must be met if a community based group is to be eligible to receive grant monies.
- During the lease period the Authority will expect the community organisation to be responsible for the running costs of the building, including repairs, maintenance and all insurances.

- The Authority will share with any interested parties all available information regarding the condition and operating costs of any asset that may be transferred.
- The Authority will encourage collaboration between community based groups and the sharing of assets to optimise social value and value for money.
- There may be competing groups interested in the same asset. In such cases the Authority will expect community groups to work together and organise themselves in such a way that sharing and use of the asset is optimised between them. If a joint approach is not agreed, the Authority will balance the merits of the different organisations' proposals and decide to which group (if any) the asset should be transferred. Failure of community organisations to collaborate on a joint approach may make it less likely that any acceptable proposal for asset transfer will be achievable. Town or Community Councils may have a role in such cases to take the lead in managing the asset on behalf of a number of users.
- The transfer will normally be at "a peppercorn" or nominal rent but a rent at market value for the restricted use may also have to be implemented depending on individual business cases and circumstances.

### **How Applications are Assessed and Decisions Made**

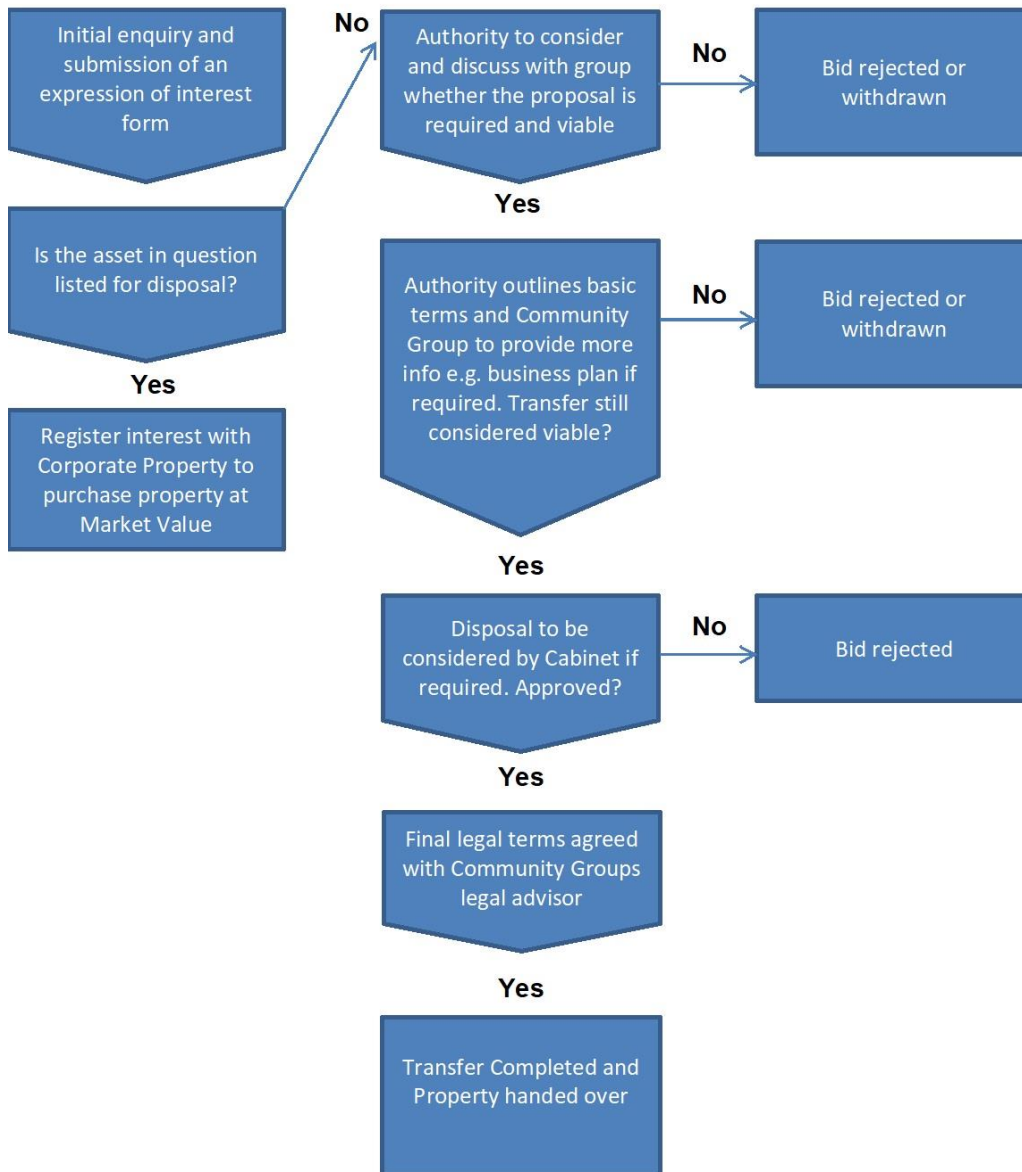
Community and voluntary sector groups or Town / Community Councils applying for asset transfer will need to set out some or all of the following:

- Proposals for the use and maintenance of the asset
- Benefits to the Authority, the community based group and the wider/community, together with planned outcomes
- Consideration of whether there are, and will continue to be, any conflicts/overlap of other similar facilities in the locality
- Capacity of the community based group(s) to manage and insure longevity of the asset
- Some form of business plan, the detail of which will reflect the scale of asset being transferred
- A community governance structure (how local people will be involved in decision making in relation to the asset and its use)
- Evidence of financial support for future development
- Liabilities and how these will be addressed
- How they have considered the effect of the opportunities for people to use the Welsh language; or how the Welsh language will be treated no less favourably than the English language? How the decision could be made so that it has positive or increased positive effects; or so that it does not have adverse effects or a decreased adverse effect on the opportunities for people to use the Welsh language? How can it be assured that the Welsh language is treated no less favourably than the English language post transfer including any service provision currently provided through the medium of Welsh and how these services will continue.

The table below summarises the process the Authority will follow where an asset transfer request has been made:-

Stage	Who is Responsible
Expression of interest submitted for consideration (Appendix 2) or other appropriate form	Community Group
Application form appraised and recommendations made	Local Authority
<i>Business plan submitted (if deemed necessary)</i>	<i>Community Group</i>
<i>Appraisal of business plan (if deemed necessary)</i>	<i>Local Authority</i>
Decision on whether to proceed with transfer with support from relevant Head of Service and in accordance LTPR (with Cabinet/Local Member involvement as necessary)	Local Authority
Detailed terms agreed and transfer completed	Local Authority

**COMMUNITY ASSET TRANSFER PROCESS**



## **Expression of Interest for the Transfer of a Community Asset.**

- Please complete this form in as much detail as possible and ensure all questions have been answered. If you are unable to provide an answer or the evidence requested, please explain why.
- Please ensure you have read and understood the City and County of Swansea's Community Asset Transfer Guidance.
- All community asset transfers will need to be supported by a Council Head of Service and a Cabinet Member. Your completed form will be forwarded to the relevant Head of Service to be assessed. In most cases it will be necessary for that Head of Service to submit a report for Cabinet approval.
- The Council may need to request further information from you to enable a decision to be reached.
- In some cases a business plan may be requested to show the on-going viability of your proposal.
- Please remember that we are looking for proposals that present a mutual benefit for both the community and the Council.

**Community Asset Transfer Expression of Interest Form**

**Please return to:**

**Community and Voluntary Sector Partnership Officer, Poverty and Prevention Team, Civic Centre, Oystermouth Road, Swansea. SA1 3SN**

**1.0 Name of the asset. Please include a plan where possible.** (If you haven't identified a particular asset, please detail your requirements here)

**2.0 Organisation Details**

2.1 Name of organisation

2.2 Main contact name, position in the organisation and contact details including postal address, telephone number and email address:

2.3 Purpose of your organisation, what is the organisation constituted to do?

2.4 Your organisation's status (e.g. Registered charity, company etc.) Please include any relevant numbers. Is the organisation a Legal entity in its own right? If not provide full names and addresses of all persons intending to hold the property.

2.5 Provide details of your organisational structure including your governance arrangements.

**3.0 Financial Health and Sustainability**

*(If you are unable to provide any of the information requested in this section, please give details on why. E.g. If you are newly established organisation)*

3.1 Please attach preceding three years of your organisation's audited and signed accounts

3.2 Provide a budget and cash flow forecast which demonstrate your intended income and expenditure for your tenure of the asset for the next 2 years.
3.3 Provide details of reserves currently held and reserves policy.
3.4 Do you have the funds in place to set up the project or is it dependant on another funding source? Please give details.
<b>4.0 Track Record</b>
4.1 Please tell us if you have entered into any contracts or lease agreements with the City & County of Swansea before and if so, please give us details of a referee we can contact.
4.2 Detail any experience of managing a community facility
<b>5.0 Proposal</b>
5.1 Please detail your proposal for the transferred asset?
5.2 What key outcomes will your tenure of the asset aim to achieve?
5.3 Please detail proposed management and governance arrangements for the asset
<b>6.0 Community benefit</b>
6.1 Will your proposal be accessible to the whole community? YES/NO Please give details.

## Council Constitution, Part 4.8 - Rules of Procedure (JNC Officer Appointment Procedure Rules)

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### 1 Explanatory

- 1 These Procedure Rules are intended to comply with Regulation 3, Schedule 1 Part 1 and Regulation 5 (1) (b), Schedule 3, part 2 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (“the Regulations”).
- 2 They are applicable in respect of Chief Officers, the Monitoring Officer, Heads of Service, Head of Democratic Services and any other officer to be employed on JNC terms and conditions only.
- 3 If there is a conflict between these Procedure Rules and the Regulations, the Regulations take precedence.
- 4 The Regulations are designed to be a statutory minimum and only dictate that the appointment of the Chief Executive is to be approved by Council itself (Regulation 7).
  - a) The Regulations also require that Council itself must determine the level, and any change in the level, of remuneration to be paid to a chief officer (Regulation 7) as defined in paragraph 2.2 below.
- 5 The Appointments Committee is delegated authority to exercise the functions set out in Paragraph 2 (1) (a) & (b) of Schedule 1 Part 1 of the Regulations – shortlist, interview and appoint candidates for the post of Chief Officer. It is also delegated authority to shortlist, interview and appoint Heads of Service who are Deputy Chief Officers within the meaning of Section 2 (8) of the Local Government and Housing Act 1989.
- 6 The Joint Appointment Sub Committee has the power to make joint JNC / Chief Officer appointments to the Authority. Where such appointments are being considered the substantive rules of the JNC Officer Appointment provisions will apply.
  - a) Any joint appointment shall be made through the Joint Appointments Sub Committee. This Sub Committee shall be politically balanced and shall in respect of its membership comply with the Appointments Procedure set out in **Paragraph 5 of the JNC Officer Appointment Procedure Rules**, together with the application of these rules generally.
  - b) Further the Committee shall comprise of proportionate representation of all the joint partners to the appointment.
  - c) It is not envisaged that the Joint Appointments Sub Committee shall make any appointment under these rules that should require the sanction of the Council.
  - d) \* For clarity should any disciplinary matters be progressed in respect of a joint appointment they shall be progressed via a Joint Disciplinary Sub Committee and any consequential amendment to the Constitution shall be made accordingly.



- 7 In respect of all other staff, the function of appointment of staff must be discharged by the Chief Executive, or by an Officer nominated by the Chief Executive and Members will not be involved in any of these processes except where such involvement is necessary for any investigation or inquiry into alleged misconduct. (Regulation 5 (1) (b), Schedule 3 Part 2 “Authority with Leader and Cabinet Executive”).
- 8 In accordance with Section 7 of the Local Government and Housing Act 1989, all appointments to paid office within the Authority shall be on merit. However, there may be situations where a person is at risk of redundancy and the Authority will be required to attempt to re-deploy that person. Whilst no officer is entitled to be re-deployed so as to gain a promotion, it will be normal for that person to be given prior consideration or “ring fenced” to that post.
- 9 In such circumstances, the officer shall be required to undertake such assessment as may be considered necessary to ascertain their suitability for the post and will be interviewed by the Appointments Committee, who will then decide whether it is in a position to make an appointment. If it is not in a position to appoint then the post will be advertised, but the “at risk officer” will be entitled to re-apply for the post and compete with any other candidates.

## 2 Definitions

- 1 In these rules the following terms have the meaning prescribed by the Local Authority (Standing Orders) (Wales) Regulations 2006 as amended by the Amendment Regulations 2014, and “**the 1989 Act**” means the Local Government and Housing Act 1989
- 2 “**chief officer**”, means:
- a) The Chief Executive, designated under section 4(1) of the 1989 Act;
  - b) The Monitoring Officer;
  - c) A statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
  - d) A non-statutory chief officer (within the meaning of section 2(7) of the 1989 Act).
- (For the avoidance of doubt, this definition so far as Swansea is concerned includes all members of the Corporate Management Team in its current format but excludes Heads of Service. Any reference to an appointment or purported appointment of a Chief Officer includes a reference to the engagement or purported engagement of such an officer under a contract of employment);
- 3 “**chief finance officer**” means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972 (financial administration) for the administration of the local authority’s financial affairs;
- 4 “**deputy chief officer**” has the meaning referred to in section 2(8) of the 1989 Act. These are currently referred to as Heads of Service in Swansea.
- 5 “**chief executive**” means the officer appointed under section 54 of the Local Government and Elections (Wales) Act 2021;

- 6 “**member of staff**” means a person appointed to or holding a paid office or employment, under a relevant authority;
- 7 “**monitoring officer**” means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);
- 8 “**head of democratic services**” means the officer designated under section 8 of the Local Government (Wales) Measure 2011;
- 9 “**remuneration**” has the same meaning as in section 43(3) of the Localism Act 2011 i.e. it means:
- a) The chief officer’s salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services,
  - b) Any bonuses payable by the authority to the chief officer,
  - c) Any charges, fees or allowances payable by the authority to the chief officer,
  - d) Any benefits in kind to which the chief officer is entitled as a result of the chief officer’s office or employment,
  - e) Any increase in or enhancement of the chief officer’s pension entitlement where the increase or enhancement is as a result of a resolution of the authority,
  - f) Any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.

### 3 Declarations

- 1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they have a personal connection with an existing Councillor or Officer of the Council; or of the partner of such persons. Although not an exhaustive list, examples of these are; parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- 2 No candidate so related or connected to a Councillor or an Officer will be appointed without the certification of the relevant Responsible Officer or an Officer nominated by him/her that the Council’s recruitment Procedures have been followed and no conflict of interest has arisen during the recruitment process.

### 4 Seeking support for appointment

- 1 Subject to paragraph (4.3), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council.
- 2 No Councillor will seek support for any person for any appointment with the Council.

## 5 Appointments procedure

- 1 Part One to Schedule Three, paragraph 4(2) of the Regulations, provides that:  
  
“Where a committee...is discharging on behalf of the...authority the function of the appointment of... [a Chief Officer or Deputy Chief Officer]
  - a) At least one member of the executive must be a member of that Committee; and
  - b) Not more than half of the members of that committee are to members of the executive of the authority”
- 2 This must be given a literal interpretation and must be taken to mean any meeting of the Appointments Committee to deal with the appointment of a Chief Officer or Head of Service. It must also be taken to relate directly to the composition of the Committee on the day that it meets and not as a whole.

## 6 General

- 1 All Members must have undertaken an appropriate training course.
- 2 All Members must declare any knowledge of or relationship with any of the applicants or applicant’s families.
- 3 **Short Listing**
  - a) Members of the Appointments Committee **MUST** be present throughout all of the meetings that take place to shortlist, any candidates.

### **Interviewing and Appointing Candidate(s)**

- b) Members of the Appointments Committee must be present throughout all of the meetings that take place to interview and appoint (excluding short listing) any candidates, in order to vote on the appointment. This does not apply to any selection centres or assessment processes that the candidate may be required to undertake. Neither does it apply to any informal meetings organised with the candidates which take place outside of the formal process. Members shall consider at the commencement of the process whether they are able to commit to attending all the relevant formal meetings and if they are unable to do so, should absent themselves at the start of the process’.

### **Interviewing and Appointing Candidate(s)**

- c) Members of the Appointments Committee must be present throughout all of the meetings that take place to interview and appoint any candidates, in order to vote on the appointment.
- d) Please note this does **NOT** apply to:
  - i) Any selection centres or assessment processes that the candidate may be required to undertake;
  - ii) Any informal meetings organised with the candidates which take place outside of the formal process.

- e) Members shall consider at the commencement of the process whether they are able to commit to attending all the relevant formal meetings and if they are unable to do so, should absent themselves at the start of the process.
- 4 All stages of the appointments process will be advised by the Chief Executive or a nominated deputy, Human Resources officer and Legal Officer. In the case of an appointment of the Chief Executive, an independent consultant will be retained to carry out this function.
- 5 A Legal Officer must be present throughout all of the appointment process involving elected Members with the exception of informal meetings organised with the candidates which take place in an informal setting.
- 6 Where the Authority proposes to appoint a Chief Officer or Deputy Chief Officer, and the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum, it must:
- a) 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;
  - b) Make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - c) Make arrangements for a copy of the statement mentioned in (a) to be sent to any person on request.
- The Authority is not required to take the step set out in 6(b) i.e. to publicly advertise, if it proposes to appoint the chief officer for a period of no longer than 12 months.
- 7 Where a post has been advertised as provided in these Standing Orders, the Authority must:
- a) Interview all qualified applicants for the post, or
  - b) Select a short list of such qualified applicants and interview those included on the short list.
- 8 Where no qualified person has applied or if the authority intends to re-advertise any appointment, it must make further arrangements for advertisement in accordance with paragraph 6(b).
- 9 The steps referred to under paragraphs 6 and 7 may be taken by a Chief Officer of the Authority or a person nominated for that purpose. In relation to an appointment of a Chief Executive, the Authority will instruct a professional consultant to carry out the steps in Paragraph 6.
- 10 The steps referred to under paragraph 7 shall be taken by the Appointments Committee.
- 11 Where the Local Authority proposes to appoint a Director of Social Services, regard be given to the recommended Competences for Appointment as Director of Social Services as laid out in the Statutory Guidance issued under Section 7 of the Local Authority Social Services Act 1970.

## **7 Procedure at the Appointments Committee**

### **1 Short listing**

- a) All applications are to be technically assessed by appropriate officers or any professional consultants engaged for that purpose. This assessment could include a preliminary long-listing exercise to highlight further evidence on whether applicants meet the required criteria of the post. They will then be ranked for short listing. The relevant Chief Officer or the nominated representative and/or professional consultant will prepare short listing report outlining the technical assessments of candidates applications, their scores and any irregularities in any application.
- b) This will be presented to the Appointments Committee by an officer or professional consultant, who will speak to the report and answer any questions that Members may have regarding the process.
- c) The report itself will be accompanied by the application forms of those candidates recommended for short listing, but the application forms of all applicants will be available prior to the meeting should any Member of the Appointments Committee wish to see them. Any Member of the Appointments Committee will be able to inspect application forms after the initial sift has been carried out by the Responsible Officer (person to whom the vacant post reports) and Human Resources. This should be by appointment with the Head of Human Resources.
- d) The Appointments Committee may then either accept the report of the Officer or professional consultant without further debate or inspect those applications not included on the shortlist.
- e) In the event that the Appointments Committee accepts the report, then a vote will be taken as to which candidates are to proceed to the assessment stage. This vote will be on a show of hands.
- f) Should the report not be accepted, then applications considered by the Officer or professional consultant to be technically competent, will be compared against the person specification and job description and with the assistance of the Officer or professional consultant, will be marked accordingly.
- g) Those candidates that receive the highest score shall be short listed for assessment - where the score indicates the appropriate qualification and experience.

### **2 The Assessment Procedure and interview by the Appointments Committee**

- a) Candidates will make a presentation and be interviewed by the Appointments Committee as part of a full assessment centre procedure which may include the contribution of stakeholder panels. Any stakeholder panels involved in the assessment centre will present their findings to the Appointments Committee. Candidates application forms will be available to Members throughout the interview process. The Chief

Executive and/or other Chief Officers and/or professional consultants will attend and support the Appointments Committee in an advisory capacity. If a professional consultant is retained, then they will be expected to declare any knowledge of the candidate at the outset in order that the relationship can be considered and whether it is appropriate to continue to use the services of the consultant.

### 3 **Interview by the Appointments Committee**

- a) Presentation topics and questions designed to test the areas of knowledge/weakness of the candidates shall be prepared by the Officer/professional consultant, together with model answers. The questions may be provided to the candidates in written format. The Appointments Committee will put the questions to the candidate.
- b) Supplementary questions to elicit further information relating to the set questions or to address specific issues pertinent to that candidate's application may be put. These will be drafted by the appropriate person prior to the interview if possible.
- c) The findings of any stakeholder panel exercises will be reported back to the Appointments Committee once all candidates have been assessed and interviewed. The Chief Executive, their nominated representative and/or any professional advisor will outline their opinion on the performance of each candidate all feedback has been received. Members of the Committee are required to evidence their provisional scoring of the candidates in writing during the interview process. For clarity the allocation of scores shall not be undertaken until after the advice of the professional advisor/Chief Executive has been given.
- d) Members of the Appointments Committee will then allocate a final score for each candidate on their performance on a score of one to ten, one being poor and ten being excellent. This however is one of two considerations that Members must take into account when deciding whether they have a candidate that they can appoint or recommend to Council for appointment. The Members must also take into account the report of the Officer and/or the professional consultant and weigh up all of the information when coming to a decision. For the avoidance of doubt this will occur prior to members finalising their scores for each candidate.

## 8 **Appointments**

When all of the above process has been completed:

### 1 **Appointments of Chief Officers (except Chief Executive) and Heads of Service**

- a) In the case of Chief Officers and Heads of Service, the Appointments Committee may then take a vote as to whether they are in a position to make an appointment or whether the post ought to be re-advertised.
- b) If the post is to be re-advertised, then the provisions of paragraph 6.6 apply.

- c) If the vote to make an appointment is carried, then the Committee will proceed to appoint if there is one suitable candidate. If there are two suitable candidates, the Committee Members will vote for their chosen candidates and the candidate with the most votes will be appointed.
- d) If there are more than two candidates, the following process is to be followed:
  - i) A vote will be taken;
  - ii) If there is a clear majority in favour of one candidate, that person shall be appointed;
  - iii) If there is not a clear majority, the name of the person having the least number of votes will be struck off the list and a fresh vote shall be taken until an overall majority of votes is given in favour of one person.
- e) The Appointments Committee will then make an appointment.

## 2 **Appointments of the Chief Executive**

- a) In the case of the Chief Executive, the Appointments Committee may then take a vote as to whether they are in a position to recommend candidates for interview by Council, or whether the post ought to be re-advertised.
- b) If the post is to be re-advertised, then the provisions of paragraph 6.6 apply.
- c) If the vote to make a recommendation is carried, then the Committee will proceed to recommend those candidates to Council.
- d) The Appointments Committee is delegated the responsibility to carry out this process and no recommendation shall be invalidated purely by reason of the fact that there is only one suitable candidate. (The Regulations only stipulate that the appointment is confirmed by Council and therefore, there is not a statutory requirement for the Chief Executive and other Chief Officers to be interviewed and assessed by Council).
- e) The professional consultant will report to Council on their assessment of the candidates to be interviewed by Council. Candidate's application forms will be available in the Chamber for perusal by Members.
- f) Candidates will then make a presentation to and be interviewed by Council. Questions will be put to the candidate by the Presiding Member and a list of themes that are expected to feature in the answers will be provided to Members.
- g) Council will then carry out a ballot to determine whether it is in a position to make an appointment having heard the interview and considered the report from the Officers. This ballot will be in writing and will consist of one vote only which is either yes or no. Members can obviously abstain if they wish.

- h) If the result of the ballot is that Council cannot make an appointment, then the provisions of paragraph 6.6 apply.
- i) If Council is in a position to make an appointment, Members will vote for their preferred candidate. This will consist of one vote for the candidate of the Members choice. Members can abstain from this vote if they wish.
- j) If there are two suitable candidates, Members will vote for their chosen candidates and the candidate with the most votes will be appointed.
- k) If there are more than two candidates, the following process is to be followed:
  - i) A vote will be taken;
  - ii) If there is a clear majority in favour of one candidate, that person shall be appointed;
  - iii) If there is not a clear majority, the name of the person having the least number of votes will be struck off the list and a fresh vote shall be taken until an overall majority of votes is given in favour of one person and that person may then be appointed.

**Note:**

*An overall majority exists when the person with most votes has more votes than the sum of the votes cast for the remaining persons.*



## **Council Constitution, Part 4.9 - Rules of Procedure (Chief Officers & Deputy Chief Officers Disciplinary Procedure Rules)**

### **1 The Local Authorities (Standing Orders)**

The Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders)(Wales) (Amendment) Regulations 2014 (“the Regulations”) set out mandatory requirements in respect of disciplinary proceedings relating to the Chief Executive, the Monitoring Officer, the Section 151 Officer and the Head of Democratic Services; they also apply to an officer who was, but at the time of the proposed disciplinary action no longer is such an officer, and where the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was such an officer.

The Council has also resolved that this procedure will apply to all officers employed on JNC terms and conditions.

### **2 Intention**

This standing order is intended to give effect to the Regulations, but also sets out a prescriptive disciplinary procedure, which incorporates the JNC for Chief Executives for Local Authorities model procedure, with modifications, and which are to be applied in the event of an allegation against the officer/s. It will consist of initial guidance and then a procedure to be followed in all cases.

### **3 Interpretations**

The interpretations below are those that are set out in the 2006 Regulations as amended and the relevant parts are replicated below. (Regulation 2):

- a) "The 1989 Act" ("Deddf 1989") means the Local Government and Housing Act 1989;
- b) "The 2000 Act" ("Deddf 2000") means the Local Government Act 2000;
- c) "chief officer" ("prif swyddog) means:
  - i) The Chief Executive;
  - ii) Its monitoring officer;
  - iii) A statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
  - iv) A non-statutory chief officer (within the meaning of section 2(7) of the 1989 Act);

and any reference to an appointment or purported appointment of a chief officer includes reference to the engagement or purported engagement of such an officer under a contract of employment;

- d) "chief finance officer" ("prif swyddog cyllid") means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972

(financial administration) for the administration of the local authority's financial affairs;

- e) "disciplinary action" ("camau disgyblu") in relation to a member of staff of the authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;
- f) "head of democratic services" ("pennaeth gwasanaethau democrataidd") means the officer designated under section 8 of the Local Government (Wales) Measure 2011;
- g) "head of the authority's paid service" ("pennaeth gwasanaeth taledig yr awdurdod") means the officer designated under section 4(1) of the 1989 Act (designation and reports of Chief Executive);
- h) "monitoring officer" ("swyddog monitro") means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);
- i) "working day" ("diwrnod gwaith") means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in Wales or a day appointed for public thanksgiving or mourning (and "bank holiday" means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971).

#### **4 The power to confirm**

The power to confirm the dismissal of the head of the authority's paid service must be exercised by Council itself (Regulation 7). In respect of the Monitoring Officer, the Chief Financial Officer, the Head of Democratic Services and all other officers on JNC conditions, any disciplinary action may be taken by the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee (Part 2, Paragraph 4 (1) of Schedule 3).

#### **5 Executive membership requirement**

At least one member of the Executive must be a member of the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee (Part 2, Paragraph 4 (2) (a) of Schedule 3) There is no such requirement in relation to the Investigation Committee, but this does not preclude a member of the executive from so sitting on that Committee.

#### **6 Executive member restriction**

Not more than half of the members of the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee are to be members of the executive of the authority (Part 2, paragraph 4 (2) (b) of Schedule 3).

## **7 Disciplinary action**

No disciplinary action (other than action to which paragraph 18.5 applies) in respect of the officers to which this procedure applies may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP) under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended. (investigation of alleged misconduct). (Regulation 8 and Schedule 4 paragraph 2 – verbatim).

## **8 Suspension due to alleged misconduct**

The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect." (Schedule 4 Paragraph 3).

## **9 The Appeal & Awards**

The Appeal & Awards Committee is delegated the authority to suspend the relevant officer.

## **10 Investigating Committee**

The Appeal & Awards Committee will be the relevant Investigating Committee (the "IC") and will perform the function of carrying out an initial investigation to consider the alleged misconduct.

## **11 Membership of the IC**

For these purposes the IC must:

- a) Consist of a minimum of 3 members of the authority; (Regulation 9 (2) (a) & (b) – the committee will already have been set up at the first regular Council);
- b) Be politically balanced in accordance with section 15 of the 1989 Act; and
- c) Must, within 1 month of the referral of alleged misconduct to it, consider the allegation of misconduct and decide whether it should be further investigated. (Regulation 9 (2) (a) (b) & (c) – the committee will already have been set up at the first regular Council).

## **12 Process of the IC**

For these purposes the IC must:

- a) Consist of a minimum of 3 members of the authority; (Regulation 9 (2) (a) & (b) – the committee will already have been set up at the first regular Council);
- b) Be politically balanced in accordance with section 15 of the 1989 Act; and
- c) Must, within 1 month of the referral of alleged misconduct to it, consider the allegation of misconduct and decide whether it should be further investigated. (Regulation 9 (2) (a) (b) & (c) – the committee will already have been set up at the first regular Council).

## **13 Designated independent person**

Where it appears to the IC that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person" - the DIP) for the purposes of the standing order which incorporates the provisions in Schedule 4 (or provisions to the like effect). Regulation 9 paragraphs (3) & (4).

## **14 Appointing a DIP**

In deciding whether to appoint a DIP, the IC shall, in considering whether there is an allegation of misconduct against a relevant officer that requires further investigation, take into account the following factors:

- a) Is the allegation such that if it were proved it would lead to dismissal or other action which would be recorded on the officers personal file; and
- b) There is evidence in support of the allegation sufficient to require further investigation.

## **15 Appointment of DIP**

In the event that this test is satisfied, the IC will proceed to appoint a DIP.

## **16 The DIP who is appointed**

The DIP who is appointed – (Regulation 9 paragraphs (5) to (11)):

- a) Must be such person as may be agreed between the authority and the relevant officer 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 Ministers.

## 17 What the DIP may do

The DIP –

- 1 May direct:
  - a) That the authority terminate any suspension of the relevant officer;
  - b) That any such suspension is to continue after the expiry of the two month period referred to in 6;
  - c) That the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
  - d) That no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) by way of disciplinary action or further disciplinary action against the relevant officer, 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 4.
- 2 May inspect any documents relating to the conduct of the relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;
- 3 May require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;
- 4 Must make a report to the authority–
  - a) Stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
  - b) Recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and
  - c) Must no later than the time at which the report is made under sub-paragraph 4; send a copy of the report to the relevant officer.
- 5 The relevant officer and the authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- 6 Where there is no agreement under paragraph 5, the DIP must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- 7 The authority must consider the report prepared by the DIP within one month of receipt of that report by the authority.
- 8 The authority will pay reasonable remuneration to a designated independent person appointed by the IC and any costs incurred by, or in connection with, the discharge of functions under this regulation.

- 9 The procedure for receiving allegations of misconduct or capability or a breakdown in trust and confidence is set out below.

## **18 Procedure for Discipline in respect of JNC Officers**

### **1 Introduction**

- a) This procedure is based upon the model disciplinary procedure contained in the Joint Negotiating Committee for Chief Executives of Local Authorities National Salary Structure and Conditions of Service Handbook.
- b) If a matter is prescribed in the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended which is not referred to in this procedure or where there is a conflict, the Regulations take precedence.

### **2 General**

- a) Procedures are set out below for use in cases relating to discipline, and any proposal to dismiss on the basis of a breakdown in trust and confidence. The Joint Secretaries of the JNC should be notified as soon as it is proposed to use this procedure and the relevant officer and the authority will attempt to contact the appropriate side secretary as soon as possible to ascertain whether more detailed assistance may be desirable. A precedent for this purpose is set out in Schedule Two below.
- b) In general, informal conciliation is to be preferred to invoking this formal procedure if it can bring about a mutually agreed solution to the problems that have arisen. Such solutions should make it clear what specific changes in behaviour and/or performance are expected and within what timescales. In the event that informal conciliation is not possible or practicable, the formal process will apply.
- c) Any decisions in these matters must be in accordance with the requirements of the law in respect of the rules of natural justice and the relevant Standing Order Regulations in force at the time.
- d) Any disciplinary procedures should be handled as quickly as possible but this must be measured against the need to investigate the case fully and to give the relevant officer an opportunity to reply fully to the complaints.

### **3 Procedure**

- a) Any allegations of misconduct should be notified to the Strategic Human Resources and Organisational Development Manager who will be the responsible officer for this purpose. For the avoidance of doubt, the one month timescale referred to in paragraph 16(a) of the Standing Order above, begins to run from the day the allegation is received by the responsible officer.
- b) The responsible officer will then prepare a report and forward it to both the Appeal & Awards Committee and the relevant officer or his or her

representative. A date will be set for the Committee to meet as soon as the allegation is received.

- c) In cases of urgency or where there is a serious allegation, the Committee may meet on short notice to consider the question of suspension only and the relevant officer will be given reasonable notice of the meeting.

#### 4 **The Investigation Meeting**

- a) The relevant officer will be permitted to respond both in writing and orally at the Investigation Committee Meeting save that the remit of the Committee is inquisitorial in nature and no cross examination will be permitted at the Meeting.
- b) The relevant officer will be entitled to be represented by his or her trade union representative or some other person of his or her choice but this shall not be at the authority's cost.
- c) The Committee will meet to consider the allegation in order to determine whether there is an allegation of misconduct by the relevant officer which requires further investigation by a Designated Independent Person (DIP).
- d) The Committee will be advised by a legal officer at all times.
- e) The procedure for the Committee Meeting will be as follows:-
  - i) The Strategic Human Resources and Organisational Development Manager or their nominated deputy will outline the allegation and introduce any evidence that the Authority wishes to rely on in support;
  - ii) Any witnesses for the authority will give their evidence and questions will be permitted;
  - iii) the relevant officer or his representative will present their defence;
  - iv) Any witnesses for the relevant officer will give their evidence and questions will be permitted;
  - v) The Committee will then adjourn to deliberate and decide whether there is a case that merits further investigation;
  - vi) The Committee will re-convene to deliver their decision to the relevant officer.
- f) The Committee will assess any evidence provided in support of the allegations and anything said in defence. The Committee will then decide whether it is in a position to dismiss the allegation. If it cannot, and further investigation is needed, the Committee must refer the matter to the DIP.
- g) If the Committee decides that the matter is dismissed, then that will be an end to the allegation and no record will be made on the relevant officers' personal file.
- h) If the matter is to be referred to a DIP, the Committee will draw up the charges that will form the basis of the remit of the DIP and these will be communicated to both the DIP and the relevant officer in writing.

- i) A liaison officer will be appointed within the authority to assist the DIP with logistical arrangements and to keep the responsible officer informed of progress.

## **5 Suspension**

- a) When carrying out its deliberations, the Committee will also consider whether suspension is appropriate. In disciplinary cases, suspension may be appropriate where the relevant officers continuing presence at work might compromise the investigation or impair the efficient exercise of the authority's functions or where a repeat of the alleged offence could have serious consequences for the Authority.
- b) In these circumstances, the suspension must be for a maximum period of two months from the date of the initial suspension and the officer will continue to receive full pay for all of the period of suspension.
- c) For calculation purposes, the suspension period will be deemed to commence on the date which is the day before the Committee decides to suspend and then count forward two calendar months from this date.
- d) If the Committee decides that suspension is appropriate, the reasons for the decision to suspend and the terms of any suspension will be communicated in writing to the relevant officer. In accordance with Regulation 9 of the Regulations, any suspension is subject to any direction of the DIP.
- e) The authority is able to request that the DIP consider as to whether to authorise that the suspension may continue over the maximum two month period, but no continuation of the suspension is permissible unless expressly authorised by the DIP.
- f) The necessity for suspension should be reviewed by the Strategic Human Resources and Organisational Development Manager at regular intervals and where possible lengthy periods of suspension are to be avoided. Consideration may also be given to home working as an alternative to suspension, but this is dependent on the allegation and the feasibility of such an arrangement.
- g) Whilst suspension is a neutral act and is in no way an indication of guilt or pre-determination, in cases of potential gross misconduct the relevant officer should normally be suspended pending the investigation by the DIP.

## **19 Appointment of the Designated Independent Person**

- 1 The DIP will be appointed by the Committee or a person nominated by to do so. It will be preferable for both parties to agree a DIP the Committee and the LGA or the joint secretaries of the JNC will be able to provide the names of suitable candidates for appointment. A draft letter of engagement is included at Schedule One of this procedure.



- 2 The parties must agree a DIP within a period of one month from the date of the Committee determination. In the event of a failure to agree the DIP must be such person who is nominated for the purpose by the Welsh Ministers.

## **20 Investigation by the DIP**

- 1 It is the duty of the DIP to prepare a report. The report will state an opinion as to whether the evidence obtained supports any allegation of misconduct against the officer.
- 2 In order to prepare the report the DIP will carry out a comprehensive investigation into any allegations. The relevant officer, the authority and the DIP must attempt to agree a timescale for the investigation. In the event that no agreement can be reached, the DIP will set a timescale as he or she considers appropriate.
- 3 The relevant officer will be given not less than ten (10) working days notice of the commencement of the investigation and should at the same time be provided with full details of the allegations being investigated.
- 4 The relevant officer has the right to request:-
  - a) Further details of the allegations made, and
  - b) A postponement of the investigation for a period to be agreed between the parties, or in default of agreement for a period not exceeding fourteen (14) days.
- 5 It will be for the DIP to decide on the format of the investigation in consultation with the parties. The DIP may hear evidence from one party in the absence of the other if he/ she consider it expedient.
- 6 The authority will make available all facilities that it is required to do by virtue of Regulation 9 of the Standing Orders (Wales) Regulations as amended (reproduced in full above).
- 7 If the DIP decides to conduct the investigation by means of a hearing, then the relevant officer will be entitled to attend and be represented on the same basis as referred to in paragraph 18.4 above. It shall be for the authority to submit evidence of the allegations against the relevant officer by means of witnesses and the submission of relevant documents.
- 8 The authority will engage the services of an independent lawyer to present the case on its behalf.
- 9 Any witnesses tendered by either party will be open to cross examination by or on behalf of the relevant officer or the authority.

## **21 The Report of the DIP**

- 1 At the conclusion of the investigation, the DIP will present a report to the Chief Officer Disciplinary Committee ("CODC") which will meet as soon as is

practicable, but in any event, no later than one month after receipt of the report. A copy of the report will be sent to the relevant officer as soon as it is submitted to the CODC.

- 2 This report will state an opinion as to whether the allegation of misconduct is made out and recommend any disciplinary action which appears appropriate for the authority to take against the relevant officer.
- 3 Possible recommended sanctions are set out below, but this is not an exhaustive list:
  - a) Recorded oral warning;
  - b) Written warning;
  - c) Suspension on no pay or half pay;
  - d) Dismissal with or without notice.

## **22 The Meeting of the Chief Officer Disciplinary Committee**

- 1 The Chief Officer Disciplinary Committee ("CODC") will meet to consider the report and shall accept the recommendations of the DIP. If the DIP recommends no disciplinary action, the Committee is bound by that recommendation. If however the DIP recommends dismissal or some other disciplinary sanction, the decision as to whether to impose a lesser sanction than dismissal remains that of the Chief Officer Disciplinary Committee.
- 2 The relevant officer or his or her representative will be permitted to address the CODC prior to it carrying out its deliberations. However under normal circumstances, no evidence will be permitted to be called.
- 3 There may however be circumstances where new evidence has emerged since the investigation which should be admitted in the interests of fairness. It is anticipated that such circumstances should be rare and the CODC will give full consideration to any representations that new evidence ought to be admitted.
- 4 The CODC will then deliberate and decide on what action to take, if any and this will then be communicated to the parties at the meeting if practicable, but in any event in writing setting out the reasons for the decision and informing the relevant officer of their right to appeal.

## **23 Right of Appeal**

- 1 The relevant officer will have the right of appeal against the decision of the Chief Officers Disciplinary Committee. Such appeal will be in writing and will comprehensively set out the ground/s of appeal. This is to be delivered to the Strategic Human Resources and Organisational Development Manager within 5 working days of the date that the decision is communicated to him/her.
- 2 The appeal will take the form of a review of the previous decision and will be considered by the following bodies in accordance with the 2006 Regulations as amended:

- a) In respect of the Chief Executive the appeal will be to Council. In which event, any members who have had any previous involvement in the process either as witnesses or as members of the Chief Officer Disciplinary Committee will be required to refrain from attending;
- b) In respect of all other Officers, the appeal will be to the Chief Officer Appeals Committee;
- c) The relevant officer or his or her nominated representative will be permitted to address Council/the COAC, but will not be permitted to adduce new evidence other than in accordance with the considerations referred to in paragraph 22.3;
- d) The COAC/Council will then deliberate and decide on what action to take, if any, and this will then be communicated to the parties at the meeting if practicable, but in any event in writing setting out the reasons for the decision;
- e) The decision of the COAC/Council is final and there is no further right of appeal;
- f) No grievance will be entertained in relation to this procedure or any decisions take by the Committees.

**Council Constitution, Part 4.9 - Rules of Procedure  
(Chief Officers & Deputy Chief Officers Disciplinary Procedure Rules:  
Schedule One)**

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STRICTLY PRIVATE & CONFIDENTIAL

Dear \*,

**Re: Local Authorities (Standing Order) Regulations 2006 (as amended)  
In the matter of an investigation into alleged misconduct by \***

On the \* of \* \*, the Appeal & Awards Committee of the City & County of Swansea sitting as the Investigation Committee for the purposes of the above Regulations decided that a complaint of misconduct against the Chief Executive/Monitoring Officer/Chief Financial Officer/Head of Service required to be investigated.

You have kindly agreed to undertake the role of designated independent person pursuant to Regulation 9 of the above Regulations, to carry out an investigation and to thereafter make a report to the authority.

The authority would request that you commence your investigation at the earliest possible opportunity and inform me of the date on which you intend to commence.

The Officer is represented by \* of \* and I would be grateful if you would make contact with their representative to attempt to agree a timescale and format for your investigation. The Authority has designated a liaison officer to assist you and this is \* whose direct dial is \*

This letter sets out the terms of business between the Authority and you

These particulars, the conditions contained in clauses 1 to 11 below and any alterations agreed in writing contain the entire agreement and understanding between you and the authority.

I look forward to receiving one signed copy by return at which point, this agreement will be deemed concluded

Yours sincerely

Chair of Appeal & Awards Committee

**Agreement**

<b>Role/title:</b>	Designated Independent Person for the purposes of the Local Authorities (Standing Orders) Wales Regulations 2006.
<b>Duties:</b>	To carry out a full and impartial investigation into the alleged misconduct of * in accordance with Regulation 9 of the Local Authorities (Standing Orders) Regulations 2006 ('the 2006 Regulations'.) as amended by the Amendment Regulations 2014, the Joint Negotiating

Committee for Chief Executives Conditions of Service and in terms of any procedure agreed between the parties in consultation with you.

To thereafter make a report to the authority in accordance with Regulation 9 of the 2006 Regulations. and to make any recommendations necessary

To advise the authority in relation to the question of suspension as soon as is practicable.

**Fees:**

**Notice of termination:** k by either party

**Commencement Date:**

**Term**

There is no set term, but it is an express term of this agreement that you will make yourself primarily available to the Authority and work on this matter until the completion and presentation of the report and then, upon reasonable notice to be available for a disciplinary and appeal hearing if applicable.

**Engagement**

Your engagement under this agreement starts on the Commencement Date and shall continue until the completion of the investigation, presentation of the report and, if applicable, any appeal hearing or the expiry of any Term or notice served under this agreement.

**1 Duties and responsibilities**

- 1.1 You are engaged to perform the duties outlined in these particulars and shall promptly give all advice and assistance within your power on any matter in the scope of your duties. Whilst carrying out the investigation, you are required to adhere to the statutory provisions and the JNC conditions.
- 1.2 When your work requires co-ordination with other persons working for us, you will make yourself available in our normal business hours.
- 1.3 This agreement is with you personally and you may not sub-contract or assign any of its rights or obligations without our prior written consent, but you may at your expense engage some other person acceptable to us to perform such of your duties as we agree and which you are unable to perform.

**2 Place of work**

There is no set place of work however; we anticipate that in an effort to avoid any disruption of the effective running of the Authority's functions that you will interview all staff members at or very near their place of work.

## 2.1 Fees

We shall pay your fees as shown in the particulars plus VAT (if applicable) within 30 days of receipt of your invoice, which you will render to us within one month of the end of each month.

## 2.2 Office Facilities

If appropriate we shall make available free of charge suitable office space and such other facilities as may be necessary to enable you to properly perform your duties.

## 2.3 Expenses

It is anticipated that the hourly rate agreed will be inclusive of all expenses, however, if there should be unusual expenses you will notify us of these in writing in advance of their being incurred for us to agree. If these expenses are agreed, we shall on the presentation of your invoice or other evidence of actual payment reimburse you for all expenses reasonably and properly incurred in the discharge of your duties and agreed in advance by us.

## 2.4 Confidential information

Except as authorised or required by your duties you shall keep secret and shall not use or disclose and shall use your best endeavours to prevent the use or disclosure of any of our confidential information. This shall include but is not limited to information relating to our business organisation, transactions, finances, technology, processes, specifications, methods, designs, formulae, technology or other of our business activities or affairs or those concerning our customers and suppliers.

## 2.5 Termination

2.5.1 Your engagement may be terminated by you or us by serving one week's written notice to the other.

2.5.2 We shall in addition have the right to terminate this agreement immediately and without liability for compensation or damages if you:

2.5.3 Fail to comply with any express or implied obligations under this agreement;

2.5.4 Fail or cease to perform your duties under this agreement to our reasonable satisfaction;

2.5.5 Become unable or are prevented from carrying out your duties under this agreement because of illness or injury or any other cause.

## 3 Tax and national insurance contributions

3.1 You warrant to us that you operate in business on your own account and are therefore 'self-employed' (i.e. an independent contractor) for all purposes under this agreement and that in consequence any remuneration which we pay to you forms part of your profit chargeable to income tax under Schedule D.

3.2 You will pay all taxation or national insurance contributions payable in connection with remuneration received from us and shall fully compensate and indemnify us on demand for any liability which we may suffer in connection with them.

4 **Variation**

No variation of this agreement or oral promise or commitment related to it shall be valid unless made in writing and signed by or on behalf of both of us.

5 **Interpretation**

This agreement shall be governed by English law and you consent to the exclusive jurisdiction of the English courts in all matters regarding it.

**Signed for and on behalf of the City & County of Swansea**

.....  
**Chief Executive/Monitoring Officer**

Date.....

Signed.....

\*

Date.....

**Council Constitution, Part 4.9 - Rules of Procedure  
(Chief Officers & Deputy Chief Officers Disciplinary Procedure Rules:  
Schedule Two)**

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Employers Secretary  
Joint Negotiating Committee  
Layden House  
76-86 Turnmill Street  
LONDON EC1M 5LG

STRICTLY PRIVATE AND CONFIDENTIAL ADDRESSEE ONLY

Dear Sir,

**Re: \*, Chief Executive/Monitoring Officer/Chief Officer /Head of Service City &  
County of Swansea**

In accordance with the JNC Conditions the Appeal & Awards Committee of the City & County of Swansea convened to carry out a preliminary investigation into allegations of misconduct against \*. It was decided that there is a case that requires further investigation (and that \* was to be suspended pending that investigation).

The authority and \*'s representative, are currently attempting to agree a designated independent person to investigate and this letter is to inform you of the position pursuant to paragraph 16.15 of the JNC conditions.

I should be grateful if you would please acknowledge this letter by replying to The Chairman of the Appeal & Awards Committee at the above address.

Yours faithfully



## Council Constitution, Part 4.10 - Rules of Procedure (Scrutiny Procedure Rules)

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### 1 Appointment

- 1 The Council will establish the Scrutiny Programme Committee set out in Article 6 and will appoint Members to them at the Annual Meeting of Council;
- 2 The Committee, at its first meeting following the Annual Meeting of Council, will elect a Chair and Vice Chair from amongst its Members.

### 2 Membership

- 1 No Member of the Executive may be a Member of the Scrutiny Programme Committee.
- 2 The Committee shall be entitled to co-opt non-voting Members for either a topic or a term up to the next Annual Meeting of Council.
- 3 As required by law and guidance from the Welsh Government, Scrutiny Committee's dealing with education matters must include in their membership voting representatives of religious faiths and of parent governors. Membership of the Scrutiny Programme Committee will therefore include:
  - 1 x Parent Governor Representative from a Primary School;
  - 1 x Parent Governor Representative from a Secondary School;
  - 1 x Catholic Church Representative (LA Maintained Faith Schools);
  - 1 x Church in Wales Representative (LA Maintained Faith Schools).
- 4 These Statutory Co-optees shall only have a vote at the Committee, and relevant Scrutiny Panels and Working Groups, on items relating to the overview and scrutiny of education functions. However, they may remain and speak on any other matter.
- 5 In accordance with the Police & Justice Act 2006, the Authority's designated crime and disorder committee may also co-opt additional members to serve on the committee to add value and expertise to the committee's work. Co-optees can be appointed with or without voting rights, at the discretion of the Committee.

### 3 Prohibition of Whipped Votes and Declaration of Party Whips

- 1 "Prohibition of Whipped Votes and Declaration of Party Whips" be added to the Order of Business for Overview and Scrutiny Committees (and associated Scrutiny Panels etc.).
- 2 The item should appear on each agenda following 'Minutes'.

- 3 At each meeting of an Overview and Scrutiny Committee (and associated Scrutiny Panels etc), each member of the Committee must declare any prohibited party whip which the member has been given in relation to the meeting.
- 4 The minutes of each meeting of an Overview and Scrutiny Committee shall record all such declarations of prohibited party whips made at the meeting”.

#### **4 Frequency of Meetings**

- 1 There shall be at least one meeting of the Programme Committee in each municipal year. The Committee is scheduled to formally meet 4 weekly.
- 2 Council will approve meetings of Council Bodies for the year.
- 3 The Committee at its first meeting of the municipal year (other than any following directly after the First Annual Meeting of Council or Annual Meeting of Council) has the right to alter the time of their meetings but not the day for the ensuing Municipal Year. Should the need arise to alter the time or day for a specific meeting beyond this, then the agreement of all Councillors sitting on the Committee shall be obtained.

#### **5 Scrutiny Process**

- 1 In practical terms the work of scrutiny follows four stages:
  - a) Work planning to identify issues and decide how to examine them;
  - b) Making recommendations through consultation and research;
  - c) Making recommendations to the Cabinet, to Council and to other decision making bodies;
  - d) Following up to check that agreed actions have been taken and an impact made.

#### **6 Work Planning & Agenda Setting**

- 1 **Work Planning**
  - a) The aims of work planning are:
    - i) To identify issues of concern or ways in which overview & scrutiny can contribute to the overall aims of the Council;
    - ii) To agree which overview and scrutiny activity is best suited to dealing with each issue;
    - iii) To plan how work can be carried out within available resources and within reasonable timescales.
  - b) The Scrutiny Programme Committee is responsible for setting the annual work plan. It will take into account the wishes of Members on that Committee who are not Members of the largest political group on the Council and anything referred to that body from Council. The Committee will also consider any referrals from Cabinet Members and Council.

- c) At the beginning of the year the Scrutiny Programme Committee will agree an outline work plan for the year in consultation with the relevant senior officers and taking into account the views of the public and of partner agencies. As part of this process every Member of the Council will be surveyed to identify topics of public concern. The aim should be to identify significant topics that meet a genuine need or address a significant concern and where overview & scrutiny can make a real difference.
- d) The most recent version of the work plan will be reported to each meeting of the Committee for the purpose of reviewing its content, considering the inclusion of new items and planning ahead to the next meeting. This will also ensure that the work plan is publicly available.
- e) The work of scrutiny should be of genuine benefit to the Council and offer value for money. There should be no duplication, therefore, between scrutiny work programmes and the work of service units. To avoid duplication:
  - i) The relevant director will ensure that the scrutiny committee is aware of any internal or external inspection or review that may overlap with its own work;
  - ii) The scrutiny committee may not duplicate existing inspections or reviews but may ask for briefings to be provided and/or for action plans to be reported to the board on a regular basis;
  - iii) The scrutiny committee may also undertake work that complements any review or inspection having first sought the advice of the relevant director.

## 2 **Agenda Setting**

- a) Individual agenda items, other than standing items, are to be determined in the first instance by the work plan agreed by the scrutiny committee. Additional items may be added or planned items deferred, at the discretion of the chair.
- b) Other than the usual standing items, agendas should be limited to 1 or 2 substantial items wherever possible.
- c) The primary purpose of scrutiny is to add value to the work of the Council. For this reason any items 'to note', in other words that do not require a specific response from the board, will be placed at the end of the agenda as 'For Information'. If possible these items should be circulated by email separately instead of being included on the agenda.
- d) At the last meeting of the scrutiny committee an annual review of the work plan will be considered. This will provide an opportunity for the work of the year to be evaluated and for possible further work plan items to be suggested. Information from the annual review will be fed into the Scrutiny Annual Report which is required to be reported to Council.

## 3 **In-depth Inquiries**

- a) Scrutiny is expected to carry out in-depth inquiries of service and policy areas. In-depth inquiries (also referred to as reviews) would be major pieces of work, where scrutiny can make a real difference in addressing significant areas of concern.
- b) These inquiries will contribute to service improvement and the development of policy/strategy through a planned programme of evidence gathering (including community engagement) leading to reports with conclusions and recommendations to Cabinet and Council (and other bodies) as appropriate.
- c) Scrutiny Panels (working as Task and Finish Groups) would normally be established to carry out the detailed work of inquiries, alongside scheduled Committee activities. Panels would provide more flexibility for evidence gathering (e.g. interviewing witnesses, engaging service providers/users, looking at detailed information), undertaking research activities (e.g. community consultation, surveys, focus groups, visits), and planning the final reports. Panels would normally be made up of a small number of Members but can involve others as considered appropriate.
- d) An in-depth inquiry would be expected to take up a significant amount of time and commitment (up to 6 months). For the planning of an in-depth inquiry a full scoping report will be produced which sets out all the details of how the inquiry be undertaken as part of the preparation of this report to ensure the most effective evidence gathering process.

## **7 Gathering Evidence**

- 1 The Committee will gather evidence in connection with any activity they undertake as part of their agreed work plan. The Committee shall adopt methods of gathering evidence which, in the opinion of the Committee, best inform their deliberations. These include, but are not limited to, convening informal panels or working groups, going on site visits, conducting public surveys, holding public meetings, commissioning research, hearing from witnesses and appointing advisors and assessors. The knowledge of Councillors is also a valuable source of evidence and should be considered as part of each inquiry.
- 2 The Committee shall be entitled to pay the reasonable fees and/or expenses of any individual or organisation assisting it, with the exception of Officers or Members of the Authority.
- 3 Evidence gathering activity should not duplicate any other similar activity being undertaken by the authority or by other local agencies where the results can be made available for the review in question.
- 4 A large part of evidence gathered will be through witnesses invited to give evidence directly to the board. The Committee is entitled under s21 of the Local Government Act 2000 boards to require any Member of the Executive or any Senior Officer to attend before it to give account for any matter within their responsibility or remit. In that event the Committee will be required to state the item, or nature of it, on which the Member or Officer is required to attend to give account and whether any papers are required to be produced.

- 5 Council officers presenting evidence to scrutiny committee will normally be expected to be either the relevant Director or the Head of Service.
- 6 Where individuals are required to attend before the committee/a panel, as in the case of Officers or Members, or invited to attend, as in the case of others, then the committee/panel, and in particular the Chair, shall ensure that those assisting the board/panel, by giving evidence, are treated with courtesy and respect. Those attending should be briefed about the purpose of the meeting (including the line of questioning) and given adequate time to prepare. A witness guide explaining what to expect will be made available for anyone attending the scrutiny committee or associated meeting.
- 7 Witnesses contributing evidence to scrutiny will be provided with feedback about the outcome of the inquiry and other information about scrutiny as appropriate.
- 8 For in-depth reviews the evidence collected will be published in the form of a findings report so that it can be made available for other researchers.

## **8 Making Recommendations**

Once evidence has been collected, the committee /panels will develop conclusions and recommendations based on what they have found. Conclusions and recommendations can be presented as part of in-depth review reports, committee reports or Chair's Letters.

## **9 In-Depth Review Reports**

- 1 An in-depth review will normally take a number of months, will be conducted according to an agreed scoping report and will have its findings shared publicly in a findings report.
- 2 At the end point of an in-depth review, the scrutiny committee will consider and agree the draft recommendations arising from the review. Recommendations will follow logically from conclusions which will be clearly evidenced by reference to the findings of the review. Recommendations should not reflect unsupported personal opinion or political views. At this stage advice will be sought from the relevant officers about the legal and financial implications of draft recommendations. The Legal Officer will also assist in defining which recommendations are to be considered by Cabinet and which require Council consideration.
- 3 Once the final draft has been agreed by the scrutiny committee, the Report will be published on the Council's website and submitted to the relevant Cabinet Member and scheduled to be presented to Cabinet.
- 4 If the committee/panel cannot agree on one single final report to the Executive then up to one minority report may be prepared and submitted for consideration with the majority report.
- 5 Reports from the scrutiny committee to the Executive shall be placed on the agenda of the first available meeting after being submitted to the Proper Officer. The Chair of the relevant committee/panel will present the Report and accompanying recommendations to Cabinet. At this meeting the role of the

Cabinet is simply to receive the report and to task the relevant Cabinet Member to prepare a written response on behalf of Cabinet.

- 6 The Cabinet Member's response report will be scheduled for a future Cabinet meeting no later than two months following the Cabinet meeting where the original overview and scrutiny report was presented.
- 7 In their response report the Cabinet Member will recommend approval or rejection of each of the overview and scrutiny recommendations together with an explanation. At this stage the Cabinet Member will also provide a proposed action plan to show what steps are being or will be taken to implement accepted recommendations. Cabinet will then make a decision on the Cabinet Member's response report except where there are recommendations on matters that require Council approval (e.g., proposing policy change).

## **10 Committee Reports**

- 1 An in-depth review will normally take a number of months, will be conducted according to an agreed scoping report and will have its findings shared publicly in a findings report.
- 2 At the end point of an in-depth review, the scrutiny committee will consider and agree the draft recommendations arising from the review. Recommendations will follow logically from conclusions which will be clearly evidenced by reference to the findings of the review. Recommendations should not reflect unsupported personal opinion or political views. At this stage advice will be sought from the relevant officers about the legal and financial implications of draft recommendations. The Legal Officer will also assist in defining which recommendations are to be considered by Cabinet and which require Council consideration.
- 3 Once the final draft has been agreed by the scrutiny committee, the Report will be published on the Council's website and submitted to the relevant Cabinet Member and scheduled to be presented to Cabinet.
- 4 If the committee/panel cannot agree on one single final report to the Executive then up to one minority report may be prepared and submitted for consideration with the majority report.
- 5 Reports from the scrutiny committee to the Executive shall be placed on the agenda of the first available meeting after being submitted to the Proper Officer. The Chair of the relevant committee/panel will present the Report and accompanying recommendations to Cabinet. At this meeting the role of the Cabinet is simply to receive the report and to task the relevant Cabinet Member to prepare a written response on behalf of Cabinet.
- 6 The Cabinet Member's response report will be scheduled for a future Cabinet meeting no later than two months following the Cabinet meeting where the original overview and scrutiny report was presented.
- 7 In their response report the Cabinet Member will recommend approval or rejection of each of the overview and scrutiny recommendations together with an explanation. At this stage the Cabinet Member will also provide a proposed

action plan to show what steps are being or will be taken to implement accepted recommendations. Cabinet will then make a decision on the Cabinet Member's response report except where there are recommendations on matters that require Council approval (e.g., proposing policy change).

## 11 Scrutiny Letters

- 1 The Committee, Scrutiny Panels and Working Groups can also correspond directly with Cabinet Members in order to communicate their views. It is expected that Scrutiny Letters will be produced by Chairs / Convenors detailing the conclusions and any recommendations arising from any meeting that would otherwise not be included in another report. This will enable Scrutiny to engage with Cabinet Members on a regular and structured basis.
- 2 Scrutiny Letters provide an important benefit to the overview & scrutiny process. They:
  - a) Allow Committee / Panels / Working Groups to formally raise concerns and make proposals to Cabinet Members;
  - b) Provide a mechanism for raising urgent concerns to be raised;
  - c) Clearly demonstrate what has been achieved by each meeting.
- 3 Scrutiny Letters are intended to be short summaries usually covering not more than one or two pages.
- 4 Scrutiny Letters are directed to the relevant Cabinet Member(s) in person. The Cabinet Member should respond in writing within 21 calendar days. This response should indicate whether the Cabinet Member has accepted the recommendation(s), whether the recommendation(s) needs to be referred and what action (if any) they intend to take.
- 5 Scrutiny Letters may also be directed at other decision-makers as appropriate.

## 12 Following Up

Once scrutiny have had recommendations accepted by Cabinet/Cabinet Members they are entitled to check progress and ensure that the desired impact has been achieved. This can happen in three ways:

## 13 In Depth Inquiries

- 1 Once agreed by Cabinet, the Cabinet Member's response report and action plan will be provided the scrutiny committee for information at the earliest opportunity. The committee will then schedule to follow up on progress with the implementation of the action plan.
- 2 The Chair and the Scrutiny Officer supporting the scrutiny committee should ensure that a review of progress against accepted recommendations is scheduled into future Work Programmes and a progress report is brought to the committee 6 months after the action plan has been agreed by Cabinet.

- 3 When presented with the first progress report the committee may either:
  - a) Agree that good progress has been made and that the review is closed or;
  - b) Agree that adequate progress has been made and that the review is closed whilst raising any specific issues of concern through a Chair's Letter or;
  - c) Agree that insufficient progress has been made and require a second progress report in six months.
  
- 4 The second progress report will be the final report and the review will be closed. However, the committee may still:
  - a) Agree that progress has been good;
  - b) Raise any concerns through a Chair's Letter; and
  - c) Schedule further work through their usual work planning process.

## **14 Committee Report**

For each committee report the committee can require either:

- a) A progress report be brought back to the committee by the Cabinet Member within two months of the report being considered by Cabinet or;
- b) That the Cabinet Member reports back on progress as part of their scheduled reporting to the committee.

## **15 Chair's Letter**

Each committee will be responsible for monitoring progress in respect of agreed recommendations in Chair's Letters and raising further issues with the Cabinet Member as appropriate.

## **16 Committee Meetings**

- 1 Robust scrutiny depends on effective questioning which in turn depends on effective preparation. The meetings of committees will therefore normally run as follows:
  - a) Main agenda items will be identified at the previous meeting in line with the agreed work plan. At this point potential witnesses and broad themes should be considered;
  - b) Prior to the meeting all committee members should be engaged in raising and discussing possible questions by email. The chair and vice chair of the committee will facilitate this process;
  - c) A pre meeting for all members of the committee will be held e.g. 30 minutes immediately before the committee meeting. The purpose is to



ensure that Members are fully prepared for the committee meeting and that the questioning strategy is clear.

- d) During the committee meeting the chair will be responsible for ensuring that questioning is effective and that the committee achieves its aims;
  - e) Immediately following the meeting a post meeting will be held for the members of the committee. The purpose is to confirm conclusions and any recommendations arising from the meeting. These conclusions and recommendations will be reported to the relevant cabinet member(s) in the form of a Chairs' Letter. The post meeting should also be used to review the effectiveness of the meeting and identify ways that future meetings could be improved.
- 2 Reports on policy and service issues should normally be presented to the committee in the name of the Cabinet Member.
- 3 To support liaison between the committee and the executive there will be a regular item on the agenda of each scrutiny committee meeting for 'Cabinet Member Questions & Responses'. This will be in addition to Cabinet Members attending board meetings for specific purposes: For this item:
- a) The relevant Cabinet Member(s) will be expected to present a short report highlighting to the committee any relevant developments in respect of their portfolio and relevant to the committee's terms of reference;
  - b) The Cabinet Member(s) short report should normally be provided in time to be circulated with the agenda although, as this may not always be possible, the report can be provided verbally;
  - c) Time will then be made available for committee members to ask questions of the Cabinet Member. This exercise is intended to be primarily for general information sharing and not detailed scrutiny. It should therefore, at the discretion of the Chair, be conducted in that spirit. As a guide around 10 minutes should be enough time for questions.
  - d) If the committee wishes to conduct more detailed scrutiny of any of the issues raised during this item then this should be agreed through the normal work planning process and placed on the agenda of a future meeting. This will also allow proper time for preparation.

## **17 Pre-decision scrutiny**

- 1 Pre-decision scrutiny gives scrutiny the opportunity to influence Cabinet decision-making, as a 'critical friend'.
- 2 During the course of each municipal year a quarterly schedule of Cabinet business is published within the Council's Forward Work Programme. The scrutiny committees can identify proposed decisions within the Forward Work Programme and ask for arrangements to be made for the scrutiny committee to discuss the Cabinet report ahead of Cabinet decision. The views of the scrutiny committee are formally presented (either in a written report or verbally by the scrutiny Chair) to the Cabinet meeting for the Cabinet to consider and inform its decision-making.

- 3 Pre-decision scrutiny is only one of a variety of activities that scrutiny committee may be involved in and will need to be managed within an overall programme of work. Additional committee meetings may need to be arranged in order to fit in to the proposed decision-making timetable.
- 4 The Council's Scrutiny Unit should be contacted for advice about the process that should be followed for requests for pre-decision scrutiny.

## **18 Cross Party Working**

Scrutiny is a cross party activity and should not be used for party political purposes or be subject to party whipping arrangements. At the beginning of every committee meeting each Member must declare any party whip which the member has been given in relation to the meeting.

## **19 Scrutiny Protocol/Scrutiny Handbook**

- 1 The City and County of Swansea Scrutiny Protocol is made up of a number of elements contained within the Council Constitution. These should be read as the Scrutiny Protocol along with supporting documents as the Overview and Scrutiny Handbook.
- 2 The individual elements of this Council Constitution are within:
  - a) Part 1 – Summary and Explanation;
  - b) Part 2 – Article 6, Overview and Scrutiny;
  - c) Part 3 – Terms of Reference;
  - d) Part 4 – Scrutiny Procedure Rules;
  - e) Part 5 – Protocol on Officer/Councillor Relations; Protocol for Councillors and Officers Attending and Participating in Scrutiny;
  - f) Part 6 – Members Allowances Scheme.

## Council Constitution, Part 4.11 - Rules of Procedure (Local Authority (LA) Governor Appointments)

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### 1 Procedure

- 1 All Local Authority Governor Appointments shall be made by Cabinet following a recommendation from the Director of Education in conjunction with the relevant Cabinet Member for Education and the Councillor(s) representing the ward(s) in the catchment area of the schools' views will be sought to input into the decision-making (Referred to within this document as Local Councillor(s)).
- 2 The Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s) will consider any applications in line with the governing body skills matrix alongside each individual governor application which will include a brief description by the applicant about the experience and knowledge they can offer the governing body.
- 3 The Local Authority Governor Application Form will be amended to include opportunity for applicants to include details (up to 300 words) of experience, knowledge and skills to demonstrate how their appointment will help address any skill gap identified within the school governing body skill matrix.
- 4 The Director of Education, and Cabinet Member and Local Councillor(s) will make recommendation on the appointment of the governor who is deemed to have the most appropriate skills and expertise to support and challenge the governing body, and make recommendations to Cabinet for filling LA vacancies on Governing Bodies.
- 5 The Councillor(s) representing the ward(s) in the catchment area of the schools' views will be sought to input into the decision-making.
- 6 The following criteria shall be used in considering applications:
  - a) Firstly the Councillor(s) representing ward(s) in the catchment area of the relevant school if they meet the skills criteria provided by the school. The School and Governor Unit shall assist Councillors in acquiring those skills where possible by utilising the training courses available within the Authority. Each Councillors training record is available at [www.swansea.gov.uk](http://www.swansea.gov.uk);
  - b) Secondly, if the Councillors(s) representing ward(s) in the catchment area of the relevant school do not express an interest, the vacancy be offered to other Councillors of the Local Authority if they meet the skills criteria provided by the school;
  - c) Following application of the above criteria, vacancies be offered to persons who, in the opinion of the Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s), would be suitable to the role of governor and who would contribute effectively to the school in terms of skills and experience in meeting the skills criteria provided by the school.

- 7 In each of the above categories whenever there are more candidates than vacancies, Local Authority representatives will be recommended to Cabinet on the basis of whom, in the opinion of the Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s), will make the most effective contribution to the management of the school concerned as provided for in the skills criteria provided by the school.
- 8 The Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s), shall receive, discuss and determine any representations made to them whenever they make any change to representation on a particular Governing Body.
- 9 The Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s), shall hear any request made to them to remove an LA Governor in Accordance with Regulation 27 of the Education (School Government) (Wales) Regulations 2005 and make a recommendation to Cabinet for approval.
- 10 The Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s), will expect all newly appointed Governors to undertake mandatory governor training in accordance with Welsh Government requirements within a year of them taking up the position in order to prepare them for their role and improve understanding of their responsibility to both challenge and support the school and Head teacher.
- 11 Applications must be submitted no later than 7 clear working days before the date of the Director of Education in conjunction with the relevant Cabinet Member for Education and Local Councillor(s) meeting / discussion and late applications will only be considered at their discretion.

## **Council Constitution, Part 5.1 - Codes and Protocols: Councillors & Officers Attending and Participating in Scrutiny Protocol**

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### **1 Councillors & Officers Attending and Participating in Scrutiny Protocol**

- 1 The purpose of Overview & Scrutiny is to review Council policy and service delivery while taking into account the performance of the authority. In doing so, it is expected that overview & scrutiny members will make constructive recommendations to Council that are based on factual findings.
- 2 Scrutiny is not about fostering a blame culture or assigning unfair criticism. To be effective, it must have the ability to work in an environment that supports the principles of service improvement. To assist this approach, it is considered necessary that Overview & Scrutiny members should:
  - a) undertake their roles with due diligence and satisfy themselves that all pertinent issues are covered;
  - b) be able to consider themselves unfettered by party political discipline;
  - c) use the powers of scrutiny properly and behave in a manner that reflects the trust placed in them by electors;
  - d) not permit personal agendas or differences in political complexion to obscure an effective overview & scrutiny process;
  - e) refrain from public and personal criticism of other members or officers.
- 3 Cabinet Members and Officers should:
  - a) Ensure their availability to attend Overview & Scrutiny Boards as requested;
  - b) Co-operate with Overview & Scrutiny Boards in arriving at conclusions to their investigations;
  - c) Provide all necessary information that will assist in the effectiveness of the overview & scrutiny process.

## **Council Constitution, Part 5.2 - Codes and Protocols: City and County of Swansea Members Code of Conduct (Principles)**

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### **Interpretation**

1 In this Code:

“co-opted member” (“aelod cyfetholedig”), in relation to the 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
- c) who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

2 “member” (“aelod”) includes a co-opted member; and

3 “relevant authority” (“awdurdod perthnasol”) means

- a) a county council,
- b) a county borough council,
- c) a community council,
- d) a fire authority constituted by a combination scheme under the Fire Services Act 1947, and
- e) a National Park authority established under section 63 of the Environment Act 1995.

### **The Principles**

4 **Selflessness**

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

5 **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.

6 **Integrity and Propriety**

Members must not put themselves in a position whether 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.

7 **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.

**8 Stewardship**

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

**9 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.

**10 Equality and Respect**

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

**11 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.

**12 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 overview & scrutiny as is appropriate to their responsibilities.

**13 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.

**[The Model Code of Conduct](#)**

## **Council Constitution, Part 5.3 - Codes and Protocols: Officers' Code of Conduct**

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### **1 Officers Code of Conduct**

- a) The National Assembly for Wales made Order 2001/2280 The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 in exercise of the powers conferred upon it by sections 82(2) and 105(1) of the Local Government Act 2000[1]. This order came into force on 28th July 2001. This Order applies to the City and County of Swansea.
- b) This Order contains a code as regards the conduct which is expected of a qualifying employee of the City and County of Swansea.
- c) A “qualifying employee” means an employee of the authority other than an employee falling within any description of employee specified in regulations 2001/2278.

### **2 General Principles**

The public is entitled to expect the highest standards of conduct from all qualifying employees [6] of relevant authorities[7]. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

### **3 Accountability**

Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

### **4 Political Neutrality**

Qualifying employees of relevant authorities, whether or not politically restricted [8], must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

### **5 Relations with Members, the public and other employees**

- a) Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.
- b) Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

### **6 Equality**



Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

## **7 Stewardship**

Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

## **8 Personal Interests**

Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- a) Any rules of their relevant authority on the registration and declaration by employees of financial and non-financial interests;
- b) Any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

## **9 Whistleblowing**

In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting Procedure, or any other Procedure designed for this purpose.

## **10 Treatment of Information**

Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

## **11 Appointment of Staff**

Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

## 12 **Investigations by Monitoring Officers**

Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000(9) a qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

## 13 **Non-Qualifying Local Government Employees**

- a) The National Assembly for Wales made Regulations 2001/2278 The Code of Conduct (Non-Qualifying Local Government Employees) (Wales) Regulations 2001 in exercise of the powers conferred upon it by Sections 82(8) and (9) and 105(1) of the Local Government Act 2000[1]. These Regulations came into force on 28th July 2001.
- b) This Regulation may be cited as the Code of Conduct (Non-Qualifying Local Government Employees) (Wales) Regulations 2001 and came into force on 28th July 2001.
- c) Under this Regulation the Code of Conduct Does not apply to Teachers and Firefighters within the meaning of Section 82(8) of the Local Government Act 2000 and further defined in Regulation 2001/2278.

## **Council Constitution, Part 5.4 - Codes and Protocols: Officer/Councillor Relations Protocol**

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### **General Principles**

- 1 The general principles of good Member/Officer relations is based on mutual trust and respect and consideration for others. Good working relationships between Members and Officers leads to good decision making, enhanced performance, confidence and community leadership.
- 2 This Protocol provides guidance for Members, co-opted Members and Officers in their working relationship with each other.
- 3 Members are bound by the Code of Conduct and Nolan Principles and are expected to maintain the highest standard of ethical behaviour when acting in their capacity as a Member and, in certain circumstances, at all times.
- 4 Officers are bound by the Code of Conduct (Qualifying Local Government Employees)(Wales) Order 2001 which provides that the public is entitled to expect the highest standards of conduct from Officers. When performing their duties Officers must act with integrity, honesty, impartiality and objectivity.
- 5 Mutual respect between Officers and Members is essential to good local government and working relationships should be kept on a professional basis and conducted in a positive and constructive way. It is important that any dealings between Members and Officers should observe standards of courtesy.
- 6 To support high performance within the Authority it is essential that both Members and Officers know and respect their different roles and perspectives.

### **Roles of Members**

Members undertake many different roles. Broadly these are:

- 7 Members are responsible to the electorate. Members undertake important community work within their ward and act as community advocates. They also deal with individual casework within their wards.
- 8 Members also have responsibility as members of full council to make important decisions on behalf of residents of Swansea which will include approving the budget and policy framework.
- 9 Some Members are also involved in quasi-judicial decisions when sitting on regulatory committees such as planning and licensing. Other Members will have responsibility for holding the Cabinet to account and scrutinising the performance of the council. Those Members who form part of the Cabinet will undertake the majority of the Council's functions and will decide policy and make policy decisions.

- 10 Some Members will also sit on partnerships and outside bodies ie charities, Fire Authority and will need to be familiar with their own rules of conduct and procedure.
- 11 Members help develop and review policy and strategy and review policy implementation.

### **Roles of Officers**

Officers have the following main roles:

- 12 Officers are responsible to the Council. Their role is to give impartial advice to all Members and to implement decisions, agreed policy and corporate priorities. Officers have operational responsibilities as set out in the scheme of delegation and Constitution and are responsible for day to day management and being accountable for the efficiency and effectiveness of their services.
- 13 The Member Code of Conduct provides that Members must reach decisions having regard to any relevant advice from Officers. In providing advice Officers are free to give their professional advice wherever appropriate. Such advice should be clear, impartial and timely.
- 14 Responsibility for drafting reports to committees, providing advice and, where appropriate, setting out options for decision making.
- 15 Ensuring that the Council always acts in a lawful manner.

### **Dealing with Disputes**

- 16 Members should not raise matters relating to the conduct or capability of an Officer in a public forum. This will include all meetings at which the public are present whether in person or via remote means. An Officer has no means of responding to such criticism in public.
- 17 If a Member feels that he/she has not been treated with respect, courtesy or has a concern about the conduct or capability of an Officer then the Member should raise it with the relevant Head of Service. There will be an expectation that the Member will also raise with their Group Leader any concerns about Officer conduct. The Head of Service will look into the matter and report back to the Member. If the Member remains dissatisfied with the response he/she should raise the issue with the relevant Director who will look into the matter afresh. Where it is felt that there is a breakdown in the relationship between both the Officer and the Member then with the consent of all parties the Chief Executive and Group Leader may resolve to consider mediation as a way forward. Any action taken against an Officer will be in accordance with the Council's relevant HR policies and upon advice of HR Officers.
- 18 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or the internal management of their section in a manner which is incompatible with the overall objectives of this Protocol.
- 19 If an Officer feels that he/she has not been properly treated with respect and courtesy by a Member he/she should raise the matter with his/her Head of

Service who will notify the relevant Director. Depending on the nature of the complaint, the relevant Head of Service or Director will speak to the Member with a view to facilitating resolution of any issues that have arisen between the Member and Officer. If the Member has a Group Leader the Head of Service/Director will also notify the Group Leader that a complaint has been made.

- 20 There will be an expectation that both parties will, in the spirit of this Protocol, engage in meaningful discussions to resolve any issues amicably. If the matter cannot be resolved at the initial stage by the Head of Service or Director then the relevant Political Group Leaders and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between Members and Officers. Both parties will be expected to agree to and engage with mediation with a view to resolving the matter. Mediation will be arranged and facilitated by HR officers.
- 21 If the alleged misconduct is of a serious nature the matter should be reported to the Monitoring Officer who will discuss initially with the Chief Executive and then, if appropriate, with the Corporate Management Team as to whether it is appropriate for referral to the Public Service Ombudsman for Wales.

### **Respect and Courtesy**

- 22 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 Officers. 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 Officers remember their respective obligations to enhance the Council's reputation and do what they can to avoid criticism of other Members, or other Officers in public places.

### 23 Undue Pressure

- (a) It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.
- (b) A Member should not apply undue pressure on an Officer either to do anything which 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.
- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in his favour nor raise personal matters to do with their job nor make claims or allegations about other Officers. (The Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's confidential reporting procedures).

### 24 Familiarity

- (a) Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details. Members and Officers will not therefore allow their working

relationship to become so close or appear to be so close as to bring into question the Officers ability to deal impartially with Members, Political Groups and other Officers.

- (b) Such familiarity could also cause embarrassment to other Members and / or other Officers and even give rise to suspicions of favouritism.
- (c) For these reasons close personal familiarity must be avoided.

### **Officer Support: Members and Party Groups**

- 25 In discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. Members should respect the political neutrality and integrity of Officers.
- 26 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and evenhanded manner.
- 27 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 28 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- a) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - b) party 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; and
  - c) similarly, where Officers provide information and advice to a party 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 relevant Committee or Sub-Committee when the matter in question is considered.
- 29 Officers shall exercise special care when attending and/or giving advice to Party Group Meetings. Party Group Meetings may include persons who are not Members of the Council. Such persons are unlikely to be bound by the Code of Conduct (in particular the rules around declarations of interests and confidentiality).

- 30 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 31 Whilst any Member may ask a relevant Head of Service, Corporate Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, e.g. Social Services, employment etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Chief Legal Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response s/he should raise the matter in the first place with the relevant Corporate Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 32 In relation to budget proposals:
- a) the Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee/Council meetings, whichever is the earlier; and
  - b) the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 33 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 34 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

### **Officer Support - the Cabinet**

- 35 It is clearly important that there should be a close working relationship between Cabinet members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 36 Whilst Cabinet Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Cabinet Member and a Head of Service in

this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 37 The Cabinet and its members have wide ranging leadership roles. They will:
- a) lead on the preparation of the Policies and Strategies including the budget;
  - b) take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
  - c) be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 38 Where functions which are the responsibility of the Cabinet are delegated to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council, through the Scrutiny Programme Committee and Scrutiny Panels, for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 39 Under the Constitution individual Cabinet Members take decisions. The Cabinet and Cabinet members must satisfy themselves that they are clear as to what exactly they can and cannot do under the Constitution.
- 40 The Council has in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub Committees, and the Cabinet and its Committees) an individual Cabinet Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 41 Decisions taken by individual Cabinet Members give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Cabinet Members should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions.

### **Officer Support - Scrutiny**

- 42 The Council Constitution Part 4 contains Rules of Procedure for Scrutiny. The Scrutiny Handbook contains guidelines as to the Procedure at Evidence Meetings, and guidance for Members and Officers.

### **Protocol for Councillors and Officers Attending and Participating in Scrutiny**

- 43 The purpose of scrutiny is to review Council policy and service delivery while taking into account the performance of the authority. In doing so, it is expected that scrutiny members will make constructive recommendations to Council that are based on factual findings and to act as a critical friend.



44 Scrutiny is not about fostering a blame culture or assigning unfair criticism. To be effective, it must have the ability to work in an environment that supports the principles of service improvement. To assist this approach, it is considered necessary that scrutiny members should:

- a) undertake their roles with due diligence and satisfy themselves that all pertinent issues are covered;
- b) be able to consider themselves unfettered by party political discipline;
- c) use the powers of scrutiny properly and behave in a manner that reflects the trust placed in them by electors;
- d) not permit personal agendas or differences in political complexion to obscure an effective scrutiny process;
- e) refrain from public and personal criticism of other members or officers.

Cabinet Members and Officers should:

- a) ensure their availability to attend scrutiny meetings as requested;
- b) co-operate with scrutiny in arriving at conclusions to their investigations;
- c) provide all necessary information that will assist in the effectiveness of the scrutiny process.

### **Support Services to Members and Party Groups**

45 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, 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**

46 Official letters on behalf of the Council should be sent in the name of the appropriate Officer rather than in the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to the Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

47 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. A system of 'silent copies' should not be employed.

### **Media**

48 Communications with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide the factual information. If a Member is unsure about the circumstances of a particular issue he/she should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.

## **Members' Access to Information and to Council Documents**

- 49 Members are free to approach any Directorate of the Council to ask for information in accordance with paragraph 24 above. This right extends to such information, explanation or 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. Such approaches should normally be made to the Director or another Senior Officer of the Directorate concerned.
- 50 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 51 Further and more detailed information regarding Members rights to inspect Council documents is contained in the Access to Information Rules in Part 4 of this Constitution and Members may obtain advice on their rights from the Council's Monitoring Officer.
- 52 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

## **Confidentiality**

- 53 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) He/she has the consent of a person authorised to give it;
  - (b) He/she is required by law to do so;
  - (c) The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (d) The disclosure is;
    - (i) Reasonable and in the public interest; and
    - (ii) Made in good faith and in compliance with the reasonable requirements of the authority;
- 54 Confidential Committee papers (yellow 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 the report remains confidential is for the Committee. The confidentiality of the information may decline over time and it will be a matter for the Monitoring Officer and report authors as to whether information can be disclosed if no longer considered confidential. Any decision to release information previously determined as confidential should be recorded formally under delegated provisions. Other information may be confidential because to disclose it would be against the Council's or public interest.

- 55 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 56 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.
- 57 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.
- 58 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.

### **Publicity and Press Releases**

- 59 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 60 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice.
- 61 The Local Authority is prohibited by s 2 Local Government Act 1986 from publishing or assisting to publish material which appears to be designed to affect public support for a political party. Welsh Government have published a Code of Recommended Practice for Local Authority Publicity which Officers and Members should have regard to in making decisions around publicity. If in any doubt the Head of Communications should be consulted. Particular care should be taken during the pre-election period around publicity.

### **Involvement of Ward Councillors**

- 62 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Any publicity afforded to Cabinet members on visits to wards may include Ward members as well as Cabinet members as long as the provisions of the Code of Recommended Practice for Local Authority Publicity is taken into account.

- 63 Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy of briefing papers, or other topics being discussed with a Cabinet Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Cabinet Member(s) as to with whom and when this might be done.

### **Conclusion**

- 64 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Officers, that 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 to the integrity of the Council, its Members and Officers.

### **Officer/Member Protocol**

- 65 This Protocol was adopted by the Council as part of the Constitution on \*\*\*
- 66 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.
- 67 Questions of interpretation of this Protocol will be determined by the Chief Legal Officer.

### 5 Petitions Scheme

Swansea Council's Petition Scheme may be viewed on the Democracy webpages:

<https://www.swansea.gov.uk/petitions>

## **Council Constitution, Part 5.6 - Codes and Protocols: Hospitality Protocol**

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### **Principles**

- 1 The Council accepts that Councillors and Officers have an important role as ambassadors for the Council, ensuring that it promotes its aims and objectives, and, by this protocol, the Council seeks to ensure that Councillors and Officers hosting or attending cultural, sporting and other such events are using those events to the Council's maximum benefit and for the benefit of the community as a whole.
- 2 This protocol therefore sets out guidance for Councillors and Officers on issues which commonly arise as a result of offers of hospitality. It covers both hospitality offered by the Council and hospitality offered to the Council.
- 3 The protocol supplements the respective Codes of Conduct which apply to Councillors and Officers and is subject to the Council's Procedure Rules.

### **General Roles and Responsibilities**

- 4 Councillors and Officers will throughout the course of a year receive many invitations to attend Council hosted functions and it is expected that Councillors and Officers attending these events will carry out an ambassadorial role on behalf of the Council, engaging as wide a section of the community as possible.
- 5 Attendance at Council hosted events does not require an entry in the Hospitality register if the attendance is as a result of a formal invitation. These invitations are to Councillors and Officers in their formal official role and should be treated as part of the Council's formal activities in the Community. Invitations will be issued on the basis of areas of expertise, expectations of the event and on a fair and equitable basis thereafter.
- 6 Any benefit received from the Council, in the form of tickets (i.e. Grand Theatre, Fireworks, Liberty Stadium etc.), invitations to events etc., which is not received by way of a formal invitation **MUST** be registered.
- 7 Councillors and Officers should be aware of the possibility that acceptance of hospitality from third parties may require that they do not participate in decisions of the Council that affect that third party, such as lettings of contracts / participation in decision making, etc.
- 8 Invitations to or from organisations with whom the Council may be contracting should be treated with extreme caution. Legal advice should be sought before such an invitation is extended or accepted.
- 9 A Hospitality Form must be completed. The form is available at **[www.swansea.gov.uk/hospitality](http://www.swansea.gov.uk/hospitality)**

## **Hospitality Registers**

- 10 The Monitoring Officer maintains a register of any declaration of hospitality or gift accepted by Members of more than £25 in value in accordance with:
- a) The Members Code of Conduct;
  - b) "Interests, Gifts and Hospitality of Members" within the Council Procedure Rules.
- 11 The Chief Executive maintains a register of any declaration of hospitality or gift accepted by Chief Officers of more than £25 in value in accordance with:
- a) The Officers Code of Conduct
  - b) "Interests, Gifts and Hospitality of Officers" within the Council Procedure Rules.
- 12 All gifts and hospitality over £25 in value received from any source other than formal Council invitations MUST be registered.

## **Enquiries**

- 13 If any Councillor or Officer is uncertain about any aspect of hospitality, they should seek advice from the Monitoring Officer immediately.

## **Council Constitution, Part 5.7 - Codes and Protocols: Multi-Location Meetings Policy**

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### **Multi-Location Meetings Policy City and County of Swansea - 2022**

#### **Background**

1. At the start of the coronavirus pandemic in 2020 the Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020 provided a framework for Councils to convene remote meetings for all attendees whilst face to face meetings were unable to take place.
2. The Local Government and Elections (Wales) Act 2021 has enabled Councils to continue to meet remotely with the introduction of multi-location meetings enabling greater public participation and Councillor involvement in decision making.
3. During Covid lockdowns and throughout 2020/21 Swansea Council has been convening its meetings by remote means resulting in a number of benefits:
  - Allowing decisions to be made in a transparent way.
  - Making it easy for the public to view and participate in decision making and the democratic process.
  - Enabling external participants to engage in meetings.
  - Compliance with the Wellbeing of Future Generations (Wales) Act 2015 in terms of making the authority more sustainable and resilient. Multi-location meetings reduce the carbon footprint of physical meetings. They also reduce both the reliance on paper and reduce the need for travel.
  - Significant time and cost savings for councillors and officers particularly in relation to regional arrangements.
  - It is easier for participants to take part if they have family and/or caring commitments.

#### **Legal Provisions**

4. The Local Government and Elections (Wales) Act 2021 provides that Councils are required to:
  - a) Electronically broadcast meetings (with effect from May 2022).
  - b) Make and publish arrangements to ensure that all Council, Cabinet, Committee, Sub-Committee and Joint Committee meetings may be attended remotely (i.e. enabling persons who are not in the same place to attend the meeting) – also referred to as ‘multi-location meetings’.
    - Meetings must be capable of being held virtually, but each authority must decide whether their meetings will be held fully virtually, partially virtually (where some participants are in the same physical location, whilst others join the meeting virtually, also referred to as ‘hybrid meetings’) or as physical meetings (authorities may not mandate physical attendance at meetings).



- Participants in the meetings must be able to speak to and hear each other; and for meetings which are required to be broadcast (full Council meetings), participants must also be able to see and be seen by each other.
- c) Publish all meeting documents on the Council’s website, including notices, summonses, agendas, reports and background papers.
- A note of the meeting, including Members in attendance and decisions made, must be published within 7 working days of the meeting.
  - Notice of meetings is no longer required to be posted at the Council’s offices. However, copies of agendas and reports must be made available for the public if meetings are held physically.
  - The Council is also required to make public access provision for members of the public who cannot access electronic documents, for example, by providing access to computers, copies of documents, or making documents available for inspection.
4. When considering arrangements for remote attendance or ‘multi-location meetings’, authorities must have regard to the statutory guidance issued by the Welsh Ministers: Interim statutory guidance on multi-location meetings <https://gov.wales/local-authority-multi-location-meetings-interim-guidance>
5. The statutory guidance sets out a number of general principles to guide authorities when developing their meeting arrangements, namely, transparency, accessibility, good conduct, Welsh language, local needs and future generations. The guidance confirms the meeting arrangements should be reflected in the procedure rules set out in the constitution.
6. The statutory guidance also stipulates that authorities should develop a policy setting out in how the multi-location meetings will operate and reflect the meeting arrangements in the constitution.

### **What is a Multi-Location Meeting?**

7. A Multi-Location Meeting is a meeting whose participants are not all in the same physical place. Some of the participants may be physically located in the meeting venue whilst others join from their home or other remote location.

### **Multi-Location Meetings Determination**

8. The Welsh Government Statutory Guidance stipulates that local democracy and the needs of the public in engaging with multi-location meetings are an important consideration in deciding where and when meetings will be convened.
9. It is also acknowledged that some participants may have a preference for physical meetings due to protected characteristics or circumstances which limits their ability to participate online. Some participants however may wish to join council meetings remotely and from another location as a matter of default because they have working or caring responsibilities, protected characteristics, which make attending meetings in person difficult.
10. In addition to Council and Cabinet meetings the Council has a variety of committees and sub-committees which support its statutory, regulatory and

governance arrangements. There is also a joint committee which involve a number of other Local Authorities and which are administered by the Swansea Democratic Services Team.

11. Both the Council Chamber and the newly refurbished Gloucester Room have multi-location meeting capability which will enable participants to be able to attend both remotely and in person. Both the Chamber and the Gloucester Room have designated public galleries to allow the public to attend in person.
12. The Council has determined that all meetings must be able to operate as multi-location meetings to ensure that participants are able to attend remotely or physically should they wish to do so. All Committees may be viewed at: [www.swansea.gov.uk/committees](http://www.swansea.gov.uk/committees)

### **Use of Cameras**

13. Participants of meetings that are broadcast must be able to “speak to and be heard by each other” and “to see and be seen by each other”.
14. The ability to see and be seen predominantly applies when a participant is speaking, although for some meetings, participants attending remotely may also be required to ensure that their cameras remain on for the duration of the meeting, for example, quasi-judicial meetings such as Planning and Licensing Committee. For other meetings the Chair may use their discretion whether participants are to keep their cameras on when not speaking.
15. It is inevitable that there will be occasions when a remote participant may need to disable their camera due to poor connection/internet issues. If this occurs the participant should use the chat function to inform the meeting Chair and democratic services staff of the issue.

### **Health & Safety of Participants**

16. Attendance at multi-location meetings may require participants and observers to use display screen equipment or to be seated for extended periods of time. To negate any adverse impacts from attending multi-location meetings remotely, participants will be requested to undertake a Display Screen Equipment (DSE) self-assessment to ensure that the configuration of their equipment meets health and safety requirements.
17. The Chair should consider the need for appropriate breaks as part of the agenda management arrangements of the meeting.

### **Calendar of Meetings**

18. A programme of meetings will be developed annually which identifies when, where and how each of the Council’s meetings will be held. This may be subject to change during the year for operational reasons.
19. The programme of meetings will avoid wherever possible scheduling meetings to be held simultaneously or immediately following another meeting. If this cannot be avoided the relevant Chairs will be consulted and one of the meetings will be undertaken as a fully remote meeting.

## **Attendance at Meetings**

20. Invitations to meetings will be provided electronically and will provide details of the meeting, its location and timings. It will include links to enable the participants to join remotely should they wish to do so. On receipt of the invitation, participants will be requested to indicate their intentions to attend the meeting physically or remotely to enable any necessary administrative and support arrangements to be put in place by Democratic Services.
23. Those participants considering attending the meeting remotely should also ensure that they have appropriate internet connectivity to join and maintain their attendance throughout the meeting.
24. All committee members are encouraged to physically attend at least one meeting of each committee or decision-making body to which they are appointed during each municipal year. Although physical attendance of participants cannot be mandated, there is no restriction on participants should they wish to physically attend any or all meetings.
25. On occasions the number of physical attendees who may be present at each meeting may be limited. In this event the Chair of the meeting together with essential officers will be given priority for attendance. Priority will also be given to external participants who may also need to attend the physical meeting in order to participate. Any remaining spaces are allocated to the political groups in accordance with political balance rules. The political groups are expected to give priority to any members who have difficulties joining a meeting remotely.
26. Meetings are also attended by a range of participants other than committee members. Officers and committee members should notify Democratic Services of additional participants who will be attending with details and contact information of the participant. The external participants will be contacted by Democratic Services to confirm their attendance, explain how they can join the meeting either as a physical or remote participant and the meeting procedures. If the external participant is joining the meeting remotely an electronic meeting invitation similar to that of other participants will be sent. They will also be offered the opportunity of a test meeting to familiarise themselves with the technology and the arrangements that are in place.
27. Members of the public will also be able to attend physical meetings from the public gallery in both the Gloucester Room and the Council Chamber. In the event that the number of members of the public needs to be limited i.e. social distancing then seats will be allocated on a first come first served basis. Members of the public who wish to view a meeting which is to be fully remote should make a request to the Head of Democratic Services, submitted by noon the previous working day prior to the remote meeting, to enable arrangements to be made.

## **Recording of Meetings by Others**

27. Members of the public are permitted to photograph, film or record Councillors and officers and use social media at any Council meetings that are open to the public and press, as long as they have given advance notice to the Head of Democratic Services. This is so that everyone attending the meeting is made aware that they may be recorded and that by attending the meeting they are deemed to consent to this. The Chair has discretion to prohibit recording and/or exclude from the meeting anyone reasonably considered to be in breach of the rules.

28. There is to be no recording or transmission of proceedings dealing with any exempt or confidential information.

### **Record of Attendance**

29. The Democratic Services Officer will record attendance of each committee member and participant at the meeting and record attendance in the minutes of the meeting. Committee Members are to inform the relevant Democratic Services if they are unable to attend a meeting and their apologies will be recorded at the meeting, and published in the minutes of the meeting.

### **Broadcasting Meetings**

30. Formal meetings of the Council will either be webcast by being streamed live or recorded for subsequent upload to the Council's webcasting website within 2 working days of the end of the meeting.
31. Where a meeting is being webcast notification will be given on the agenda pack and at the start of the meeting. Signs will be placed in the Chamber and the Gloucester Room to make clear that recording is taking place. The Chair of the meeting will have discretion to terminate or suspend the webcast in appropriate circumstances and will ensure no exempt or confidential agenda items will be webcast. The Monitoring Officer in consultation with the Chief Executive may request removal of the webcast, or certain parts of the webcast, where considered necessary.

### **Consideration of Exempt or Confidential Information at Meetings**

32. On occasions the Committee will be asked to exclude the public when considering exempt or confidential information. The agenda will schedule exempt items at the end of the meeting, so as to minimise any inconvenience to observers who will be required to leave the meeting when the item is being discussed.
33. When an exempt item is being considered the Democratic Services officer will ensure that members of the public have left the meeting, either remotely or physically and will turn off the recording equipment and webcast.
34. When the committee has considered the exempt item and if there are further public items to be considered, all remote participants will be invited to re-join the public meeting and the recording and webcast will be resumed. The observers or participants attending the physical meeting will be invited to return into the committee room.

### **Voting**

35. It is acknowledged that technical issues may dictate the method of voting but voting will comply with the voting rules set out in the Council Procedure Rules. Methods of voting include electronic voting, a roll call vote and show of hands (either physical or virtual). Committee members should ensure that they have been present for the discussion and debate on agenda items so as to be able to exercise their vote.
36. The result of any vote will be announced immediately following the vote by either the Chair or the Democratic Services Officer.

## Chairing Meetings

37. The Statutory Guidance understands that chairing a multi-location meeting is very different to chairing a face-to-face meeting. The job of the Chair is particularly challenging at a physical meeting with some participants joining remotely. Chairs and vice-chairs are encouraged to attend meetings in person in order to benefit from the direct support of the Democratic Services officer and legal officer.
38. In general Chairs of meetings should:
- Ensure they are prepared for the meeting.
  - Ensure all participants are able to access the meeting and can see and hear each other.
  - Introduce themselves and others to members of the public who may be present.
  - Check occasionally to ensure no one has been lost due to technical difficulties and provide support to those participants experiencing challenges.
  - Ensure all participants are given an opportunity to speak and appropriately use the chat facility.

## Chat Function Use

39. The chat function provides a simple method of enabling the chair to manage the meeting and to enable the remote participants to communicate with the chair.
40. The chat function should be used to:
- Allow advice to be given.
  - Allow the Chair to respond to queries from members and acknowledge requests to contribute to discussion.
  - Allow the Chair to check with a participant as to whether they are still present.
  - Enable participants to advise as to technical difficulties.
41. The chat function should not be used:
- For personal communications with other participants.
  - As substantial conversation and thereby detracting from main discussion.
  - For general chit-chat, jokes or political comments.

## **Council Constitution, Part 5.8 - Codes and Protocols: Public Participation Strategy**

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Swansea Council's Public Participation Strategy may be viewed on the Democracy webpages: <https://swansea.gov.uk/PublicParticipationStrategy>

## **Council Constitution, Part 5.9 - Codes and Protocols: Councillor / Councillor Dispute Resolution Protocol**

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### **1. Purpose**

- 1.1 The purpose of this Protocol is to promote high standards of conduct and encourage a positive working relationship between Councillors across the Council. When signing their declaration of office Councillors are agreeing to sign up to the Code of Conduct. That Code is intended to help and guide Councillors in maintaining appropriate standards of conduct when serving their community and when making decisions.
- 1.2 Local Authorities across Wales have all implemented local resolution procedures to deal with low level complaints which are made by a Councillor against a fellow Councillor. Complaints which are made relating to failure to show respect and consideration for others or the duty not to make vexatious, frivolous or malicious complaints are ideally dealt with under the Dispute Resolution Protocol.
- 1.3 This does not prevent a Councillor making a direct complaint to the Public Service Ombudsman for Wales but the aim of the Protocol is to resolve matters at an early stage and avoid any unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation.
- 1.4 Group Leaders have a duty under legislation to maintain the highest standards of ethical behaviour within their group. The Protocol therefore puts Group Leaders at the heart of ensuring that Councillors utilise the local dispute resolution process. The Protocol is not intended to interfere with or take the place of internal group/party discipline.

### **2. Application**

- 2.1 Issues which will be considered under the Protocol include:
  - Low level complaints between Councillors
  - Complaints as to failure to show respect and consideration either verbally or in writing
  - Behaviour which is vexatious, frivolous and malicious
- 2.2 Issues which will not be considered under the Protocol include:
  - Serious complaints or allegations of misconduct
  - Allegations of failure to declare interests
  - Complaints from members of the public
  - Complaints against officers

### **3. Procedure**

- 3.1 First stage – the Councillor who wishes to use the Protocol should put their complaint in writing and send to their Group Leader, the Group Leader of the Councillor subject of complaint and the Monitoring Officer. An attempt should be made at this stage to address the complaint informally eg by way of an apology. In the event that the complaint is against a Group Leader then the Presiding Member will be consulted and fulfil the role of Group Leader. If the complaint involves an

unaligned Councillor then the Presiding Member will be consulted and fulfil the role of Group Leader.

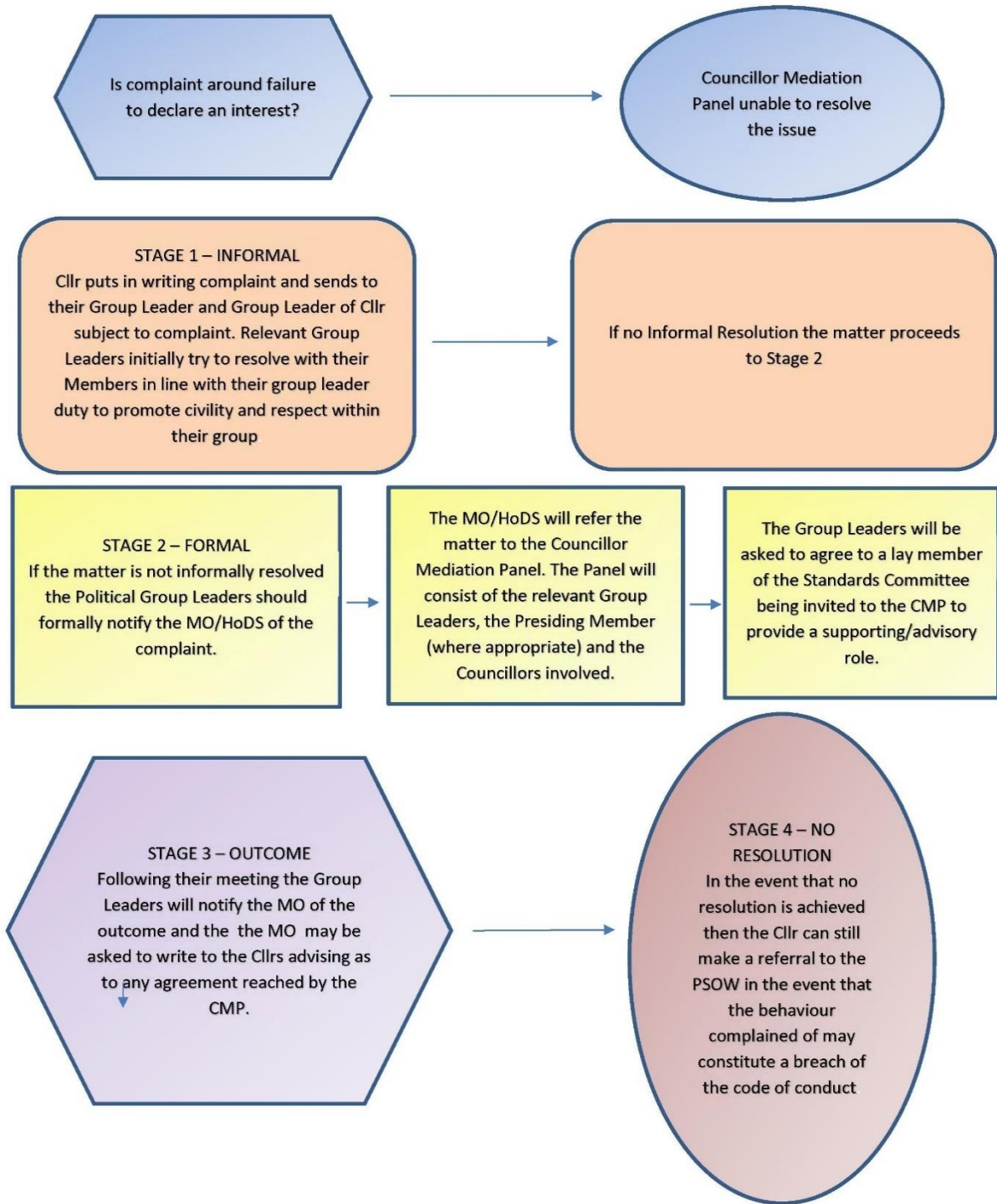
- 3.2 Second Stage – In the event that the matter cannot be resolved informally then the matter should be referred formally to the Monitoring Officer/Head of Democratic Services and the matter referred to the Councillor Mediation Panel (CMP). The Councillor Mediation Panel will consist of the relevant Group Leaders (or Presiding Member) and Councillors involved (and will be arranged by the Monitoring Officer).
- 3.3 Any discussions of the CMP will be confidential and held in private session. Any paperwork, minutes of decision etc will remain confidential to the parties subject to any duty to disclose to the Public Service Ombudsman for Wales.
- 3.4 Third Stage – Following the CMP the Panel will liaise with the Monitoring Officer as to the agreement reached and any actions to be undertaken. Where appropriate the Monitoring Officer will formally write to the Councillors advising them of the agreement. Examples of actions could include – attendance on training course, removal from committee, formal apology, withdrawal of comments made/posted.

#### **4. Standards Committee**

- 4.1 An Independent Member of the Standards Committee may play a supporting/advisory role to the Group Leaders. The inclusion of a Standards Committee lay member will be initiated at the request of the Group Leaders in a particular case. Participation by lay members should be on a rotational basis to prevent any conflict of interest.
- 4.2 Any discussions with the Standards Committee lay member and involvement with the CMP will be confidential. Save that the number of times the Protocol is invoked in any given year will be reported to the Standards Committee and with an indication as to whether the dispute was resolved within the Protocol process.
- 4.3 The terms of reference of the Standards Committee include oversight of the Protocol.



**Councillors Local Dispute Resolution  
“Councillor vs Councillor Complaints”**



Information relating to Councillor and Co-opted Members' Remuneration may be viewed at [Members' Schedule of Remuneration](#).

**Senior Management Team – Current Structure – July 2022**

Members of the Corporate Management Team (CMT) are in the shaded boxes

