



**THE CONSTITUTION**

**OF**

**TORFAEN COUNTY BOROUGH COUNCIL**

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# PART 1 - INTRODUCTION

## **1.1 Why we have a Constitution**

1.1.1 This is the Constitution of Torfaen County Borough Council (The Council). This Constitution aims to:

- Establish a framework for the participation of Councillors in the work of the Council;
- Provide for the separation of the executive and scrutiny roles within the Council's political management arrangements;
- Facilitate efficient, effective and accountable decision making;
- Provide Councillors with a clear framework through which to exercise their representational role and engage more directly with the local community.

1.1.2 The Constitution also specifies in Part 2 the rights of citizens and the means by which the public can participate and gain access to information about the Council's political management process.

1.1.3 More details of public rights to information can be found in paragraph 4.27 and other appropriate sections of this Constitution.

## **1.2 Arrangements for Review and Suspension**

1.2.1 The Monitoring Officer, working with Councillors, will monitor and evaluate the operation of the Constitution and will make recommendations to the Council for improvements to it as necessary.

1.2.2 Elements of the Constitution may be suspended by resolution of the Council, following the advice of the Monitoring Officer.

1.2.3 With regard to rules of proceedings the Cabinet or individual Committees are able to suspend specific elements by resolution of two thirds of those present.

## **1.3 Interpretation**

1.3.1 Any dispute as to the interpretation of this Constitution shall be determined by the Presiding Member upon the advice of the Monitoring Officer.

1.3.2 References to the Chief Executive, Monitoring Officer or Chief Financial Officer shall apply to their nominated deputy in their absence.

1.3.3 'Proper Officer' means the Chief Executive, the Monitoring Officer or one or more Officers appointed by the Chief Executive for this purpose.

1.3.4 Any reference to specific posts or offices such as the Chief Executive, Chief Financial Officer etc) shall deemed to be to the post holder or officeholder for the time being

and if the title of the post or office is changed or the functions of the post or office are varied then the reference will be to the employee of the Council for the time being undertaking the relevant functions.

## **1.4 The Model**

1.4.1 The model of the Council's arrangements provides in broad terms for the following:

- a Cabinet comprising the Leader and Executive Members

*Note the Council allocates certain areas of responsibility to the Cabinet and to members of the Executive. It is the practice of the Council to appoint a Councillor to the Cabinet who is not a member of the majority party but ordinarily no portfolio or specific responsibilities are allocated to that member*

- each portfolio held by an Executive Member relates to a service area or function and a 'cross-cutting' issue;
- all of the executive portfolios are scrutinised by an Overview and Scrutiny Committee. The Executive Members cannot be members of such Committees, but can participate by invitation. The role of the Committee is one of scrutiny/challenge, making recommendations on policy development and performance review;
- the Leader and Deputy Leader of the Council hold overarching portfolios which are strategic in their content;
- there is an Ethics and Standards Committee;
- there is a Governance and Audit Committee;
- there is a Planning Committee;
- there are Licensing Committees:
- there are other Committees which perform other functions – such as the Members' Services Working Party and the Appointments Committee.

\*NB The Executive as defined in the Local Government Act 2000 is also known as the Cabinet within the Constitution of Torfaen County Borough Council.

## **1.5 The Performance of Functions**

1.5.1 The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 as amended specify those functions which must be performed by the Council; those functions which must be performed by the Cabinet; those functions which are to be performed partly by the Council and partly by the Cabinet; and those functions which the Council may choose to allocate to the Council or to the Cabinet. These latter functions are referred to as local choice functions and this constitution sets out the allocation of the local choice functions. Appendix 8 sets out how the local choice functions have been allocated.

- 1.5.2 The separation of functions and decision making operates on the following broad principles:
- determination of the Authority’s policy framework and budget and other constitutional/quasi-legislative functions is the responsibility of the Council;
  - functions which involve either determining an application from a person for a license, approval, consent, permission or registration or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecution) are not the responsibility of the executive;
  - all other functions are the responsibility of the executive.
- 1.5.3 The composition and membership of the Cabinet is determined by the Council. Seats on Committees of the Council (excluding the Ethics and Standards Committee) are allocated in accordance with rules which are intended to mean that overall the composition of the committees reflect the political balance of the Council. The number of seats given to each of the political groups will be calculated as a ratio of the number of seats available on Committees and the number of Members in each of the political groups. The Council is under a duty to give effect to the wishes of each political group in the appointment to seats on each committee within the allocation.
- 1.5.4 The Council and the Cabinet may delegate their functions except where the law does not allow. The Council may delegate its functions to a committee or sub-committee of the Council or to an employee (sometimes employees of the Council are referred to as officers). The Cabinet may delegate its functions to a committee of the Cabinet or to an officer. An Executive Member may delegate his or her functions to an officer.

## **End of Part One**

## PART 2 - CITIZENS AND THE COUNCIL

*This part of the constitution sets out the general rights of citizens with regard to Council matters.*

### 2.1 Elections and Voting at Elections

2.1.1 The election of Councillors took place on 5 May 2022 and the next elections are due to take place in May 2027.

2.1.2 Anyone who is a British Citizen, an eligible Commonwealth Citizen, a citizen of any member state of the European Union or a qualifying foreign citizen who has attained the age of 18 years may stand for election as a Councillor unless they are disqualified. They must also meet at least one of four qualifications on both polling day and the day of nomination:

- be registered to vote within the Council's area;  
or for the whole of the previous 12 months have:
- lived; or
- occupied land or premises(as owner or tenant); or
- had their main place of work within the Council's authority area.

Certain people are disqualified from becoming a candidate at a local election. These include, subjects of bankruptcy restrictions orders or interim orders in England or Wales, adjudged bankrupts in Northern Ireland, or someone whose estate has been sequestered in Scotland. People who have served a prison sentence of three months or more within the last five years may not stand as a candidate.

*Further information is available from the Elections Team or the Electoral Commission's website [www.electoralcommission.gov.uk](http://www.electoralcommission.gov.uk)*

2.1.3 A person must be on the electoral register to be able to vote in elections for the Council. The Council appoints an Electoral Registration Officer who maintains a register of those eligible to vote at all elections including the Local Government elections but also elections for the UK Parliament, National Assembly for Wales and Town and Community Councils.

2.1.4 Most citizens living in Torfaen who are over sixteen will be entitled to be included in the register of electors and therefore become eligible to vote at Senedd, Local and Town and Community elections and all other elections when they are eighteen. Registration is compulsory because it is a criminal offence to fail to register. Voting is not compulsory.

2.1.5 Every autumn, forms are sent out to all dwellings in Torfaen requesting details of those eligible to vote. However a person can apply to be put on the electoral register at any time of the year.

*Note: Young people who are over fourteen should also be included in the list returned to the Elections Team.*



2.1.6 Anyone whose name is on the Electoral Register can ask for a postal vote.

## **2.2 Petitions for Constitutional Change**

2.2.1 If more than 10% of electors on the Electoral Register sign a petition that complies with regulations published under the Local Government Act 2000, the Council must hold a referendum on the constitutional change sought by those signing the petition. The types of changes include a change to having an Elected Mayor. There are detailed technical requirements to be complied with for a petition to be valid.

## **2.3 Information**

2.3.1 Citizens have rights to attend meetings of the Council and to see copies of relevant papers. These rights arise under legislation and are also conferred by the Council. The rights are summarized below but are set out in detail in paragraphs 4.27, 5.15, 6.9, 7.8, 8.4, 9.4, and 10.4.

2.3.2 In summary, citizens have the right to:

- a) attend meetings of the Council, Cabinet, Overview and Scrutiny Committee and other committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- b) see reports, background papers and any records of decisions made by the Council, Cabinet, Overview and Scrutiny Committees, other Committees and individual Executive Members, except where confidential or exempt information is likely to be disclosed.

2.3.3 The Council publishes an Executive Forward Plan setting out key and other decisions that are expected to be taken by the Cabinet, individual Executive Members and in some cases Strategic Directors within the next month. The most recent copy of this is available on the Council's website and can be provided on request.

2.3.4 The Council has a publication scheme under the Freedom of Information Act 2000 setting out documents that are available for the public to see.

*The latest version of the publication scheme can be found on the Council's website or is available from Corporate Complaints Team* The Freedom of Information Act also gives the public rights of access to other information held by the Council.

*The Council has published guidance on how to ask it for access to this information on its website.*

2.3.5 Where the Council holds personal data about a person that person has rights of access to the information held by the Council about them subject to certain exceptions. These rights are contained in the Data Protection Act 2018.

*The information should be requested from the relevant service department.*

## **2.4 Accounts and audit**

- 2.4.1 Any person interested may inspect the Council's books and accounts during the audit of the Council's accounts subject to certain exceptions.
- 2.4.2 In addition, anyone on the Electoral Register for the Council's area can question the auditor about the accounts.
- 2.4.3 Both rights are exercisable only during certain times when the audit is taking place.

## **2.5 Petitions and Questions at Council meetings**

- 2.5.1 The rules for meetings of the Council allow those living and/or working in Torfaen and representatives of organisations based in Torfaen to ask questions at meetings of the Council. Paragraph 4.15 of this Constitution sets out the rules relating to such questions.
- 2.5.2 Anyone wishing to present a petition at a Council meeting may do so with the consent of the Presiding Member. Paragraph 4.16 of this Constitution sets out the rules relating to presenting petitions.

## **2.6 Third party speaking rights**

- 2.6.1 The rules for meetings of the Planning Committee allow those wishing to do so to make representations to the Planning Committee on applications for planning permission and to speak at the Planning Committee where they have made written objections. Paragraph 7.6.3 and Appendix 12 of this Constitution set out the rules relating to such representations.

## **2.7 Complaints**

- 2.7.1 Citizens can complain in the following ways:

- a) To the Council's Chief Executive or Monitoring Officer in respect of any alleged illegality on the part of the Council or any of its officers or Councillors;
- b) To the Chief Executive, Chief Financial Officer, Monitoring Officer or Chief Internal Auditor in relation to any alleged financial impropriety;
- c) To the Monitoring Officer in respect of any alleged breach of the code of conduct by Councillors;

*Note: the Monitoring Officer also deals with Code of Conduct for Community Councillors*

- d) To the Public Services Ombudsman about any injustice you have suffered as a result of maladministration or where you believe a Councillor or co-opted member of the Council has breached the Member's Code of Conduct;
- e) To the District Auditor in relation to any alleged financial impropriety.

*The Council has a successful track record in resolving complaints and we encourage complainants to use the Complaints Procedure. For more details of our complaints procedure and how to take the first step to resolving a complaint contact the Democratic Services Team at the Civic Centre. There are other external regulators with specific responsibilities not listed above and you may wish to seek legal advice on the best way of pursuing more specific complaints*

## **2.8 Citizens responsibilities**

- 2.8.1 Members of the public dealing with public servants including elected Councillors and Council employees are expected to comply with reasonable standards of behaviour. The Council can, has and will take action against anyone who abuses, threatens, intimidates or assaults its staff or elected Councillors and reserves the right to prosecute offenders. Citizens who abuse their rights in this way will have those rights restricted or removed.

## **End of Part Two**

## **PART 3 - MEMBERS OF THE COUNCIL**

### **3.1 Composition of the Council and Eligibility for Election**

- 3.1.1 The Council will comprise 40 members otherwise called Councillors. One or more Councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for Wales and approved by the National Assembly for Wales.
- 3.1.2 Only registered voters of the Torfaen County Borough area or those living, working or owning or renting property there will be eligible to hold the office of Councillor.

### **3.2 Election and Term of Office of Councillors**

- 3.2.1 The election of Councillors took place on 5 May 2022 and the next elections are due to take place in May 2027. The term of office of a Councillor will start on the fourth day after he or she has been elected and will finish on the fourth day after the date of the next regular election.
- 3.2.2 Should a vacancy arise, a by-election will be held in accordance with election law. Any Councillor elected at a by-election will hold office until the fourth day after the date of the next regular election.

### **3.3 The Role of Councillors**

#### 3.3.1 All Councillors will:

- participate in the good governance of Torfaen;
- participate in improving open democracy in Torfaen;
- contribute to the formation and scrutiny of the Council's policies, strategies, budget and service delivery;
- represent the interests of their ward and respond to enquiries and representations from local people;
- lead on proposals relating to best interests and sustainability of the local community;
- represent the Council on outside bodies especially in their local area. Council representatives on outside bodies (excluding the Brecon Beacons National Park Authority, Gwent Police Authority and South Wales Fire and Rescue Authority) should, where the constitution of that outside body allows, be able to arrange for another councillor to attend meetings in their place where circumstances sometimes prevent their attendance;
- develop and maintain good and effective working relations with the Council's Executive, Overview and Scrutiny Committees and relevant Officers;
- maintain the highest standards of conduct and ethics; and
- adopt the Welsh Local Government's model role descriptions and person specifications for elected members.

#### 3.3.2 Subject to the requirements of political proportionality the Council may appoint any Councillor to any office or to any Committee save that:

- The Presiding Member and Deputy Presiding Member shall not be appointed as

an Executive Member;

- No member of the Cabinet shall hold a seat on any regulatory or Overview and Scrutiny Committee;
- No more than one of the members of the Governance and Audit Committee is to be a member of the Cabinet. The Leader cannot be a member of the Governance and Audit Committee.

### **3.4 Conduct**

- 3.4.1 Councillors will at all times adhere to the Councillors' Code of Conduct approved by Council set out in Appendix 1 to this Constitution and any other codes and protocols approved by the full Council. Any appropriate code or protocol approved by full Council will be included in this Constitution in Appendix 2 as soon as it is approved.
- 3.4.2 Alleged breaches of the Councillors' Code of Conduct are subject to investigation by the Public Services Ombudsman and the Ombudsman may refer such allegations for investigation and reporting to the Monitoring Officer and for consideration by the Ethics and Standards Committee (See part 8 of this Constitution).
- 3.4.3 In addition workers may report matters under the Confidential Reporting Code for Employees set out in Appendix 18.

### **3.5 Rights and Duties of Councillors**

#### **Failure to attend meetings**

- 3.5.1 As required by Section 85 of the Local Government Act 1972, where a Councillor fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Authority (see Note below), then they cease to be a member of the Authority unless the failure was due to some reason approved by the Council before the expiry of that period. Attendance is defined by the 1972 Act. In summary a Councillor attending as a member of a committee or sub-committee of the Authority or at a meeting of a joint committee, joint board or other body discharging the functions of the Authority or attending as a representative of the Authority at a meeting of any body of persons, is deemed to be attending a meeting of the Authority.
- 3.5.2 Under section 85 of the Local Government Act 1972 where a Councillor being a member of the Executive fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Executive then that Councillor shall cease to be a member of the Council unless the failure was due to some reason approved by the Council before the expiry of that period.
- For the purposes of that provision the discharge by an Executive Member, acting alone, of any function of the executive or attendance as a member at a meeting of a committee of the Executive is deemed to be attendance at a meeting of the Executive.*
- 3.5.3 The law makes provision for exceptions to the above requirements in the case of persons employed in the forces in connection with war and emergencies and in the case of any member suspended or partially suspended under sections 66, 73, 78 or

79 of the Local Government Act 2000.

- 3.5.4 Co-opted and non-voting members of Committees who fail to attend a meeting of the relevant body over a six-month period **(or two consecutive meetings for those regulatory committees that are only required to meet, as a minimum, once per year)**, except for some reason agreed by the relevant body before the expiry of the said period, will cease to qualify as a member of that body.

#### **Copy of Constitution to be given to Councillors**

- 3.5.5 A copy of this Constitution shall be given to each Councillor upon their election to the Council. A printed copy can be supplied on request (in larger font if required) and a printed copy will be kept in the members' room.

#### **Councillors' rights to inspect documents**

- 3.5.6 In addition to the rights of access conferred on members of the public, all Councillors shall be able to inspect any document which is in the possession or control of the Council and which contains material relating to any business to be transacted at a meeting of the Council or a committee or sub-committee subject to paragraph 3.5.7.
- 3.5.7 Where it appears to the Monitoring Officer may decline to permit inspection of any document by any Councillor which contains exempt information of a description referred to in section 100F(2) of the Local Government Act 1972.
- 3.5.8 In addition to the rights of access conferred on members of the public, all Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a meeting or a decision making body of the Executive or by any individual member of the Executive, when the meeting concludes or when taken by an individual member immediately after the decision has been made except to such extent as either it contains exempt information falling within the categories of exempt information referred to in paragraph 10(2) of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings)(Wales) Regulations 2001 or it contains the advice of a political adviser.
- 3.5.9 In addition to the rights of access conferred on members of the public and the rights referred to above, a member of a scrutiny committee will be entitled to copies of any document (except a document which is only in draft form) which is in the possession or control of the Executive or its committees and which contains material relating to any business transacted at a meeting (whether public or private) of Executive, or any decision taken by an individual member of the Executive. However no member of a scrutiny committee shall be entitled to any part of a document where the Monitoring Officer determines that it contains (a) exempt information or confidential information, or (b) the advice of a political adviser, unless it is relevant to an action or decision that is being reviewed or scrutinised by a scrutiny committee or to any review contained in any programme of work of a scrutiny committee.
- 3.5.10 The right to inspect includes the right to take a copy of the document or to require a copy of the document except where that infringes the copyright in any work.
- 3.5.11 A Councillor shall not knowingly inspect or ask for a copy of any document relating to

a matter in which he or she has a personal interest that would prevent him or her from voting at a meeting of the Council considering such matter

3.5.12 Where information of a possible defamatory nature is contained in a document, inspection of which by a Councillor is permitted, such inspection is allowed on the clear understanding that neither the document nor its contents shall be disclosed or passed on to any other party.

3.5.13 All agenda, reports and other documents and all proceedings of Committees and other bodies shall be treated as confidential matters unless and until they become public in the ordinary course of the Council's business. In particular no Councillor shall disclose any exempt or confidential information unless authorized to do so by law.

3.5.14 Nothing in these rules shall be deemed to affect the right of any Councillor to inspect or copy any document where such right is provided by any statute or regulation or at common law.

### **Inspection of Council land and premises, etc**

3.5.15 No member of the Council, or 'additional member' co-opted by the Council, may inspect any lands or premises owned or rented by the Council or which the Council has a right or duty to inspect or enter upon or issue any order in respect of any works which are carried out by or on behalf of the Council, unless specifically authorised to do so by the relevant Strategic Director after consultation with the relevant Executive Member (or Leader if the Executive Member is making the request).

## **3.6 Members Salaries**

3.6.1 Councillors will be entitled to receive salaries in accordance with the Members' Remuneration Scheme set out in Appendix 3.

## **3.7 Member champions**

3.7.1 Member champions are elected members who act as an advocate or spokesperson for a specific area of the council business. Member champions exist to provide a voice for traditionally unrepresented groups or issues. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent. They cannot make decisions.

3.7.2 The Leader is responsible for approving member champions. Any member of the council may be a member champion including the Leader. Member champions will normally be appointed following the local government elections that take place every 5 years. An appointment may be made during the five year period to any new position that is established or to a position where there is a vacancy. Any new appointments made by the Leader must be communicated in writing to the Chief Executive and noted by Council.

3.7.4. The Member Champions Protocol and the list of member champions is contained in Appendix 25.

**Statutory Provisions:**

Parts I and VA and Section 79, Local Government Act 1972

Part III, Chapter I of the Local Government Act 2000

Sections 18 and 19, Local Government and Housing Act 1989 and regulations made under those sections.

**End of Part Three**



## PART 4 - THE COUNCIL

### 4.1 Definitions

4.1.1 The Council meeting means a meeting to which all Members of the Council have been invited, constituted and conducted in accordance with this Constitution.

4.1.2 **The Policy Framework** means the following plans and strategies:

Corporate Plan  
Medium Term Financial Plan  
Workforce Plan  
Asset Management Plan  
Corporate Safeguarding Policy  
Economy & Skills Strategy  
Equality Improvement Framework for Wales  
Local Development Plan (including supplementary planning guidance)  
Local Transport Plan  
Local Well-being Plan (\* as required from 1 April 2016 under the Well Being of Future Generations Act)  
Pay Policy Statement  
Single Integrated Plan  
Sustainability Policy (\* until Local Well-being Plan in place)  
Welsh Language Scheme

4.1.3 **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.

### 4.2 Functions

4.2.1 Only the Council will exercise the following functions:

- Adopting the Constitution and changes to it (including the rules of procedure/standing orders and contract standing orders which form part of the Constitution), save for any minor changes to the Constitution which are delegated to the Monitoring Officer in consultation with the Member Constitution Working Party.
- Adopting or amending the Code of Conduct and any other codes and protocols relating to Members' conduct.
- Agreeing or amending the Policy Framework and the Budget.
- Authorising the making of an application to the Welsh Assembly Government for approval of a programme of disposal of land used for residential purposes where specific approval by the Ministers is required under sections 32 or 43 of the Housing Act 1985.

- Appointing the Leader, Deputy Leader and Executive Members.
- Any matter involving the discharge of an Executive function which is covered by the Policy Framework or the Budget where the Cabinet, Executive Member or officer is considering making a decision that is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and they are not authorised by this Constitution to make such a decision. This rule does not apply if the matter is urgent as defined in paragraph 5.8.2 below.
- Agreeing and amending the terms of reference for Committees, deciding on their composition and making appointments to them (including appointments to fill vacancies).
- Performing the corporate joint committee functions set out in section ? Of this Constitution, including the making of a corporate joint committee application
- Making, amending, revoking or replacing any scheme for basic, attendance and special responsibility allowances and determining the amounts of any allowance under that scheme, financial loss allowance and allowances for attending conferences and meetings and the rates at which payments are to be made as travelling and subsistence allowances.
- Appointment of the Head of Paid Service, S151 role, Monitoring Officer role, Head of Democratic Services role and any other statutory roles assigned to appropriate posts/officers.
- Decisions on the remuneration of the Chief Executive, Deputy Chief Executive and Strategic Directors.
- The making, amendment, revocation, re-enactment or adoption of byelaws and the promotion of, or opposition to the making of, local legislation or personal bills.
- Changing the name of the area, conferring the freedom of the County Borough and conferring the title of honorary alderman.
- The adoption of any other plan or strategy not within the Policy Framework but where the Council determines that the adoption of that plan or strategy should be reserved to Council.
- Approving, reviewing and amending the Council's petition scheme
- Prepare and consider an annual report on the extent to which the council has met its performance requirements
- Making arrangements for a panel performance assessment and responding to the panel's report
- Considering annual reports received from the Ethics and Standards committee
- Any other matters that the law requires to be reserved to the Council Meeting.

4.2.2 The Council may make arrangements for the discharge of any of its functions (save as required at law) by a committee, a sub-committee or an officer of the Council or by any other local authority and must do so where the law requires under the Licensing Act 2003 or the Gambling Act 2005. The Council reserves to itself the right to discharge any such functions notwithstanding such arrangements except where such matters are reserved by law to the Licensing Committees under the Licensing Act 2003 or the Gambling Act 2005.

4.2.3 The Council has reserved to itself those functions indicated in the Tables in Appendices 7 and 8.

### **4.3 Council Meetings**

4.3.1 There are three types of Council meeting and informal seminars:

- The Annual Meeting
- Ordinary meetings
- Extraordinary meetings
- Council Policy Seminars

### **4.4 Election and Appointment of the Presiding Member and Deputy Presiding Member**

4.4.1 The Council shall as the first item of business at its annual meeting elect one of its Councillors to be Chair of the Council with the title of Presiding Member who shall, unless they resign their office or become disqualified from acting, continue in office until their successor is elected. The Presiding Member must be a member of the Council receiving a senior salary but not be an Executive Member.

4.4.2 The Council shall at its annual meeting appoint one of its Councillors to be Deputy Presiding Member who shall, unless they resign their office, cease to be a councillor or are disqualified from acting continue in office until immediately after the appointment of the Deputy Presiding Member at the next annual meeting. The Deputy Presiding Member shall be eligible for appointment as Presiding Member. The Deputy Presiding Member must be a member of the Council receiving a senior salary but not be an Executive Member.

4.4.3 Where a casual vacancy occurs in the office of Presiding Member or Deputy Presiding Member, the vacancy shall be filled by the appointment by the Council of one of its Councillors at their next meeting and the person so appointed shall hold office until the date upon which the person in whose place they are appointed would regularly have retired.

4.4.4 The Presiding Member, or in their absence the Deputy Presiding Member, must preside at any meeting of Council at which they are present. If the Presiding Member and Deputy Presiding Member are both absent from any meeting of Council, a temporary Chair shall be chosen for that meeting (or agenda item) from the voting membership then present.

4.5.1 The ruling of the Presiding Member as to the construction or application of the Constitution, or as to any procedural question, at a meeting of the Council shall be final and shall not be open to discussion.

## **4.5 The Annual Meeting of Council**

4.5.1 In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of outgoing Councillors. In any other year, the annual meeting will take place in May.

4.5.2 The annual meeting will:

- Elect a person to preside if the outgoing Presiding Member is not present.
- Elect the new Presiding Member.
- Appoint the new Deputy Presiding Member.
- Receive any declarations of interest from Councillors.
- Approve the minutes of the last meeting.
- Receive any announcements from the Presiding Member or Chief Executive.
- Elect the Leader.
- Elect the Deputy Leader.
- Appoint another six Councillors to the Cabinet.
- Appoint the Chair of each Overview and Scrutiny Committee, the Planning Committee, the Licensing Committees, the Pensions Committee, the Democratic Services Committee and the Appointments Committee.
- Appoint members to the Ethics & Standards Committee for a term of up to four years if necessary.
- Determine the allocation of seats to political groups in accordance with the political balance rules (see paragraph 1.5.3)
- Appoint the members of each Overview and Scrutiny Committee, the Planning Committee, the Licensing Committees, the Pensions Committee, the Democratic Services Committee, the Appointments Committee, the Governance and Audit Committee, in accordance with the allocation of seats and three members of the Ethics and Standards Committee.
- Appoint the Chair and members of any other Member/Officer group, Working Party or Panel established by the Council for specific purposes.
- Appoint Councillors to serve on such outside bodies as the Council considers

appropriate.

4.5.3 Nothing in paragraph 4.5.2 shall preclude or be construed as precluding the Council from doing any of the following at an ordinary meeting of the Council subject to the following provisions of this Part of the Constitution:

- electing the Leader where such election becomes necessary following the death, resignation, retirement, disqualification or removal of the Leader during the period of office or as a result of a change to the Council's constitution;
- appointing the Deputy Leader where such appointment becomes necessary following the death, resignation, retirement, disqualification or removal of the Deputy Leader during the period of office or as a result of a change to the Council's constitution;
- appointing Councillors to the Cabinet where such appointment becomes necessary following the death, resignation, retirement, disqualification or removal of the Councillor concerned during the period of office or as a result of a change to the Council's constitution;
- appointing a chair for any standing committee where such appointment becomes necessary following the death, resignation, retirement, disqualification or removal of the Councillor concerned during the period of office or as a result of a change to the Council's constitution;
- deciding on an any amendment to the standing committees of the Council including their titles, size and terms of reference as set out in the Council's constitution subject to any statutory constraints or limitations and provided that the Council shall appoint at least one overview and scrutiny committee and a Standards Committee deciding on the allocation of seats on committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989;
- receiving nominations of Councillors to serve on the standing committees and giving effect to the Council's duty to make appointments to such committees in accordance with the Local Government and Housing Act 1989.

## **4.6 Ordinary Meetings of Council**

4.6.1 Ordinary meetings of Council will take place in accordance with an agreed programme. Ordinary meetings at their discretion may contain an informal element.

4.6.2 The formal business of an ordinary meeting of the Council will be to:

- Elect a person to preside if the Presiding Member and Deputy Presiding Member are not present.
- Receive apologies for absence
- Receive any declarations of interest from Members.

- Approve the minutes of the last meeting
- Receive a report back on the actions required from previous meetings
- Receive any petitions presented by members of the public or organisations (see paragraph 4.17)
- Receive questions from the public or organisations (see paragraph 4.16.1 for who is permitted to ask questions) and answers on behalf of the Council
- Receive announcements from the Presiding Member, Leader or Chief Executive.
- Receive the Cabinet minutes, the Leader's report and questions to the Leader on the Cabinet minutes and his/her report .
- Receive such Executive Members' reports as the Presiding Member considers appropriate and questions by Councillors to Executive Members
- Receive such Chairs of Overview and Scrutiny Committees' reports as the Presiding Member considers appropriate and questions to the Chairs
- Receive such Chairs of Planning Committee and Licensing Committees reports as the Presiding Member considers appropriate and questions to the Chairs
- Receive and debate any reports concerning the Policy Framework (see paragraph 4.1.2), budget or other reports, presentations and proposals from the Executive, Overview and Scrutiny, other committees, representatives on outside bodies and officers as the Presiding Member considers appropriate.
- Consider any motions put forward by Members.
- Consider any other questions from members.
- Consider any other business specified in the invitation to the meeting.

#### **4.7 Extraordinary Meetings of Council**

4.7.1 Those listed below may require the Proper Officer to arrange Council meetings in addition to ordinary meetings:

- the Council by resolution
- The Presiding Member
- The Cabinet by resolution
- The Chief Executive
- The Monitoring Officer; and / or
- any five Members of the Council if they have signed a requisition presented to the Presiding Member and he/she has refused or failed to arrange a meeting within seven days of the presentation of the requisition.

4.7.2 The business of any Extraordinary meeting shall be limited to the matter referred to in the resolution, requisition and/or invitation for the meeting, together with any questions from members of the public and petitions from the public which the proper officers consider directly relate to the main business of the meeting.

#### **4.8 Council Policy Seminars**

4.8.1 Council Policy Seminars are informal seminars to which all members of Council are invited to receive information about policy matters or to debate and discuss emerging policy issues or matters that will subsequently require decisions. They play an important role in ensuring that members are fully involved and fully briefed on matters that will subsequently require decisions by Cabinet or by full Council.

4.8.2 The Seminars are held on subject matters and at times approved by the Leader.

4.8.3 The Council will not give statutory notice to the public of the dates and times of seminars.

*Note: it is normal practice to hold Policy Seminars on Monday afternoons.*

4.8.4 Members of the public may attend Council Policy Seminars. Co-opted members of Overview and Scrutiny Committees will be invited to those Seminars relevant to the terms of reference of the Committee.

4.8.5 No decisions are made at Policy Seminars and no notes of seminars are maintained.

#### **4.9 Time and Place of Meetings**

4.9.1 The time and place of Council meetings will be determined by the Proper Officer and notified in the invitation.

4.9.2 Where the meeting is to be conducted in accordance with the Council's arrangements for multi-location meetings, the invitation will also include details of how to access the meeting by remote means

#### **4.10 Notice of and invitation to Meetings**

4.10.1 The Proper Officer will give notice to the public of the time and place of any meetings in accordance with the provisions of this Constitution in particular as set out in paragraph 4.28. Unless the meeting has been convened at shorter notice, at least five clear working days before an Annual, Ordinary or Extraordinary Council meeting or three clear working days before any other meeting, the Proper Officer will send an invitation and agenda to every Member of the Council. The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are appropriate.

#### **4.11 Chair of Meeting**

4.11.1 The Presiding Member shall chair meetings of the Council and in his/her absence the Deputy Presiding Member shall do so.

## 4.12 Quorum

4.12.1 The quorum of a meeting will be one quarter of the whole number of Councillors (or members, where this applies to committees or sub-committees which include voting members who are not councillors) or the nearest whole number above. During any meeting if the Presiding Member counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date agreed by the Presiding Member and the Proper Officer and fixed by the Presiding Member. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 4.13 Remote Attendance

4.13. Members will be regarded as being present at a meeting where they attend that meeting by remote means in accordance with the Council's arrangements for multi-location meetings providing that they can speak to, hear and be heard by, other attendees at the meeting

4.13.2 For the purposes of section 4.13.1 attendance by "remote means" means attendance in a different physical location to that of other participants and participating through an online meeting platform

## 4.14 Timetabling of the agenda

4.14.1 The Presiding Member shall decide the amount of time allotted to each item of the Council agenda and the order of the agenda.

4.14.2 Unless the Presiding Member in his or her discretion decides to extend the time, the maximum time allowed for petitions shall be 10 minutes and the maximum time for questions from the public shall be 20 minutes.

## 4.15 Questions by Members

4.15.1 A member of the Council may ask the Leader or relevant Executive Member any question without notice upon any item of the report of the Cabinet when that item is being received or under consideration by the Council.

4.15.2 **Question on notice at full Council:** Subject to paragraph 4.15.3 a Member of the Council may ask:

- a member of the Cabinet; or
- the Chair of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the area.

4.15.3 **Notice of questions:** A Member may only ask a question under paragraph 4.15.2 if either:

- they have given at least three whole working days notice (e.g. 10.00am on the



preceding Thursday for a 10.00am Tuesday meeting ) in writing of the question to the Chief Executive; or

- the question relates to urgent matters, they have the consent of the Presiding Member and the content of the question is given to the Proper Officer not later than the start of the meeting.

4.15.4 In this section and in section 4.16 below “three working days notice” means the full text of the question must be received in writing or by email by the Chief Executive , three whole working days before the Council meeting (e.g. by 10.00am on the preceding Thursday if the meeting starts at 10.00am on a Tuesday).

4.15.5 **Response:** An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and copied to all members.

4.15.6 **Supplementary question:** A Member asking a question under paragraph 4.15.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

4.15.7 Principal questions asked under this section and a summary of the replies to the questions will be recorded in the minutes of the meeting.

4.15.8 The essence of supplementary questions and responses will be recorded so that the full debate can be captured but supplementary questions and answers do not need to be recorded verbatim but should be recorded in a form that captures the essence of the question and ensuing debate.

## 4.16 Questions by Members of the Public

4.16.1 A member of the public who lives or works in Torfaen and any person who represents a public, private, voluntary or community organisation based in Torfaen may ask a question at a Council meeting on any matter in relation to which the Council has powers or duties or which affects the area.

4.16.2 **Notice of questions:** A member of the public may only ask a question under paragraph 4.16.1 if they have given notice in writing of the question to the Chief Executive by three whole working days before the Council meeting (e.g. 10.00am on the preceding Thursday for a meeting at 10.00am on a Tuesday).

4.16.3 At Council, the previously submitted written question shall be read out by the questioner.

4.16.4 **Response:** An answer may take the form of:

- a direct oral answer;

- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- where the reply cannot conveniently be given orally, a written answer circulated later to the questioner copied to all members of the Council in accordance with paragraph 4.16.8.

4.16.5 **Supplementary question:** The Presiding Member may at his or her discretion permit a supplementary question arising directly out of the original question or the reply.

4.16.6 Questions asked under this section and a summary of the replies to the questions will be recorded in the minutes of the meeting. The essence of supplementary questions and responses will be recorded so that the full debate can be captured but supplementary questions and answers do not need to be recorded verbatim.

4.16.7 The Order in which questions are taken shall be at the discretion of the Presiding Member.

4.16.8 Any question not asked because of insufficient time, will be answered subsequently in writing with a copy of the answer provided to all councillors.

4.16.9 The Presiding Member, after consultation with the Monitoring Officer and Chief Executive, may reject a question if:

- it does not meet the criteria set out in 4.16.1
- it is defamatory, frivolous or offensive;
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- it requires the disclosure of confidential or exempt information;
- it relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a court or tribunal or to a Government Minister or the National Assembly or an ongoing investigation by the Public Services Ombudsman or relates to a decision which has been made by the Council in exercise of its regulatory functions in respect of which there are legal rights of redress;
- it relates to the personal circumstances or conduct of an officer or Councillor or to the conditions of service of individual employees;
- it seeks to promote a political party or organisation;
- it is a statement and not a genuine enquiry.; or
- the preparation of the answer would require the expenditure of a disproportionate amount of time, public money or effort.

4.16.10 The decision of the Presiding Member in the above matters shall be final, but when a question from a member of the public has been rejected under the terms of paragraph 4.16.9, the Presiding Member, under that agenda item, will announce to the Council the reason for the rejection and this explanation will be recorded in the minutes.

#### **4.17 Petitions from Members of the Public**

4.17.1 At the request of any Councillor a member of the public defined in paragraph 4.16.1 may present a petition to the Presiding Member at a Council Meeting.

- 4.17.2 The right set out in 4.17.1 above only applies if the original petition is presented by the Councillor on behalf of the member of the public to the Chief Executive by two whole working days before the meeting at which the petition is to be presented (e.g. by 10.00am on the preceding Friday before a meeting to be held at 10.00am on a Tuesday).
- 4.17.3 At the Council Meeting the member of the public may present the petition publicly to the Presiding Member who will receive it on behalf of the Council and read the content of the petition to the meeting.
- 4.17.4 The Chief Executive after consulting the Monitoring Officer or the Presiding Member, after consulting the Monitoring Officer and Chief Executive, may reject a petition in accordance with the criteria set out in the Petition Scheme.
- 4.17.5 A copy of the Petition Scheme including guidance and an example template can be found at Appendix 24 of the Constitution.

#### **4.18 Motions on Notice**

##### **4.18.1 Notice**

Except for motions which can be moved without notice under paragraph 4.19, written notice of every motion, signed by the Member moving the motion, must be delivered to the Chief Executive at least seven clear working days before the date of the meeting.

##### **4.18.2 Motions set out in agenda**

Motions of which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing before the agenda is issued, that they propose to move it to a later meeting or withdraw it.

##### **4.18.3 Scope**

Motions must be about matters for which the Council has responsibility or which affect the area.

#### **4.19 Motions without Notice**

4.19.1 The following motions may be moved without notice:

- to appoint a Chair of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to any appropriate body or individual;
- to appoint a Committee or Member arising from an item on the invitation for the meeting;
- to receive reports or adoption of recommendations of Committees or Officers and any resolutions following from them;
- to withdraw a motion;
- to amend a motion;

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to suspend a particular rule of debate;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a Member named under paragraph 4.25.3 or to exclude them from the meeting under paragraph 4.25.4; and
- to give the consent of the Council where its consent is required by this Constitution.

## **4.20 Rules of Debate**

### **4.20.1 General**

The Presiding Member shall be responsible for maintaining order at the meeting in accordance with good practice and any legislative requirements and for ensuring that decisions are made in a proper manner. Paragraphs 4.20.2 to 4.20.14 below on rules of debate may be brought into effect by the Presiding Member at his or her discretion at any time during any meeting and shall then apply for the remainder of the meeting, unless suspended by resolution. Otherwise, these rules shall not apply.

### **4.20.2 No speeches until motion seconded**

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

### **4.20.3 Right to require motion in writing**

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

### **4.20.4 Secunder's speech**

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

### **4.20.5 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Presiding Member.

### **4.20.6 When a Member may speak again**

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

- to speak once on an amendment moved by another Member;
- to move a further amendment if the motion has been amended since he/she last spoke;

- if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- in exercise of a right of reply;
- on a point of order; and
- by way of personal explanation.

#### 4.20.7 Amendments to motions

An amendment to a motion must be relevant to the motion and will either be:

- to refer the matter to an appropriate body or individual for consideration or reconsideration;
- to leave out words;
- to leave out words and insert or add others; or
- to insert or add words.

As long as the effect is not to negate the motion.

Only one amendment may be moved and discussed at any one time. No further amendments may be moved until the amendment under discussion has been disposed of.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Presiding Member will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 4.20.8 Alteration of motion

A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

#### 4.20.9 Withdrawal of motion

Once moved a Member may withdraw a motion with the consent of both the meeting and the seconder. If a Member declines to move a motion or is not present it shall be treated as withdrawn. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to

withdraw it unless permission is refused.

#### 4.20.10 **Right of reply**

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 4.20.11 **Motions which may be moved during debate**

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

- to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to suspend a particular rule of debate;
- to exclude the public and press in accordance with the Access to Information Rules; and
- to not hear further a Member named under 4.25.3 or to exclude them from the meeting under 4.25.4.

#### 4.20.12 **Closure motions**

A Member may move, without comment, the following motions at the end of a speech of another Member:

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate; or
- to adjourn a meeting.

If a motion to proceed to next business is seconded and the Presiding Member thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Presiding Member thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Presiding Member thinks the item has not been sufficiently discussed and cannot

reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **4.20.13 Point of order**

A Member may raise a point of order at any time. The Presiding Member will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Debate or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Presiding Member on the matter will be final.

#### **4.20.14 Personal explanation**

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

### **4.21 Voting**

#### **4.21.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the meeting at the time the question was put. The Presiding Member may exercise a vote.

#### **4.21.2 Presiding Member's casting vote**

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

#### **4.21.3 Show of hands**

Unless a ballot or recorded vote is demanded under 4.21.4 or 4.21.5, the Presiding Member will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting confirming agreement to the resolution that has been identified by the Presiding Member and proposed and seconded.

#### **4.21.4 Ballots**

The vote will take place by written ballot if a Member present at the meeting demands it. The Presiding Member will announce the numerical result of the ballot immediately the result is known.

#### **4.21.5 Recorded vote**

If six Members present at the meeting demand it, the names for and against the motion or amendment and the names of those abstaining from voting will be taken down in writing and entered into the minutes.

#### **4.21.6 Right to require individual vote to be recorded**

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

#### **4.21.7 Voting on appointments**

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

### **4.22 Minutes and Decision Notice**

#### **4.22.1 Approving the minutes**

The Presiding Member will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **4.22.2 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order that they were put.

#### **4.22.3 Decision Notice**

The decision notice setting out the names of the members who attend the meeting and any apologies for absences, any declarations of interest and any decision taken at the meeting shall be published electronically within seven days of the meeting.

### **4.23 Record of Attendance**

4.23.1 The record of Members' attendance will be published in the decision sheet and also in the minutes.

### **4.24 Exclusion of the Public**

4.24.1 Members of the public and press may only be excluded in accordance with the Access to Information Rules in paragraph 4.28 or Disturbance by the Public Rules in paragraph 4.26.

### **4.25 Members' Conduct**

#### **4.25.1 Speaking at Council**

When a Member speaks at full Council they will address the Council through the Presiding Member. The Presiding Member will call Members to speak. Other Members should not interrupt unless they wish to make a point of order or a point of personal explanation.

#### **4.25.2 Call for Order**



When the Presiding Member calls for order during a debate, any Member speaking at the time must stop. The meeting must be silent.

#### **4.25.3 Member not to be heard further**

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

#### **4.25.4 Member to leave the meeting**

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

#### **4.25.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Presiding Member may adjourn the meeting for as long as he/she thinks necessary, without debate.

### **4.26 Disturbance by the Public**

#### **4.26.1 Removal of member of the public**

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

#### **4.26.2 Clearance of part of meeting room**

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

### **4.27 Suspension and Amendment of Council Rules of Debate**

#### **4.27.1 Suspension**

Any rule of debate may be suspended by a simple majority of Members present and voting.

### **4.28 Public access to information**

4.28.1 The public shall have the following rights of access to information about Council decision making. These provisions are contained in the Local Government Act 1972 (as amended) which are paraphrased below.

#### **Public notice of meetings**

4.28.2 Public notice of the time and place of each meeting shall be given at least three clear working days before the meeting or, if the meeting is convened at shorter notice than at the time the meeting is convened.

### **Public access to the agenda for meetings and reports**

4.28.3 Copies of the agenda for each meeting and copies of any report for the meeting shall be open to inspection by members of the public at the Civic Centre unless paragraph 4.28.8 applies.

4.28.4 These papers shall be available three clear working days before the meeting unless:

- The meeting is convened at less than three clear working days notice in which case they shall be available from the time of publication of the agenda; or
- An item is added to the agenda after its publication in which case they shall be available from the time at which it is added to the agenda.

4.28.5 These papers shall be available for inspection by members of the public for a period of six years from the date of the meeting.

4.28.6 Background papers referred to in any report shall also be available for inspection by members of the public from the time the agenda is published until four years after the date of the meeting. This requirement is satisfied if arrangements exist to produce the background paper on request as soon as reasonably practicable after a request is made. This paragraph shall not apply to any background papers that disclose exempt or confidential information.

4.28.7 Where a meeting is open to the public, a reasonable number of copies of the agenda and supporting reports shall be available at the meeting for use by the public if they are attending in person.

4.28.8 Paragraphs 4.28.3 to 4.28.5 shall not apply to any report where the Proper Officer is of the opinion that the meeting is likely not to be open to the press and public during the consideration of the report.

4.28.9 Where a document is open to inspection, a member of the public may make a copy or require the Proper Officer to provide a copy.

### **Public access to minutes**

4.28.10 After a meeting, the minutes shall be available for public inspection for a period of six years from the date of the meeting.

4.28.11 Paragraph 4.28.10 shall not apply to any part of the minutes during which the meeting was not open to the public and which discloses exempt information but in this case, if the public minute does not provide a reasonably fair and coherent record of the whole or part of the proceedings, the Proper Officer shall provide a written summary of the proceedings or the part which provides a record without disclosing exempt information.

### **Items only to be added to agenda if urgent**

4.28.12 An item of business may not be considered by the Council unless a copy of the agenda including the item has been available for inspection by the public for at least three clear days before the meeting (or from the time the meeting was convened if it was convened at less than three clear days notice) or (because of special circumstances which must be recorded in the minutes), the Presiding Member is satisfied that the matter should be considered at the meeting because of its urgency.

### **Access to meetings by the press and public**

4.28.13 All meetings will be open to the press and public, unless the Council resolves to exclude the press and public during an item of business for one of the following reasons:

- because, in view of the nature of the business to be transacted or the nature of the proceedings, it is likely that confidential information would be disclosed to them in breach of the obligation of confidence or exempt information would be disclosed to them; or
- the Council is excluding a member of the public or the public at large because of the conduct of that person or because of a general disturbance under the powers set out in paragraph 4.26.

4.28.14 The definition of confidential information is set out in section 100A of the Local Government Act 1972 and the definition of exempt information is contained in schedule 12A of that Act.

4.28.15 A resolution to exclude the press and public because exempt information is likely to be disclosed shall identify the part of the proceedings to which it applies and the paragraph of schedule 12A that applies to the information.

### **4.29 Electronic Broadcasts of Meetings**

4.29.1 Ordinary meetings of the Council will be broadcast live electronically on the Council's website so that members of the public not in attendance at the meeting can see and hear the proceedings.

### **Photographs and tape recording at meetings**

4.29.2 Proceedings at meetings may not be photographed, videoed, tape recorded or transmitted in any way outside the meeting room without the prior permission of the Presiding Member or Chief Executive.

### **Statutory Provisions:**

Parts I, II and VA, Section 99 and Schedule 12 of the Local Government Act 1972

Part II of the Local Government Act 2000

The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 as amended.

## **End of Part Four**

## **PART 5 - THE EXECUTIVE**

### **5.1 The Cabinet**

5.1.1 The Cabinet comprises the Executive of the Council.

5.1.2 The Cabinet will comprise eight Members appointed by Council at its Annual Meeting as follows:

- The Leader
- The Deputy Leader
- Six other Executive Members.

5.1.3 The Cabinet provides strategic leadership and direction to the Council:

- It is responsible for developing and proposing to the Council the plans and strategies which make up the Policy Framework of the Council. (see Part 4).
- It is responsible for proposing the budget to the Council for approval, including the allocations to different services and projects, proposed council tax levels and contingency funds.

5.1.4 The Cabinet will exercise all of the local authority's functions, which are not the responsibility of any other part of the local authority, by law or under this Constitution. These functions are hereafter referred to as Executive Functions. Where any Executive Function is allocated to any person under or in accordance with this constitution the Cabinet may nevertheless discharge any such function.

### **5.2 The Leader**

5.2.1 The Leader will be elected by Council. The Leader will hold office until:

- (a) the annual meeting following his/her election; or
- (b) he/she resigns from the office; or
- (c) 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
- (d) he/she is no longer a councillor; or
- (e) he/she is removed from office by resolution of the Council.

5.2.2 Two or more councillors may be elected to share the position of Leader by the Council

5.2.3 The Leader will chair the Cabinet if present.

5.2.4 The portfolio responsibilities of the Leader are set out in Appendix 6 and are the functions allocated to him/her in accordance with section 15(2) of the Local Government Act 2000.

5.2.5 The Leader may discharge the function of any Executive Member with portfolio who is unable to act or may appoint another Executive Member to act on his or her behalf or may delegate matters to Strategic Directors as he or she considers fit.

### **5.3 The Deputy Leader**

5.3.1 The Deputy Leader will be elected by Council. The Deputy Leader will hold office until:

- (a) the annual meeting following his/her election; or
- (b) he/she resigns from the office; or
- (c) 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
- (d) he/she is no longer a councillor; or
- (e) he/she is removed from office by resolution of the Council.

5.3.2 The portfolio responsibilities of the Deputy Leader are one of the cabinet portfolios set out in Appendix 6 and are the functions allocated to him/her in accordance with section 15(2) of the Local Government Act 2000.

5.3.3 The Deputy Leader will act as Vice-Chair of the Cabinet and will deputise for the Leader in respect of all of his/her responsibilities (including exercising the functions allocated to him/her) in the Leader's absence.

### **5.4 Assistants to the Executive**

5.4.1 Other Councillors may from time to time be designated by the Leader as Assistants to the Executive. Such Councillors will not be:

- (a) a member of the Executive
- (b) the Presiding Member and Deputy Presiding member of the Council

5.4.2 Assistants to the Executive will not participate in Executive Decision making but may work closely with the Executive Member. Assistants to the Executive are entitled to attend and speak at any meeting of the Cabinet or a committee of the Cabinet

### **5.5 Other Executive Members**

5.5.1 Each of the other Executive Members will be elected by Council. An Executive Member will hold office until:

- (a) the annual meeting following his/her election; or
- (b) he/she resigns from the office; or
- (c) 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
- (d) he/she is no longer a councillor; or
- (e) he/she is removed from office by resolution of the Council.

5.5.2 Six other Executive Members shall be appointed to a portfolio at the Annual Meeting of the Council. The portfolios (including one portfolio to be held by the Deputy Leader) are:

- Corporate Governance & Performance
- Resources
- Education
- Children, Families & Communities
- Economy, Skills & Regeneration
- Environment
- Adult Services & Housing

5.5.3 The portfolio areas are set out in Appendix 6 and are the functions allocated to each of the Executive Members in accordance with section 15(2) of the Local Government Act 2000. The Leader may allocate specific responsibilities not referred to in the Appendix to any Executive Member at his or her discretion and shall notify the Monitoring Officer of any such allocation. Cabinet may allocate responsibilities for decision making on Partnership bodies to Executive Members.

5.5.4 Within their portfolio areas, the Executive Members have the following broad responsibilities including those set out in Appendix 6:

- to provide leadership for the services and issues within their respective portfolios and to have key accountability for respective policies and plans;
- along with other members of the Cabinet to ensure consistency within the Authority's overall Policy Framework when implementing policies;
- to oversee the approved portfolio budget including the relevant capital programme;
- to provide the public focus for democratic accountability and involvement for their respective portfolio areas;
- to work with the respective Strategic Directors towards professionally managing the delivery of services by providing political guidance/judgement; and
- to represent the Authority on key outside bodies, in particular in areas in which the Council's community leadership role will be enhanced.

## **5.6 Remote Attendance**

5.6.1 Members will be regarded as present at a meeting of the cabinet or a committee of the Cabinet where they attend that meeting by remote means in accordance with the Council's arrangements for multi location meetings providing they can speak to and be heard by other attendees at the meeting

5.6.2 For the purposes of section 5.5.1 attendance "by remote means" means attendance in a different physical location to that of the other participants and participating through an online platform

## **5.7 Job sharing by Executive Leaders and Executive Members**

- 5.7.1 Any election of the Leader or appointment of a councillor to the Cabinet may include the election of two or more councillors to share office
- 5.7.2 Where two or more members have been elected or appointed to share the same office on the Cabinet the maximum number of members of the Cabinet including the Leader will be:
- (a) 12 where at least two of the members have been elected or appointed to share office:or
  - (b) 13 where at least three of the members have been elected or appointed to share office
- 5.7.3 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
- 5.7.4 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 as one person for the purpose of determining whether the meeting is quorate

## **5.8 Principles of the Scheme of Delegation of Executive Decision-making**

- 5.8.1 The formal delegation of powers to make Executive decisions is as follows:

### **Cabinet**

- Cabinet may exercise any of the functions of the authority not reserved to Council by this Constitution or by law or otherwise delegated to some other body or person in this Constitution.
- Cabinet may delegate specific functions to a Sub-Committee consisting of members of the Cabinet or to Officers from time to time and may determine the functions and membership of any such Sub-Committee.

Cabinet may delegate any function to the Executive of another local authority or to a Joint Committee.

### **Executive Members**

- Executive Members may make decisions about matters exclusively within their portfolio responsibility, portfolio budget and approved capital programme provided that:
  - the decision is not referred to Cabinet under the rules on Executive decision making in Appendix 5; and
  - if there are legal implications, the decision has been taken with advice from the Monitoring officer; and



- if there are human resources implications, the decision has been taken with advice from the Head of Strategic Human Resources; and
  - the decision is consistent with the policies and strategies determined by Council and Cabinet.
- Two or more Executive Members may make decisions within their joint portfolio responsibilities, budgets and approved capital programmes subject to the same provisos as above
  - Executive Members may make decisions within their portfolios but outside their budget and approved capital programme only if the decision is made jointly with the Executive Member for Resources and Strategic Leadership or in the case of the Executive Member for Resources and Strategic Leadership, jointly with the Leader.

### **Officers**

- Officers may exercise the powers delegated to them in Part 11 of this constitution and any other powers delegated to them by Council, Cabinet, Committees or Executive Members.

5.8.2 The rules on Executive decision making set out in Appendix 5 shall apply.

5.8.3 Within this formal framework of delegation, it is for the decision-maker to determine what category any particular decision falls into after such consultation with other Officers and Members about the appropriate category as they consider appropriate. The decision-maker is accountable for the decision they make and can be called upon to justify their decision to categorise the decision in accordance with the framework.

### **5.9 Decisions within Partnership bodies**

5.9.1 Executive Members and officers who attend meetings of Partnerships at which joint decisions are made are making an Executive decision. The portfolios for Executive Members set out those partnerships in relation to which those Executive Members may make decisions.

5.9.2 The Rules in Appendix 5 apply to decisions at Partnerships by Executive Members and officers when the nature of the decisions at meetings of the Partnership are such that they would be reported to the relevant Overview and Scrutiny Committee if made by the Council alone.

### **5.10 Committees and Joint Committees**

5.10.1 The Cabinet may establish committees of the executive and may make arrangements for the discharge of any of its functions. Committees of the Executive are set out in Appendix 4.

5.10.2 Cabinet may establish such Joint Committees as it considers appropriate with other authorities to be responsible for specified services jointly with another authority. The current joint committees established and a summary of how decisions are made

within them is set out in Appendix 4.

5.10.3 Cabinet will decide the membership of joint committees by the Council and appointees may be any member or officer.

## **5.11 Decisions outside the Policy Framework**

5.11.1 The Cabinet, individual Executive Members and Officers may not make a decision that is covered by the Policy Framework or the Budget and which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget unless:

- The urgency provisions in paragraph 5.8.2 apply; or
- They are authorised by the Financial Standing Orders or the Scheme of Delegation to Officers to make the decision.

5.11.2 A decision can be made which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget only if the circumstances which render necessary the making of the determination may be reasonably regarded as urgent and the individual or body who will be making the decision has obtained from the Chair of an Overview and Scrutiny Committee within whose terms of reference the decision falls or if they are unwilling or unable to act from the Presiding Member or in his or her absence the Deputy Presiding Member a statement in writing that the decision needs to be made as a matter of urgency.

5.11.3 The advice of the Chief Executive, Monitoring Officer and Chief Financial Officer shall be obtained before the decision under paragraph 5.8.2 above is made.

5.11.4 Where a decision is made under paragraph 5.8.2, a report shall be made to the next meeting of Council reporting the decision, the reasons for its urgency and the reasons for the decision.

5.11.5 If:

- The Chief Executive, Monitoring Officer or Chief Financial Officer certifies that any decision by any body or person exercising Executive functions is contrary to the Policy Framework or is contrary to or not wholly in accordance with the Budget; and
- The procedure in paragraph 5.8.2 has not been followed; and
- The decision-maker is not authorised by the Financial Regulations or any Scheme of delegation in this Constitution to make the decision

then the implementation of the decision shall immediately be suspended and the decision shall be of no effect until the matter has been referred to Council for consideration as to whether the Policy Framework or Budget should be varied.

## **5.12 Executive Forward Plan**

5.12.1 The Cabinet, Executive Members, Deputy Chief Executive and Strategic Directors of Service will develop a forward Work programme (known as the Forward Plan). This will provide information on key decisions that will be taken within the next month or such longer period as may be agreed.

5.12.2 The provisions of Appendix 5 in relation to the Forward Plan shall apply.

## **5.13 Challenge and Scrutiny of Cabinet decisions**

### **Implementation of Cabinet decisions**

5.13.1 No decision of the Cabinet other than those referred to in paragraph 5.10.2 will be implemented before the conclusion of the next Council meeting or for a period of eight clear calendar days following the decision (whichever is the shorter period), to enable Members who are not on the Cabinet to have an opportunity to challenge or call the decision in.

5.13.2 A decision of the Cabinet may only be implemented before there has been an opportunity to challenge or call-in the decision in the following circumstances:

- On the recommendation of the Deputy Chief Executive or the Monitoring Officer, Cabinet resolves at the time they make a decision that the decision must be implemented before the process of challenge and call-in has been completed because implementation is required urgently; or
- After the decision has been made the Chief Executive, Monitoring Officer or Chief Financial Officer is satisfied that because of circumstances which were unknown to the Cabinet, implementation of the decision has become urgent.

5.13.3 Where either of the circumstances set out in paragraph 5.10.2 apply, the decision may be implemented immediately but may still be reviewed by the Council Overview and Scrutiny Committee after implementation.

### **Challenge or call-in of Cabinet decisions**

5.13.4 Any Councillor may challenge or call-in a Cabinet decision in accordance with the provisions of this part of the constitution if there are genuine and serious concerns about the decision. Nothing in the challenge and call-in process prevents Members exercising their right to ask questions at Council of the Leader about a decision of the Cabinet.

5.13.5 Where a Council meeting is programmed to follow a Cabinet meeting within the period of eight calendar days, any Member who is not an Executive Member may give notice to the Proper Officer not later than noon on the day before a Council meeting (or another time if another time is published, e.g. where special circumstances apply due to a bank holiday) that they wish to challenge one or more decisions of the Cabinet.

5.13.6 The deadline for members to give notice of challenge in paragraph 5.10.5 shall not apply if Council is programmed to meet within 2 working days of the Cabinet meeting. In those circumstances, any Member not on Cabinet may give notice to the Proper Officer not later than half an hour before the start of the Council meeting.

5.13.7 If a challenge is received under paragraph 5.10.5 or 5.10.6 and the Council is scheduled to meet within the challenge period, the Council meeting concerned will

adjourn and a meeting of the Council Overview and Scrutiny Committee will take place to consider the challenge. The Council may reconvene at the end of the Overview & Scrutiny Committee to consider the outcome. If in the opinion of the Monitoring Officer the matter cannot be dealt with at that Council Meeting, a special meeting of the Overview & Scrutiny Committee will be held within 29 days after Council. The decision shall not be implemented until the Council Overview & Scrutiny Committee has considered the challenge unless the Chief Executive, Monitoring Officer or Chief Financial Officer are satisfied that implementation is too urgent to await the Committee's consideration of the challenge.

5.13.8 Where no meeting of Council is programmed to take place within the eight day period following a Cabinet meeting any Member who is not a member of the Cabinet may notify the Proper Officer within the eight calendar day period that they wish to challenge one or more decisions of the Cabinet.

5.13.9 If five or more Members give notice of challenge, then a special meeting of the Council Overview and Scrutiny Committee shall be convened and held not later than 29 days after Cabinet. The decision shall not be implemented until the Council Overview and Scrutiny Committee has considered the challenge unless the Chief Executive, Monitoring Officer or Chief Financial Officer are satisfied that implementation is too urgent to await the Committee's consideration of the challenge.

5.13.10 If less than five Members give notice of challenge:

- If the Chief Executive, Monitoring Officer or Chief Financial Officer are satisfied that implementation of the decision is too urgent to await the meeting of the Council Overview and Scrutiny Committee, the decision may be implemented immediately; or
- The Presiding Member or Chief Executive may require the Proper Officer to convene a special meeting of the Council Overview and Scrutiny Committee to consider the challenge; or
- Consideration of the challenge can be deferred until the next ordinary meeting of Council during which the Council Overview and Scrutiny Committee will be convened.

5.13.11 If no challenge is received by the Proper Officer to a decision of the Cabinet within the periods set out above, then the decision becomes effective and can be implemented immediately.

5.13.12 If the Council Overview and Scrutiny Committee recommends that Cabinet reconsider its decision, the decision shall not be implemented until the Cabinet has reconsidered the matter.

5.13.13 The Leader may convene a meeting of the Cabinet immediately following the meeting of the Council Overview and Scrutiny Committee to reconsider the matter submitted to it.

## **Review of Cabinet decisions**

5.13.14 Decisions of Cabinet which fall within the terms of reference of particular Overview and Scrutiny Committees will be reported to the next meeting of the Committee for scrutiny and review.

### **5.14 Meetings of the Cabinet**

5.14.1 The Cabinet shall meet at times to be agreed by the Leader on the recommendation of the Proper Officer. In addition the following may require a meeting of the Cabinet to be convened:

- The Council
- The Chief Executive
- The Monitoring Officer

### **5.15 Challenge Scrutiny and Review of Executive Member and Officer Decisions (Delegated Decisions)**

5.15.1 Prior to a Delegated Decision being taken, 5 clear working days are allowed for pre-decision scrutiny by non-executive members.

5.15.2 Following the publication of a Delegated Decision, 2 clear working days ( the call in period) are allowed for a Delegated Decision to be called in by non-executive members

5.15.3 Any 2 non-executive members can call-in a Delegated Decision, but only if both non executive members made comments prior to that decision being made.

5.15.4 The categories of decisions and the criteria in Appendix 5 will be applied to establish decisions are subject to pre decision scrutiny and can be called-in.

5.15.5 There is no prescribed period after a call-in of a Delegated Decision by which time that decision must be implemented.

5.15.6 A requirement is placed on the non-executive members who called-in a Delegated Decision to make a formal request within 2 clear working days of the end of the call-in period to discuss the issues with the delegated decision taker. If no discussion request is made, the decision maker may re-take the Delegated Decision. If such a request is made, all parties must make every effort to meet within 5 working days of the request to discuss the matter.

5.15.7 A written response from the delegated decision taker regarding the call-in must be made to the non-executive members who either made a comment pre – decision or requested a call-in, and also to the Chair of the relevant Overview and Scrutiny committee, explaining the nature of the comment / call-in and how this had been reflected upon when the Delegated Decision was taken or re taken after consideration of any call in. This must also be reported to the next relevant Overview and Scrutiny meeting.

5.15.8 There is no limit placed on the number of Delegated Decisions which may be called in per annum by a non-executive member.

5.15.9 A Delegated Decision of the Executive member(s) and Strategic Director(s) may only be implemented before there has been an opportunity to challenge or call-in the decision in the following circumstances:

- (a) On the recommendation of a member of the Leadership Team or the Monitoring Officer, the Executive Member or Strategic Director resolves at the time they make a decision that the decision must be implemented before the process of challenge and call-in has been completed because implementation is required urgently; or
- (b) After the decision has been made the Chief Executive, Monitoring Officer or Chief Financial Officer is satisfied that because of circumstances which were unknown to the Executive member or Strategic Director, implementation of the decision has become urgent. Where either of the circumstances set out in the above paragraphs a) and b) apply, the decision may be implemented immediately but may still be reviewed by the relevant Overview and Scrutiny Committee after implementation.

5.15.10 The table below sets out the above process

Working Days															
- 5	- 4	- 3	- 2	- 1	0	+ 1	+ 2	+ 3	+ 4	+ 5	+ 6	+ 7	+ 8	+ 9	
Pre decision comment period for non-executive members					Decision date	Call-in period for non-executive members		Non executive members who called in the decision must make formal request to the decision maker to arrange to meet with them		Period within which the decision maker and the non-executive members who called it in must meet to discuss the reasons for the call-in.					

## 5.16 Rules of Proceedings

5.16.1 The following paragraphs relating to the Council apply to the Cabinet with references to the Leader in place of references to the Presiding Member, and to the Deputy Leader in place of the Deputy Presiding Member. They also apply to any Committee of the Cabinet with references to the Chair in place of references to the Presiding Member:

4.11, 4.12, 4.18, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26.

5.16.2 The agenda and order of business for meetings of the Cabinet shall be determined by the Leader or in her or his absence by the Deputy Leader.

5.16.3 At least three clear days before a meeting, or if the meeting is convened at shorter

notice, as soon as it is convened, the Proper Officer will send an invitation and agenda to every Member of the Cabinet and a copy to every Member of the Council. The agenda will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are appropriate.

5.16.4 After any meeting of the Cabinet, the Proper Officer shall produce a decision notice comprising a written statement of each decision at the meeting as soon as reasonably practicable and in any event within three working days. The decision notice shall be circulated to all Members as soon as it is available.

5.16.5 The decision notice (which may form part of minutes of the proceedings) shall include the following:

- A record of the decision and the date it was made
- A record of the reasons for the decision
- A record of any declaration of interest by any Member in relation to that decision
- In relation to any declared interest, any dispensation granted by the Ethics and Standards Committee
- Details of any consultation undertaken in accordance with this Constitution and where such consultation has not taken place, the reasons why that is the case.
- A record of attendance including apologies.

## **5.17 Public Access to Information**

5.17.1 The public shall have the following rights of access to information about Executive decision making meetings. These provisions are contained in the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings)(Wales) Regulations 2001.

### **Public notice of decision making meetings**

5.17.2 Public notice of the time and place of each decision making meeting shall be given at least three clear days before the meeting or, if the meeting is convened at shorter notice then at the time the meeting is convened.

### **Public access to the agenda for decision making meetings and reports**

5.17.3 Copies of the agenda for each decision making meeting and copies of any report for the meeting shall be open to inspection by members of the public at the Civic Centre unless paragraph 5.14.8 applies.

5.17.4 These papers shall be available at least three clear working days before the meeting unless:

- The meeting is convened at less than three clear working days notice in which case they shall be available from the time of publication of the agenda;

- An item is added to the agenda after the publication of the agenda, in which case they shall be available from the time at which it is added to the agenda.

5.17.5 These papers shall be available for inspection by members of the public for a period of six years from the date of the meeting.

5.17.6 Background papers referred to in any report shall also be available for inspection by members of the public from the time the agenda is published until four years after the date of the meeting. This requirement is satisfied if arrangements exist to produce the background paper on request as soon as reasonably practicable after a request is made. This paragraph shall not apply to any background papers that disclose exempt or confidential information.

5.17.7 Where a meeting is open to the public, a reasonable number of copies of the agenda shall be available at the meeting for use by the public.

5.17.8 Paragraphs 5.14.3 to 5.14.5 shall not apply to any report where the Proper Officer is of the opinion that the meeting is likely not to be open to the public during the consideration of the report.

5.17.9 Where a document is open to inspection, a member of the public may make a copy or require the Proper Officer to provide a copy on payment of a reasonable fee.

#### **Public access to written statements of meetings**

5.17.10 After a meeting, the written statement of each decision at the meeting shall be available for public inspection for a period of six years from the date of the meeting.

5.17.11 Paragraph 5.14.10 shall not require any information to be disclosed in the written statement which is confidential or exempt and accordingly a statement or some part of a statement may not be available to the public where items were considered and the meeting was not open to the public.

#### **Items considered to be included in the published agenda**

5.17.12 An item of business may not be considered by the Cabinet unless:

- a copy of the agenda including the item has been available for inspection by the public for at least three clear days before the meeting;
- the meeting is convened at shorter notice and the item is available from the time the meeting is convened;
- by reason of special circumstances, which shall be specified in the record of the meeting, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.



## **Access to meetings by the press and public**

5.17.13 All meetings will be open to the press and public, unless the Cabinet resolves to exclude the press and public during an item of business for one of the following reasons:

- because, in view of the nature of the business to be transacted or the nature of the proceedings, it is likely that confidential information would be disclosed to them in breach of the obligation of confidence or exempt information would be disclosed to them; or
- the Cabinet is excluding a member of the public or the public at large because of the conduct of that person or because of a general disturbance under the powers set out in paragraph 4.26.

5.17.14 The definition of confidential information is set out in section 100A of the Local Government Act 1972 and the definition of exempt information is contained in schedule 12A of that Act.

5.17.15 A resolution to exclude the public because exempt information is likely to be disclosed shall identify the part of the proceedings to which it applies and the paragraph of schedule 12A that applies to the information.

## **Photographs and tape recording at meetings**

5.17.16 Proceedings at meetings may not be photographed, videoed, tape recorded or transmitted in any way outside the meeting room without the prior permission of the Leader or Chief Executive.

## **5.18 Executive Decisions by Individual Members of the Executive**

5.18.1 As soon as reasonably practicable after an Executive Member has made a decision in discharge of an Executive Function that member shall instruct the proper officer to produce a written statement of that decision, and the statement will include:-

- (a) a record of the decision and date;
- (b) the reasons for it;
- (c) a record of any interest declared and any dispensation granted;
- (d) details of advice given and details of consultations and if there was no advice sought or consultation undertaken why not;
- (e) if the decision was taken urgently the reasons for the urgency.

5.18.2A decision by an Executive Member in discharge of an Executive Function shall not be implemented until the above written statement has been produced and has not been subject to call-in unless the matter is urgent.

5.18.3After a decision by an Executive Member in discharge of an Executive Function the Proper Officer shall ensure that a copy of the above written statement and any report considered by the Executive Member which is relevant to the decision shall be available for public inspection as soon as reasonably practicable at the Civic Buildings except if the written statement or the report contains confidential or exempt information.

5.18.4 When a copy of a report is made available for inspection by the public in accordance with paragraph 5.15.3 at the same a list of the background documents must be included in the report and a copy of documents included in that list shall be available for inspection by the public at the Civic Offices

**Statutory Provisions:**

Sections 11, 13,15,19,20 and 22 and Schedule 1 of the Local Government Act 2000

The Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2007 as amended.

The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 as amended.

**End of Part Five**

## PART 6 - OVERVIEW AND SCRUTINY

### 6.1 Arrangements for Delivery of the Overview and Scrutiny Function

6.1.1 The Council agreed to establish overview and scrutiny committees with effect from the Annual Council meeting on 19 May 2009. Those overview and scrutiny committees have power between them

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive,
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the Executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive,
- (d) to review or scrutinise decisions made or actions taken by the Public Services Board
- (e) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the Executive,
- (f) to make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area,
- (g) to review and scrutinise, in accordance with regulations under section 7 of the Health and Social Care Act 2001, matters relating to the health service (within the meaning of that section) in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations,
- (h) to review and scrutinise, in accordance with the regulations under sections 19 to 21 of the Police and Justice Act 2006, matters relating to crime and disorder functions.

6.1.2 Executive Members cannot be members of any of the Overview and Scrutiny Committees.

6.1.3 Executive Members and officers can be required to attend Overview and Scrutiny Committees to answer questions and the Overview and Scrutiny Committees may invite others to attend their meetings.

### 6.2 Service based Overview and Scrutiny Committees

6.2.1 There are four Overview and Scrutiny Committees of nine Members each.

- Adults and Communities
- Economy and Environment
- Education
- Children and Families

6.2.2 In addition, as required by the Local Government Act 2000 the Education Overview and Scrutiny Committee, **whose functions relate to education**, includes the following as voting members of the Committee:

- Two Church representatives, one appointed by the Church in Wales and one by the Roman Catholic Church.
- Three representatives of parent governors elected in accordance with regulations made by the Welsh Assembly Government.

6.2.3 The Chair, and Members of each Committee (other than the Church and parent governor representatives referred to in paragraph 6.2.2) will be elected at the Annual meeting of the Council.

6.2.4 Overview and Scrutiny Committees may (through the Chair) invite individuals who are not councillors to participate in their meetings if they have particular expertise on a matter under discussion. Decisions to have standing invitations shall be approved by Council.

### **6.3 Public Services Board Overview and Scrutiny Committee**

6.3.1 The Chairs of the service based Overview and Scrutiny Committees will meet as the designated Public Services Board Overview and Scrutiny Committee to scrutinise the Torfaen Public Services Board.

6.3.2. The Regional Public Services Board Scrutiny Committee will scrutinise the work of the Gwent Public Services Board. Two elected members will sit on the Scrutiny committee . An Executive Member cannot be a member of that Committee.

### **6.4 Council Overview and Scrutiny Committee**

6.4.1 There is also a Council Overview and Scrutiny Committee which is convened, where necessary, during the Council meeting to consider challenges to Cabinet decisions. (See paragraph 5.10). The terms of reference of the Council Overview and Scrutiny Committee are to exercise the powers of scrutiny and review in relation to matters which are subject to such challenge and referred to the Council under paragraph 5.10 of the Constitution.

6.4.2 All Councillors who are not members of the Cabinet are automatically members of the Council Overview and Scrutiny Committee

### **6.5 Consideration of Issues that affect All Scrutiny Portfolios**

6.5.1 The Cross-Cutting Resources and Business Overview and Scrutiny Committee is held to consider cross-cutting issues when required. All non-Executive members (including co-optees) are members of this committee.

### **6.6 Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee**

6.6.1 The purpose of the joint Committee which consists of members from the 10 participating authorities is to oversee and coordinate the discharge of the council's obligations in relation to the City Deal and to carry out such functions as set out in its terms of reference. There shall be one non-executive member from this Council.

### **6.7 The Role of Overview and Scrutiny Committees**

6.7.1 Overview and Scrutiny Committees form a focus for the non-executive role of Councillors.

6.7.2 Each Overview and Scrutiny Committee will formulate its own work programme which will guide its primary activity during the year.

6.7.3 The work programme will be designed to enable members to:

- exercise their scrutiny role by scrutinising and reviewing decisions of the Cabinet, Executive Member and officers within their terms of reference and challenging decisions which have not been implemented.
- carry out scrutiny reviews;
- establish and operate a system for performance review of areas within their remit, including developing performance indicators for the specific areas and monitoring performance against these indicators;
- consider policy proposals for submission to the Cabinet and assist in other matters of policy development following reference from the Cabinet or Executive Member;
- act as a sounding board before significant executive decisions are made which will be listed in the Executive Forward Plan produced by the relevant Executive Member and Strategic Director.

## **6.8 Terms of Reference of Overview and Scrutiny Committees**

6.8.1 The terms of reference of overview and scrutiny Committees shall reflect the individual Executive portfolios and the functions of the other Committees and Service based structure of the Council as set out on the following pages:

**Public Service Board Overview & Scrutiny Committee**

Public Service Board  
Torfaen Well-Being Assessment & Well Being Plan  
(Policy Framework Document - Local Well-Being Plan)

Leader

**Reporting Strategic Directors:**

Chief Executive

**Reporting Heads of Service:**

Strategic Director Communities & Digital  
Head of PSSU

**CROSS CUTTING RESOURCES & BUSINESS OVERVIEW & SCRUTINY COMMITTEE**

<p>County Plan          Cross Cutting Strategy and Policy          Corporate &amp; Strategic Activities          Cardiff Capital Region City Deal          Communication &amp; Engagement          Civil Contingencies          Armed Forces Covenant          Future Generations and Wellbeing          Inequalities Agenda          Strategic Finance          Financial Services</p>	<p align="center">Leader</p>
<p>Administration &amp; Business Support          Democratic &amp; Members Support          Complaints &amp; Freedom of Information          Performance Improvement (Performance Management Framework)          Electoral Registration          Registrars          Business Continuity          Local Council Partnership Committee          Statutory Support for Welsh Language (Policy Framework Document - Welsh Language Scheme)          Survey Design and Analysis          Local Land &amp; Property Gazetteer          General Data Protection Regulations / Information Governance          Council's Strategic Equality Plan (Policy Framework Document - Equality Improvement Framework for Wales)          Programme Delivery &amp; Performance - Project Management Office          SRS Client Relationship          Internal Audit          Procurement          Human Resources          Legal          Revenue &amp; Benefits          Archives</p>	<p align="center">Executive Member,          Corporate Governance          &amp; Resources</p>
<p><b>Climate Change</b>          Climate          Energy          Decarbonisation of the Torfaen Estate &amp; Fleet          Net Zero          Food Resilience Programme</p>	<p align="center">Executive Member for Waste &amp;          Sustainability</p>

**Reporting Strategic Directors:**

Chief Executive  
Deputy Chief Executive

Strategic Director Adults & Community  
Strategic Director Children & Family Services  
Strategic Director Economy & Environment

**Reporting Heads of Service:**

Director Financial Services  
Director Corporate Services (Head of Democratic Services)  
Head of Human Resources  
Head of Programme Delivery

Head of Legal Services  
Head of Revenues and Benefits  
Head of Audit & Procurement  
Monitoring Officer  
Head of Pensions & Investment  
Deputy Director Highways, Transport & Climate Change



**CHILDREN & FAMILIES OVERVIEW & SCRUTINY COMMITTEE**

<p><b>Children’s Services</b>                  Children Looked After Strategy                  Safeguarding of Children &amp; Young People                  Prevention &amp; Early Intervention Services (Service focussed)                  Foster Care                  Children’s Residential Provision                  Families First                  MyST                  MASH                  Disabled Children’s Services                  TYPPS/ 16+                  Family Resource                  Support Services (Including Young Carers, Looked After Children &amp; Care Leavers)                  Specialist Occupational Therapy Assessments</p>	<p align="center">Executive Member,                  Children, Families &amp; Education</p>
<p>Youth Offending Service</p>	<p align="center">Executive Member,                  Corporate Governance                  &amp; Resources</p>

**Reporting Strategic Directors:**  
 Strategic Director for Children & Family Services

**Reporting Heads of Service:**  
 Head of Children & Family Services

## EDUCATION OVERVIEW & SCRUTINY COMMITTEE

### **Director of Education**

WESP 2022-2032

Children's Rights / Citizenship for Children and Young People

Commission of EAS

County Youth Forum & Children and Young People's National Participation Standards

### **Resources & Planning:**

Play Service

Youth Service

Catering & Cleaning

Youth Engagement & Progression inc. NEETS

Safeguarding & Equalities in Schools

### **Access & Engagement:**

Energy Management in Schools

Capital Builds

Forward Planning

School Admissions

Schools Data

### **Additional Learning Needs (ALN) Inclusion & Wellbeing:**

SENCOM

Exclusions

Additional Learning Needs (ALN)

Education Psychology

Healthy Schools

Anti-bullying Guidance & Policy

Education Otherwise Than At School (EOTAS)

### **Learning & Achievement:**

Pupil Referral Unit

Education Welfare Service (inc. school attendance)

Early Years

School Improvement

Executive Member,  
Children, Families & Education

### **Reporting Strategic Directors:**

Strategic Director for Children & Family Services

### **Reporting Heads of Service:**

Director of Education

Head of Resources & Planning

Head of Additional Learning Needs (ALN) Inclusion and Wellbeing

Head of Learning and Achievement

**ADULTS & COMMUNITIES OVERVIEW & SCRUTINY COMMITTEE**

<p><b>Adult Social Care:</b>          Health &amp; Social Care Partnership Strategies (RPB and ISPB)          Hospital Discharges          Integrated Reablement          Commissioning Of Social Care Services          Domiciliary, Residential and Nursing Care          Adaptations          Assistive Technology          Direct Payments          Deprivation of Liberty Safeguards          Mental Health Services (Mental Capacity Act 2005)          Protection of Vulnerable Adults          Carers Policy</p>	<p align="center">Executive Member,          Adult Services &amp; Housing</p>
<p><b>Housing:</b>          Local Housing Strategy          Homeseeker Policy          Common Housing Register          Housing Support Grant          Homelessness Prevention</p>	
<p><b>Communities:</b>          Community Resilience          Community Wellbeing Strategy          Greenmeadow Farm          Welsh Church Fund in Torfaen          Major Third Sector Grants Programme          Community Halls          Community Connecting          Anti-Poverty / Welfare Rights &amp; Welfare Reform          Early Intervention &amp; Prevention (Community focussed)          Volunteering          Torfaen Local Authority Partnership Agreement (LAPA)</p>	<p align="center">Executive Member,          Communities</p>
<p><b>Sports Leisure &amp; Cohesion (PSSU):</b>          Sports &amp; Leisure Strategy          Commission of the Leisure Trust          Community Cohesion          Resettlement of Refugees</p>	

<p><b>Community Safety (PSSU):</b> Community Safety Serious Violence Prevention Duty</p>	
<p><b>Customer &amp; Digital:</b> ICT &amp; Digital Customer Services Libraries</p>	<p>Executive Member, Corporate Governance &amp; Resources</p>
<p><b>Renewal:</b> The British Masterplan Placemaking Plans Blaenavon Partnership / Local Authority World Heritage Forum Blaenavon World Heritage Centre Pontypool Indoor Market Employability Services Marketing Torfaen Adult Community Learning Skills Economy &amp; Skills Strategy</p>	<p>Executive Member Economy, Skills &amp; Regeneration</p>

<p><b>Reporting Strategic Directors:</b> Strategic Director for Adults &amp; Communities</p> <p><b>Reporting Heads of Service:</b> Head of Communities &amp; Renewal Head of Adult Services &amp; Commissioning Head of PSSU Head of Customer, ICT &amp; Digital</p>
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**ECONOMY & ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE**

<p><b>Highways</b>  Highways &amp; Transportation  Highways Network:  Highways Development Control  Integrated Transport Unit  Local Transport Plan  Environment &amp; Sustainability</p> <p><b>Environment &amp; Public Protection:</b>  Licensing &amp; Trading Standards  Housing Safety  Environment Protection  Food &amp; Health Protection  Environment  Litter &amp; Flytipping  Greenspace Management &amp; Streetscene Operations  Formal Parks, Local Nature Reserves, Allotments,  Leased Sports Grounds &amp; Formal Play Areas  Countryside &amp; Ecology  Environmental &amp; Recreational Improvement  Schemes  Public Rights of Way &amp; Cycle Routes  Cemeteries &amp; Bereavement Services  Property Maintenance, Management &amp; Construction</p>	<p align="center">Executive Member,  Environment</p>
<p><b>Recycling:</b>  Waste Management &amp; Recycling  Raise the Rate</p>	<p align="center">Executive Member, Waste &amp; Sustainability</p>
<p><b>Economy, Assets and Property:</b>  Economic Development  Assets  Business Incubation, Business Support &amp; Advice  (inc. Springboard Innovation Centre)  Arts &amp; Culture</p> <p><b>Planning &amp; Development:</b>  Development Management &amp; Planning Enforcement  Building Control  Planning Policy &amp; implementation inc. LDP  Planning Guidance</p>	<p align="center">Executive Member,  Economy, Skills &amp; Regeneration</p>

**Reporting Strategic Directors:**

Strategic Director Economy & Environment

**Reporting Heads of Service:**

Deputy Director Highways, Transport and Climate Change

Head of Recycling & Environment

Head of Economic Development, Assets & Property

Head of Public Protection

Head of Planning & Development

**Governance and Audit Committee**

**Policy and Operational Area**

**Responsible Executive Member**

- Risk Management
- Internal /External Audit
- Corporate governance including the Corporate Governance group and the Annual Governance Statement (AGS)
- Performance Improvement

**EXECUTIVE MEMBER  
FOR PERFORMANCE  
IMPROVEMENT &  
CORPORATE  
GOVERNANCE**

6.8.2 The Adults & Communities Overview and Scrutiny Committee has the following specific terms of reference when acting as the Crime and Disorder Committee under S19 of the Police & Justice Act 2006

- To review and/or scrutinise decisions made or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions
- To make reports and recommendations to the Council and/or the Executive with respect to the discharge of crime and disorder functions by the responsible authorities
- To consider at a meeting of the committee any local crime and disorder matter referred to the committee by a member of the Council
- To decide whether to make a report or recommendations to Council and/or the Executive in respect of a local crime and disorder matter, having regard to any representations made by that member as to why the committee should do so.
- To notify the member concerned of its decision and the reasons for its **decision** in any case where the committee decides not to make a report or recommendations in respect of a local crime and disorder matter
- To provide a copy of any committee report or recommendations to the member concerned (in respect of a local crime and disorder matter) and to such responsible and co-operating persons or bodies, as it thinks appropriate
- To review responses to committee reports and recommendations, and to monitor action taken by responsible and co-operating persons or bodies in relation to the discharge of crime and disorder functions by the responsible authorities
- To co-opt members in relation to Crime & Disorder matters

6.8.3 The Public Services Board Overview and Scrutiny Committee has the following powers as specified under the Well-being of Future Generations (Wales) Act 2015 ('the Act')

- to review or scrutinise decisions made, or other action taken, by the Public Services Board for Torfaen ('the Board')
- to review or scrutinise the Board's governance arrangements;
- to make reports or recommendations to the Board with respect to the Board's functions or governance arrangements;
- to consider such matters relating to the Board as the Welsh Ministers may refer to it and to report to the Welsh Ministers accordingly;
- to carry out such other functions in relation to the Board as are imposed on it by the Act.
- to require one or more of the persons who may attend a meeting of the board, or anyone designated by such a person, to attend a meeting of the committee and provide it with explanations of such matters as it may specify.



## **6.9 Work Programmes**

6.9.1 Each overview and scrutiny committee will develop a work programme as required. The paragraphs that follow set out the process normally followed to develop such a programme.

6.9.2 Each year each overview and scrutiny committee convenes a 'visioning session'. At this meeting, members consider their key priorities for the forthcoming year in terms of:

- Areas for scrutiny review
- A suite of performance indicators on which performance information is to be received
- Key policy issues they wish to tackle.

6.9.3 At or before the visioning session, the relevant Executive Member will make a report to the Committee outlining her or his priorities for the forthcoming year and the progress made during the past year.

6.9.4 These issues are formulated into a forward work programme approved by the Committee.

6.9.5 Progress towards the achievement of the work programme priorities will be monitored by the committee.

## **6.10 Participation at Overview and Scrutiny Committees and Recording and Publishing their Business**

6.10.1 All members of the committee will receive the agenda for each meeting of every overview and scrutiny committee and members who are not on the committee may attend meetings and speak with the permission of the Chair, but not vote subject to the next paragraph.

6.10.2 Executive Members may only attend overview and scrutiny committees by invitation or when required to do so under the provisions in paragraph 6.12.8.

6.10.3 Minutes of each meeting shall be made and formally approved as a correct record at the next meeting of the committee.

6.10.4 A programme of meetings for the year shall be established. A special meeting may be convened at the request of the chair of the committee and shall be convened within 21 days if requested in writing by at least five members of the committee.

## **6.11 Access to Information**

6.11.1 The provisions of paragraph 4.27 apply to overview and scrutiny committees as they apply to Council, with references to the chair replacing references to the Presiding Member.

## 6.12 Rules of Proceedings

6.12.1 The following paragraphs of Part 4 of this Constitution shall apply to overview and scrutiny committees for any part of any meeting where they are considering or making a resolution, with references to the Chair replacing references to the Presiding Member and references to the Acting Chair replacing references to the Deputy Presiding Member:

4.10, 4.11, 4.12, 4.15, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27.

6.12.2 The right for members to ask questions on notice shall relate only to questions to the chair on matters within the remit of the Committee.

6.12.3 Any member of an overview and scrutiny committee who is participating in any business of the committee where he or she is a member of a political group which has applied a whip to the matter under consideration (whether that whip has been applied at Council, Cabinet or at Overview and Scrutiny Committee) shall declare that he or she is subject to the whip on that matter. For the avoidance of doubt, he or she may continue to participate in the proceedings.

6.12.4 The agenda and order of business for meetings of an overview and scrutiny committee shall be determined by the Chair.

6.12.5 Any member of an overview and scrutiny committee may request that any matter which is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee. Such request must be made in writing specifying the matter in question and delivered to the Proper Officer. The Proper Officer will arrange for the matter to be placed on the agenda of the next meeting of the committee which is to take place at least ten days after the date on which the Proper Officer receives the request.

6.12.6 An overview and scrutiny committee may request production of any documents relevant to a scrutiny review in progress. Such documents shall be provided unless the Monitoring Officer is satisfied that there are exceptional reasons requiring that confidentiality of the documents is maintained.

6.12.7 An overview and scrutiny committee may make reports and recommendations on any matters within their terms of reference to an Executive Member, Cabinet, Council, or another public body as appropriate.

6.12.8 Overview and Scrutiny Committees may:

- Adopt an inquisitorial role and question an Executive Member, officer or other person who has appeared before the committee for this purpose;
- Require an Executive Member or officer to attend the committee to answer questions;
- Invite speakers to address the committee.
- Make visits to parts of the area, other areas and to organisations;

- Arrange public or private meetings to gather information or for consultation purposes.

6.12.9 The provisions of Part 4 listed in paragraph 6.12.1 shall not apply when the committee is exercising its rights under paragraph 6.12.8 and the chair shall adopt such procedure as he or she considers appropriate to ensure that the committee's objectives are fulfilled.

6.12.10 An overview and scrutiny committee may appoint a sub-committee and may delegate any of its functions as it so decides to such a sub-committee or to officers from time to time. The provisions of paragraph 6.12 (except this paragraph 6.12.9) apply to any sub-committee appointed by an overview and scrutiny committee and any references to the chair shall be construed and read as references to the chair of the sub-committee and any reference to an overview and scrutiny committee shall be read and construed as a reference to the sub-committee.

6.12.11 The chair of any overview and scrutiny committee may request the attendance of the Executive Member at the next meeting of the committee.

### **6.13 Challenge, Scrutiny and Review of Executive Decisions**

6.13.1 Overview and Scrutiny Committees have the power to challenge, scrutinise and review all decisions of the Cabinet, Executive Members, and officers which fall within their terms of reference. As set out in paragraph 5.10 most decisions of the Cabinet cannot be implemented until the process of challenge, scrutiny and review is complete.

#### **Cabinet decisions**

6.13.2 These are challenged and scrutinised by the Council Overview and Scrutiny Committee which meets at the request of any non-executive member of the Council, usually during an adjournment of the Council meeting.

6.13.3 All Cabinet decisions are reported to all non-executive members.

#### **Executive Member and Strategic Director decisions**

6.13.4 All forthcoming Executive Member and Strategic Director decisions are reported as set out in paragraph 5.12 of Part 5 of the Constitution.

#### **Powers of the Overview and Scrutiny Committees (including Council Overview and Scrutiny Committee)**

6.13.5 When exercising their challenge, scrutiny and review functions overview and scrutiny committees may do any of the following:

- Note the decision.
- Ask for further information including additional information on which the decision was based, background documentation and the reasons for the decision.

- Require the decision maker and any other Executive Member or officer to attend committee to answer questions.
- Require the decision maker to reconsider any decision which has not been implemented.
- Record their comments on the decision.
- Make recommendations to the Cabinet, Executive Members, Deputy Chief Executive, Strategic Directors, Heads of Services Strategic Director or Council in relation to the future handling of similar decisions.

6.13.6 Motions proposing the matters listed in paragraph 6.13.5 shall not require notice.

6.13.7 It is expected that the Deputy Chief Executive and Strategic Directors Strategic Director will attend to answer questions at a committee. The Chair can also request that the Deputy Chief Executive or Strategic Directors Strategic Director make available other Officers from the discipline under review to answer questions at a committee, where appropriate.

## **6.14 Scrutiny Reviews**

6.14.1 Overview and scrutiny committees will undertake detailed scrutiny reviews of particular areas of policy or service. The aim of these reviews varies depending on the subject matter but fundamentally they challenge existing policy, are based on thorough research, scrutiny and consultation and ultimately take the form of proposals to improve the policy or service.

6.14.2 Areas for scrutiny review are determined by the overview and scrutiny committees themselves as part of the development of a work programme.

6.14.3 Proposals arising from a scrutiny review will be presented by the Chair of the overview and scrutiny committee to the Cabinet (unless they relate to a matter which is not the function of the Executive, in which case such proposals will be presented by the Chair to the Council or appropriate regulatory Committee).

### **Statutory Provisions:**

Section 21 and Schedule 1 of the Local Government Act 2000

Part VA, Section 99 and Schedule 12 of the Local Government Act 1972

Part 4 Well-being of Future Generations (Wales) Act 2016

## **End of Part Six**

## **PART 7 - REGULATION**

### **7.1 Arrangements for the Delivery of the Regulatory Function**

- 7.1.1 The regulatory functions are those functions which cannot by law be performed by the Executive and are not strategic or policy functions which must be performed by full Council.
- 7.1.2 There will be a Planning Committee consisting of sixteen Members appointed by the Council. No member of the Cabinet may be a member of the Planning Committee. Where wards have more than one elected member only one member from that ward may sit on the Committee.
- 7.1.3 There will be two Licensing Committees entitled the Statutory Licensing Committee and the General Licensing Committee, both consisting of the same twelve members appointed by the Council. No member of the Cabinet may be a member of either of the Licensing Committees.
- 7.1.4 The Chairs of the Planning Committee and the Licensing Committees shall be elected at the Annual meeting of the Council.
- 7.1.5 The Licensing Committees may appoint panels to deal with specific licensing issues or appeals. Such panels will consist of no less than three members, one of whom will be the Chair of the Licensing Committees unless he or she is unable to attend. The procedure for the hearing of cases and appeals is in Appendix 13.
- 7.1.6 The Planning Committee may delegate its powers to a sub-committee with such members as it appoints to determine applications.

### **7.2 Terms of Reference of the Planning Committee**

- 7.2.1 The Planning Committee will discharge the following functions:
- The functions set out in Part A and C of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended from time to time) relating to town and country planning and development control-and functions relating to health and safety at work.
  - The miscellaneous functions set out in Part I of those regulations which are listed in column 1 of Appendix 7 where the Committee appears in column 2.
  - The local choice functions in Schedule 2 of those regulations which are listed in column 1 of Appendix 8 where the Committee appears in column 2.
- 7.2.2 The functions referred to in paragraph 7.2.1 includes the functions of:
- imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted;
  - determining any other terms to be attached;

- deciding whether and in what manner to enforce any failure to comply with or contravention of any such approval, consent, licence, permission or failure to comply with or contravention of any term or condition;
- amending, modifying, varying or revoking any approval, consent, licence, permission or registration.

7.2.3 For the avoidance of doubt, the function of enforcement does not include the determination of policy in relation to enforcement, which is an Executive responsibility.

### **7.3 Terms of Reference of the Licensing Committees**

7.3.1 The Statutory Licensing Committee or the General Licensing Committee will discharge the following functions and powers:

- The functions set out in Part B of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended from time to time) relating to licensing and registration functions of the General Licensing Committee.
- The miscellaneous functions set out in Part I of those regulations which are listed in column 1 of Appendix 7 where the General Licensing Committee appears in column 2.
- The local choice functions in Schedule 2 of those regulations which are listed in column 1 of Appendix 8 where the General Licensing Committee appears in column 2.
- The functions assigned to the Statutory Licensing Committee in accordance with Part 2 of the Licensing Act 2003 (except section 6), and Part 8 of the Gambling Act 2005 (except sections 166 and 349).

7.3.2 The functions referred to in paragraph 7.3.1 include the functions of:

- imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted;
- determining any other terms to be attached;
- deciding whether and in what manner to enforce any failure to comply with or contravention of any such approval, consent, licence, permission or failure to comply with or contravention of any term or condition;
- approving any policy, including enforcement policy except those specified in 7.3.3 below;
- setting of fees levied for licences;
- amending, modifying, varying or revoking any approval, consent, licence, permission or registration.

7.3.3 Policies under section 6 of the Licensing Act 2003 and section 349 of the Gambling Act 2005, and a resolution not to issue casino licences under section 166 of the Gambling Act 2005, are functions of the Council and not the Statutory Licensing Committee.

7.3.4 Where any licensing, gambling or registration function is delegated to officers, the Statutory Licensing Committee/General Licensing Committee shall hear appeals against officer decisions unless there is a right of appeal direct to the Courts.

#### **7.4 The Scheme of Delegation to Officers**

7.4.1 The Planning Committee and the Licensing Committees may establish schemes of delegation giving officers powers to make decisions on such terms as they consider appropriate. The current schemes of delegation are set out in Appendix 9 in relation to planning decisions and in Appendix 10 in relation to licensing, gambling and registration decisions.

#### **7.5 The Roles of the Chairs of the Planning Committee and of the Licensing Committees**

7.5.1 The Chair of the Planning Committee will Chair meetings of the Planning Committee and the Planning Site Inspection Panel (see Appendix 11), or in the Chair's absence, the Planning Committee shall elect any other member of the Committee to preside the meeting

7.5.2 The Chair of the Licensing Committees will Chair meetings of the Licensing Committees and any Licensing Panel unless they are unable to attend for any reason, in which case a Panel may appoint its own chair.

7.5.3 The Chair of each Committee will be consulted in respect of certain planning or licensing decisions as set out in the Schemes of Delegation attached as Appendix 9 and Appendix 10.

#### **7.6 Rules of Procedure for the Planning Committee**

7.6.1 The Committee meets regularly (usually every four weeks) to determine planning applications and any other necessary matters for which it is responsible.

7.6.2 The following provisions of Part 4 of this Constitution apply to meetings of the Committee with references to the Chair replacing references to the Presiding Member.

4.11,, 4.12, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25,4.26, 4.27.

7.6.3 No business is to be transacted at a meeting of the Committee unless at least half of the total number of members of the members of the committee, rounded to the nearest whole number is present.

7.6.4 Another member of the Council cannot act as a member of the Committee in the absence of the member appointed.

7.6.5 Special procedures apply in relation to third party speaking rights at the Planning Committee. These are set out in Appendix 12.

## **7.7 Rules of Procedure for the Licensing Committees/Panels**

7.7.1 The Licensing Committees meet regularly (usually every quarter) to determine matters within its terms of reference. It will approve rules for the selection of panels to determine specific appeals or applications.

7.7.2 When considering appeals or applications for licences or registration, the Committees and its panels will adopt a procedure to ensure that the requirements of natural justice are met. The procedures for such panels are set out in Appendix 13 but may be varied in an individual case at the discretion of the Chair of the Panel.

7.7.3 The provisions of Part 4 of this Constitution set out in paragraph 7.6.2 above apply when the Licensing Committees are not considering appeals or applications for licenses or registration.

## **7.8 Access to Information**

7.8.1 The provisions of paragraph 4.27 apply to the meetings of the Planning Committee and the Licensing Committees, with references to the Chair replacing references to the Presiding Member. They also apply to meetings of any Licensing Panel.

## **7.9 Recording and Publishing the Decisions of the Planning Committee and the Licensing Committees and Licensing Panels**

7.9.1 Minutes are prepared and approved at the subsequent meeting as a correct record. In the meantime they are available for public inspection and are published as draft.

7.9.2 A decision notice setting out names of the members who attend the meeting and any apologies for absences, any declarations of interest and any decision taken at the meeting shall be published electronically within seven days of the meeting.

## **7.10 The Exercise of Regulatory Functions by the Council**

7.10.1 Any of the functions of the Planning Committee may be exercised by the full Council. Any of the functions of the Licensing Committees may be exercised by full Council except those reserved to the Statutory Licensing Committee by the Licensing Act 2003.

7.10.2 The Chief Executive or Monitoring Officer may refer a decision of the Planning Committee to full Council for review and any decision referred in such way shall not take effect until it has been considered by Council.

7.10.3 The Chief Executive or Monitoring Officer may refer a decision of a Licensing Panel to the Licensing Committees for review. Any decision referred in such way shall not take effect until it has been considered by one of the Licensing Committees.



## **Statutory Provisions:**

Section 13 of the Local Government Act 2000

Part VA, Section 99 and Schedule 12 of the Local Government Act 1972

Licensing Act 2003

The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales)

Regulations 2001 and 2007 as amended.

Gambling Act 2005

The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017

The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017

## **End of Part Seven**

## PART 8 - ETHICS AND STANDARDS

### 8.1 Ethics and Standards Committee

8.1.1 There shall be an Ethics and Standards Committee consisting of eight Members namely:

- three Councillors appointed by the Council;
- one person appointed by the Council who shall be a Member of a Community Council within the Torfaen area; and
- four persons appointed by the Council for a period of four years who shall not be Members or Officers of any County Borough Council, County Council, National Park Authority or Fire Authority or be the spouses of any such Member or Officer. (Referred to in this section as 'independent members')

8.1.2 The Leader of the Council cannot be a member of the Ethics and Standards Committee and the Committee may not include more than one Member who is a member of the Cabinet.

8.1.3 The Chair of the Ethics and Standards Committee shall be elected from amongst the independent members of the Committee.

8.1.4 The requirements of the Standards Committee (Wales) Regulations 2001 as amended shall be followed in relation to the procedure for selecting and appointing independent members.

8.1.5 The political balance rules do not apply to the appointment of Councillors to the Ethics and Standards Committee.

8.1.6 The term of office of the members of the Ethics and Standards Committee are as follows.

- (a) Independent members are appointed for a period of not less than 4 years or no more than six years and may be reappointed for one further consecutive term of no more than four years;
- (b) Members of the Council who are members of the standards committee will have a term of office determined by the Council but in any event it shall be of no more than four years or until the next ordinary local government election following their appointment. whichever is the shorter. They may be reappointed for one further consecutive term;
- (c) The Member of a Community Council who is a member of the Standards Committee will have a term of office of four years or until the next Community Council election following his/her appointment whichever is shorter. He/she may be reappointed for one further consecutive term following appropriate consultation.

8.1.7 The Chair will be elected by the members of the Ethics and Standards committee for whichever is the shortest period of (a) not less than 4 years or no more than 6 years, or (b) until the term of office of the independent member comes to an end. The Chairperson can be appointed for one period only.

## **8.2. Terms of Reference of the Ethics and Standards Committee**

8.2.1 The Ethics and Standards Committee shall have the following terms of reference in relation to the Council and the Community Councils within Torfaen:

- To promote and maintain high standards of conduct;
- To assist Torfaen County Borough Council and Community Council Members in observing their respective Codes of Conduct;
- To advise the respective Councils on the adoption or revision of a Code of Conduct;
- To monitor the operation of their respective Codes of Conduct;
- To advise, train or arrange training on matters relating to the Code of Conduct;
- To approve the Authority's Whistleblowing and Vexatious Complaints Policies, monitoring their operation and making recommendations to the Council to improve their effectiveness;
- To determine matters relating to alleged breaches of the Code of Conduct which may be referred to the Committee in accordance with Regulations made under Section 73 of the Local Government Act 2000; and
- To grant dispensations enabling participation in business which is prohibited by the Code of Conduct in accordance with Regulations made under Section 51(5) of the Local Government Act 2000.
- To make an annual report to Council as soon as possible after the end of each financial year to include:

a description of how the Ethics and Standards Committee has discharged its functions ;

a summary of any reports and recommendations that were referred to the Ethics and Standards Committee under Chapter 3 of the Local Government Act 2000;

a summary of the actions that the Ethics and Standards Committee has taken following consideration of the reports and recommendations referred to in (b) above;

a summary of any notices that were given to the Ethics and Standards Committee under Chapter 4 of Part 4 of the Local Government Act 2000; and the Ethics and Standards Committee's assessment of the extent to which leaders of political groups have complied with their duties to promote and maintain high standards of conduct by members of their group and to cooperate with the Ethics and Standards Committee in the exercise of the Ethics and Standards Committee's functions;and

any recommendations which the Ethics and Standards Committee considers it appropriate to make to the Council about any matter which falls within the Committee's functions.

### **8.3 Joint Standards Committee**

8.3.1 The Council may establish a joint Ethics and Standards Committee with one or more local authorities for the purpose of discharging the statutory functions of the Ethics and Standards Committee

### **8.4. Rules of Proceedings of the Ethics and Standards Committee**

8.4.1 The following paragraphs of Part 4 of this Constitution shall apply to meetings of the Ethics and Standards Committee as if references to the Council were to the Committee and references to the Presiding Member were to the Chair of the Committee:

4.9, 4.10, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27.

8.4.2 The minutes of meetings of Ethics and Standards Committee shall include:

- A record of any decision made by the Committee
- The reasons for the decision
- Any declaration of interest by any member of the Committee which is relevant to any matter decided by the Committee.

8.4.3 The Ethics and Standards Committee may adopt their own procedure and order of business when determining a complaint against any Member to ensure that the requirements of natural justice are met. The procedure adopted by the Committee from time to time is included as Appendix 14.

8.4.4 The Ethics and Standards Committee shall meet at least once during each calendar year.

8.4.5 The quorum for any meeting of the Ethics and Standards Committee shall be at least three members of the Committee, of whom at least half must be independent members.

8.4.6 Independent members and community council members will be entitled to vote at meetings.

8.4.7 A community council member shall not take part in the proceedings of the Ethics and Standards Committee when any matter relating to their community council is being considered.

8.4.8 If the Chair is absent from a meeting of the Ethics and Standards Committee, members of the Committee present shall choose an independent member of the Committee to preside.

### **8.5. Access to Information**

8.5.1 The provisions of section 4.27 shall apply to proceedings of the Committee as they apply to Council.

8.5.2 The Council may also provide for agendas, reports and other documents to be made available for inspection at offices of Community Councils in the area.

**Statutory Provisions:**

Part III, Chapter I and section 73 of the Local Government Act 2000

Part VA, section 99 and Schedule 12 of the Local Government Act 1972

The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001

The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

The Standards Committees (Wales) Regulations 2001

The Standards Committees (Wales) (Amendment) Regulations 2006

**End of Part Eight**

## **PART 9 – GOVERNANCE AND AUDIT**

### **9.1 Governance and Audit Committee**

- 9.1.1 There shall be a Governance and Audit Committee consisting of eight members comprising of three Lay Members (with voting rights) and five councillors appointed at the Annual General Meeting of the council . . At least one third of the Members of the Governance and Audit Committee must be Lay Members .
- 9.1.2 A “Lay Member ” means a person who is not a member or an officer of any Local authority, has not at any time in the period of twelve months ending with the date of that person’s appointment been a member or an officer of any local authority and is not the spouse or civil partner of a member or an officer of any local authority .
- 9.1.3 The Chair of the Governance and Audit Committee and Deputy Chair shall be appointed by the Governance and Audit Committee .The person appointed Chair must be a lay member . The person appointed as Deputy Chair cannot be a member of the Cabinet or an Assistant to a Cabinet member
- 9.1.4. A meeting of the Governance and Audit Committee is to be chaired by the Chair of the committee or if the Chair is absent, by the Deputy Chair . If both the Chair and Deputy Chair are absent the Committee may appoint a member of the Committee who is not a member of the Cabinet or an Assistant to a member of the Cabinet to chair the meeting
- 9.1.4 No more than one of the members of the Governance and Audit Committee is to be a member of the Cabinet. The Leader cannot be a member of the Committee.
- 9.1.5 The Governance and Audit Committee may require members and officers of the Authority to attend before it to answer questions and may invite other persons to attend meetings of the Committee.

### **9.2 Terms of Reference of the Governance and Audit Committee**

- 9.2.1 The Governance and Audit Committee shall have responsibility for overseeing the following functions:
- Ensuring that Council assets are safeguarded
  - Maintaining proper accounting records
  - Ensuring the reliability of financial and performance management information
  - Ensuring independence and effectiveness of internal and external audit
  - Developing effective internal financial control and performance management systems
  - Encouraging the creation of a sound control environment (including measures to prevent and detect fraud)
  - Review and scrutinise the Authority’s financial affairs
  - Make reports and recommendations in relation to the Authority’s financial affairs
  - Review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the Authority

- Make reports and recommendations to the Authority on the adequacy and effectiveness of those arrangements
- Review and assess the Authority's ability to handle complaints effectively
- Make reports and recommendations in relation to the Authority's ability to handle complaints effectively
- Oversee the Authority's internal and external audit arrangements
- Review the financial statements prepared by the Authority
- To consider a draft report relating to the Council's self assessment of its performance, to review it and make any recommendations for changes to the conclusions or to any actions set out in the report and any actions it has already taken .

Specifically the Governance and Audit Committee will undertake the following functions:

### **Audit Activity**

- To consider the head of internal audit'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.
- To consider summaries of specific internal audit reports as requested.
- To consider reports dealing with the management and performance of the providers of internal audit services.
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To scrutinise the annual Treasury Management Strategy.
- To scrutinise Treasury Management out-turn.
- To comment on the scope and depth of external audit work and assess external auditors' performance to ensure it gives value for money.
- To liaise with the Wales Audit Office over the appointment of the council's external auditor.
- To commission work from internal and external audit.

## **Regulatory Framework**

- To maintain an overview of the council's constitution in respect of contract procedure rules and financial regulations.
- To monitor the effective development and operation of risk management and corporate governance in the council.
- To monitor council policies on the antifraud and anti-corruption strategy.
- To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- To consider the council's arrangements for corporate governance and recommend actions to ensure compliance with best practice.
- To consider the council's compliance with its own and other published standards and controls, as they relate to the remit of this committee.

## **Accounts**

- 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.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **9.3. Rules of Proceedings of the Governance and Audit Committee**

- 9.3.1 The following paragraphs of Part 4 of this Constitution shall apply to meetings of the Governance and Audit Committee as if reference to the Council were to the Committee and references to the Presiding Member were to the Chair of the Committee: Paragraphs 4.9, 4.10, 4.11, 4.12, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27.
- 9.3.2 The Governance and Audit Committee shall meet at least once during each calendar year. The Governance and Audit Committee must also meet if the Council resolves that the Committee should meet or at least one third of the members of the Committee requisition a meeting by one or more notices in writing given to the person who chairs the committee. It is the duty of the chair of the Committee to secure that meetings are held as required above.

### **9.4. Access to Information**

- 9.4.1 The provisions of paragraph 4.27 shall apply to proceedings of the Committee as they apply to Council.



**Statutory Provisions:** Section 101 and Part VA of the Local Government Act 1972

## **End of Part Nine**

## **PART 10 – AREA FORUMS, TASK GROUPS AND OTHER COMMITTEES**

### **10.1 Area Forums / Area Committees**

10.1.1 The Council has endorsed the principle of introducing some form of area based approach (such as area forums or committees) if the right model for Torfaen can be found.

### **10.2 Task Groups**

10.2.1 Task Groups can be established by the Council, the Cabinet, an Overview and Scrutiny Committee and the Democratic Services Committee. A Task Group is a group of people joined temporarily to accomplish some task such as gathering information, identifying options and the like but a Task Group will not undertake any function for or on behalf of the Council or the Cabinet or provide advice to the Council or its committees or to the Executive on the discharge of their respective functions. Any proposal to establish a Task Group must be based on the following principles:

- Task Groups would be Member led but could be Member/Officer Groups and could involve representatives from other agencies;
- The Task Groups could operate on a 'task and finish' or 'standing' basis.

10.2.2 Task Groups are informal in their operation and fall outside Access to Information requirements. Each will report back to their parent body as that parent body decides is appropriate.

### **10.3 Appointments Committee**

10.3.1 The Appointments Committee is made up of 11 Members, 10 of whom are appointed by Council. It must include at least one Member of the Executive but must not comprise a majority of the Executive. It will elect its chair at the beginning of each meeting.

10.3.2 The eleventh Member of the Committee will be the Executive Member who holds the portfolio most relevant to the appointment being made. Where more than one Executive Member holds the portfolio the Leader will decide which Executive Member will sit on the committee. If the appointment being made is not relevant to any Executive Member Portfolio, then the Committee will consist of the 10 Members appointed by Council.

10.3.3 The Appointments Committee discharges the function of the Council relating to the appointment of certain officers of the Council as set out in the terms of reference in paragraph 10.3.4

10.3.4 The Terms of Reference of the Appointments Committee are:

- To Appoint the Deputy Chief Executive and Strategic Directors responsible for Neighbourhoods, Social Care and Housing and Education;
- To agree any material change to the statement of the duties of the above posts

and the required qualifications or qualities to be sought in the person appointed;

- To interview applicants for the above posts;
- To be involved in all stages of the selection process for the above Officers as considered necessary or desirable by the Chief Executive.

10.3.5 The table below summarises the appointment process for employees within the Council.

CATEGORY OF EMPLOYEE/ROLE	PROCESS
<b>Chief Executive, S151 Role, Monitoring Officer Role, Head of Democratic Services role and any other statutory roles assigned to appropriate posts</b>	<b>Appointment</b> by Full Council  <b>Short listing</b> Decision taken by the Chief Executive# and Head of Human Resources and Pensions in consultation with the Leader and the Executive Member* for appropriate service plus Executive Member* for Resources and Corporate Governance.
<b>Deputy Chief Executive and Strategic Directors responsible for Neighbourhoods, Social Care and Housing and Education</b>	<b>Appointment</b> by Appointments Committee.  <b>Short listing:</b> Decision taken by Chief Executive/Deputy Chief Executive and Head of Human Resources and Pensions in consultation with the Executive Member* for appropriate service plus Executive Member* for Resources and Corporate Governance.
<b>All other Officers</b>	<b>Appointment</b> in accordance with the process determined by the Head of Paid Service

# In the circumstances of the appointment of the Chief Executive an approved external consultant would be employed to advise on short listing.

\* It is anticipated that consultation with Executive Members will take place following interviews or meetings that the Executive Members have attended.

### Statutory Provisions:-

Section 101 and Part VA of the Local Government Act 1972

## 10.4 Investigations Committee

10.4.1 Where it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against

- The Chief Executive
- The Monitoring Officer
- The Chief Financial Officer
- Head of Democratic Services

(“the relevant officer”) the Council must appoint an Investigation Committee to consider the alleged misconduct.

10.4.2 No disciplinary action (other than action to which 10.5.3 applies) in respect of the Chief Executive (unless the Chief Executive is also a Council Manager of the Authority), its Monitoring Officer, its Head of Democratic Services or its Chief Financial Officer may be taken by the Council or by a Committee, a sub Committee, a Joint Committee on which the authority is represented or any other person acting on behalf of the authority other than in accordance with the recommendation in the report made by a designated independent person under Regulation 9 of the Local Authorities (Standing Order) (Wales) Regulations 2006 (investigation of alleged misconduct).

10.4.3 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.

10.4.4 The Investigation Committee must ;

10.4.4.1 Consist of a minimum of three members of the Council.

10.4.4.2 Be politically balanced in accordance with Section 15 of the Local Government and Housing Act 1989 and must within one month of its appointment consider the allegation of misconduct and decide whether it should be further investigated.

10.4.5 For the purpose of considering the allegation of misconduct the Investigation Committee;

10.4.5.1 May make such enquiries of the relevant officer or any other person it considers appropriate;

10.4.5.2 May request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and

10.4.5.3 May receive written or oral representations from the relevant officer or any other person it considers appropriate.

10.4.6 Where it appears to the Investigation Committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person (“the designated independent person”).

10.4.7 The designated independent person who is appointed

10.4.7.1 Must be such a person as may be agreed between the Council and the relevant officer within one month of the date on which the requirement to appoint the designated independent person arose; or

10.4.7.2 Where there is no such agreement must be such a person as is nominated for the purpose by the National Assembly for Wales.

10.4.8 The designated independent person

10.4.8.1 May direct

- (i) That the Council terminate any suspension of the relevant officer
- (ii) That any suspension is to continue after the expiry of the period referred to in paragraph 10.4.3 above
- (iii) That the terms on which any such suspension has taken place are to be varied in accordance with the directions; or
- (iv) That no steps (whether by the Council or any Committee, sub Committee or officer acting on behalf of the Council) 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 10.4.8.3 below.

10.4.8.2 May inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council or which the Council has power to authorise designated independent person to inspect;

10.4.8.3 Must make a report to the Council

- (i) Stating an opinion as to whether (and if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officers;
- (ii) Recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer; and

10.4.8.4 Must no later than the time at which the report is made under 10.4.8.3 send a copy of the report to the relevant officer.

10.4.8.5 Subject to 10.4.10, the relevant officer and relevant Council must after consulting the designated independent person attempt to agree a timetable within which the designated independent person is to undertake the investigation.

10.4.9 Where there is no agreement under 10.4.8.5 the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

10.4.10 The Council must consider the report prepared by the independent person under 10.4.8.3 above within one month of receipt of that report.

10.4.11 A relevant authority must pay a reasonable remuneration to a designated independent person appointed by the Investigation Committee and any costs incurred by or in connection with the discharge of functions under this regulation.

10.4.12 These rules do not apply in the case of a Head of Paid Service who is also the Council Manager.

## **10.5 Democratic Services Committee**

10.5.1 The Democratic Services Committee (The Committee) was established by Council on 26 June 2012 as required by the Local Government (Wales) Measure 2011 (“the Measure”)

10.5.2 Its remit is to:

- Exercise the function under Section 8(1)(a) of the Measure (Designation of Head of Democratic Services)
- Review the adequacy of provision by the Authority of staff, accommodation and other resources to discharge democratic services functions;
- Make reports and recommendations to the Authority in relation to such provision;
- Drive the Member Support and Development process for the Council, including ensuring the Council builds on its successes in line with the Wales Charter for Member Support and Development;
- Take overall responsibility for deciding what should be regarded as reasonable training and development opportunities for councillors, keeping the Member Development Strategy updated and ensuring its delivery;
- Act as a sounding board for issues affecting elected Members, including members annual reports, personal development reviews for councillors, role descriptions for councillors and other appropriate matters;
  
- Develop policies on other matters relating to the role of the Elected Member; and
- Identify potential Member support/development needs and solutions.

10.5.3 Each member of the Committee must be a member of the Authority. No more than one of the members of the Committee can be a member of the Cabinet. The Leader cannot be a member

10.5.4 The rules of political balance shall apply

10.5.5 The chair of the Committee is to be appointed by Council. The chair must not be a member of the Cabinet

10.5.6 The Committee may appoint one or more sub-committees and may arrange for the discharge of any of its functions by such a sub-committee. The chair of the sub-committee is to be appointed by the Democratic Services Committee

10.5.7 All members of the Committee or of a sub-committee may vote on any question that falls to be decided by the Committee. The Committee or sub-committee may:

- Require members and officers of the Authority to attend before it to answer questions and
- May invite other persons to attend meetings of the Committee.

10.5.8 The Committee must meet once in every calendar year. It must also meet if Council resolves that the Committee should meet or at least one third of the members of the Committee requisition a meeting by one or more notices in writing given to the person who chairs the Committee. The chair of the Committee has a duty to secure that meetings are held as required above.

## **10.6 Members Constitution Working Party**

10.6.1 The Members Constitution Working Party was established by Council on 13 November 2007. It is not a formal committee and is therefore not subject to the usual access to information, political balance and other rules relating to committees.

10.6.2 Its remit is:

- To act as a consultative body for Council for changes that are recommended to the Constitution by way of update, clarity or to give effect to new legislation or regulations.
- To consider any other matter of a constitutional nature or which has constitutional effect that the Council refers to it; and
- To include making recommendations to Council on the number, size and remit of Committees, task groups and other bodies.

10.6.3 Its membership is set at a minimum of four and a maximum of seven

### **Statutory Provisions:**

Section 101 and Part VA of the Local Government Act 1972

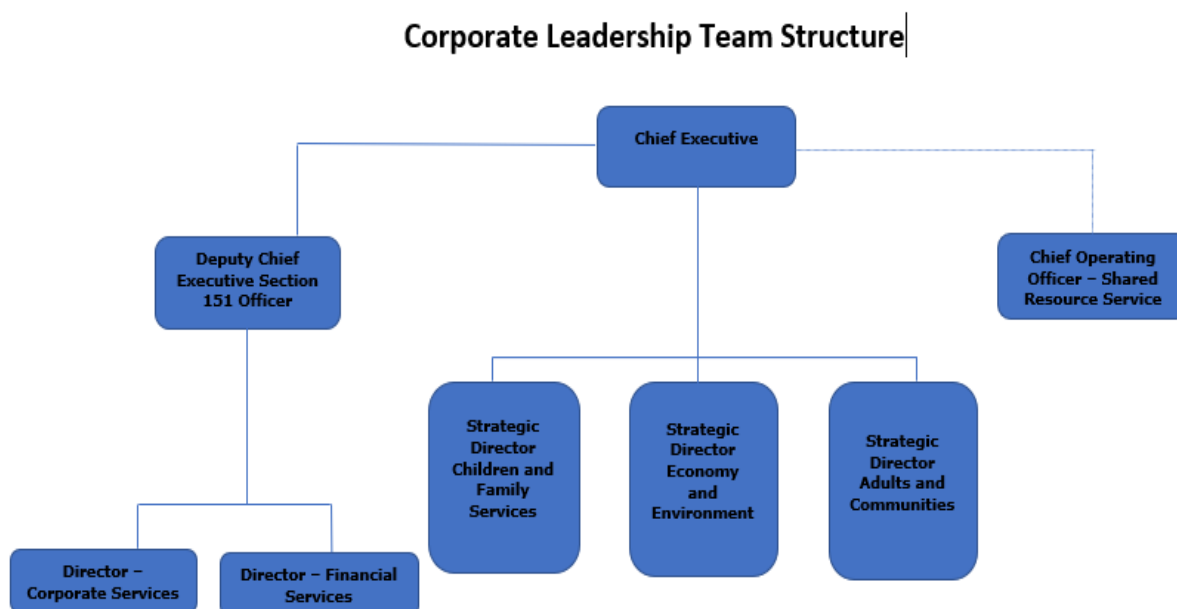
## **End of Part Ten**

## PART 11 - OFFICERS

### 11.1 The Officer Structure

11.1.1 The management structure of the Council is as follows:

#### Torfaen County Borough Council Corporate Leadership Team



11.1.2 The following post holders are classified as Strategic Director for the purposes of decision making in Torfaen

- Chief Executive
- Deputy Chief Executive
- Strategic Directors
- Deputy Strategic Directors
- Directors
- Chief Operating Officer, Shared Resource Service

11.1.3 The Deputy Chief Executive currently also holds the post of the Chief Financial Officer.



## **11.2 Statutory Roles**

### **11.2.1 Functions of the Head of Paid Service**

#### **Discharge of functions by the Council**

The Chief Executive will be appointed by Council and is the Head of Paid Service and will report to the Council when he or she considers it appropriate to do so 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 those staff.

#### **Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Financial Officer if he/she is a qualified accountant.

### **11.2.2 Functions of the Monitoring Officer**

#### **Maintaining the Constitution**

The Monitoring Officer will be appointed by Council and will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public and placed on the Council's website. He or she will keep the Constitution under review and make reports recommending changes as appropriate.

#### **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission has given rise to or is likely to or would give rise to a contravention of any statute, rule of law or code of practice. Where any report is prepared, the implementation of any proposal or decision to which the report relates shall be suspended until the report has been considered by Council or the Cabinet as the case may be.

#### **Supporting the Ethics and Standards Committee**

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

#### **Receiving reports**

The Monitoring Officer will receive and act on any reports on the conduct of any member by the Commissioner for Local Administration in Wales (Local Government Ombudsman) as required by Part III of the Local Government Act 2000 and regulations made under that Act.

#### **Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred to him or her for investigation by the Commissioner for Local Administration in Wales and make

reports following completion of those investigations to the Ethics and Standards Committee.

### **Proper Officer under the Constitution and for access to information**

The Monitoring Officer will ensure that Council, Executive, scrutiny and regulatory decisions together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible and is a Proper Officer under this Constitution.

### **Advising whether executive decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of Cabinet and Strategic Directors are in accordance with the Budget and Policy Framework and may refer any matter to Council where he or she considers that any Executive decision is contrary to the Budget and Policy Framework and the conditions for urgent decisions set out in paragraph 5.10.2 are not satisfied.

### **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and Strategic Directors.

### **Restrictions on posts**

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

### **Monitoring Officer Protocol**

A Protocol describing the principal functions of the Monitoring Officer and the manner in which the Council expects him/her to discharge those functions is set out in Appendix 22 of this Constitution.

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

### **Administration of financial affairs**

The Chief Financial Officer will be appointed by Council and is the person having responsibility for the financial affairs of the authority under section 151 of the Local Government Act 1982.

### **Ensuring lawfulness and financial prudence of decision making**

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

## **Contributing to corporate management**

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

## **Providing advice**

The Chief Financial 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 Strategic Directors and will support and advise Councillors and officers in their respective roles.

## **Giving financial information**

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

## **11.3 Recruitment, Appointment, Dismissal and Disciplinary Processes**

11.3.1 The Appointments Committee will be responsible for appointing the Deputy Chief Executive, and Strategic Directors responsible for Neighbourhoods, Social Care and Housing and Education.

11.3.2 Only full Council shall appoint the Head of Paid Service, s151 role, Monitoring Officer role, Head of Democratic Services role and any other statutory roles assigned to appropriate posts/officers.

11.3.3 Appointments to all other posts shall be in accordance with the process determined by the Head of Paid Service.

11.3.4 Any decision to dismiss or otherwise discipline the Chief Executive, Monitoring Officer, Head of Democratic Services or Chief Financial Officer must be taken by Full Council in accordance with the procedure set out in 10.4

11.3.5 The Chief Executive shall have delegated authority to take disciplinary action against other Strategic Directors.

11.3.6 Strategic Directors shall have responsibility for disciplinary matters within their Departments in consultation with the Head of Human Resources.

11.3.7 Recruitment of the Chief Executive and Strategic Directors shall follow the procedures set out in Appendix 20.

## **11.4 The Employee Code of Conduct**

11.4.1 The current version of the Employee Code of Conduct is set out in Appendix 15. The Local Protocol and Procedure in Appendix 21 sets up a framework for good working relationships between Councillors and Officers.

## **11.5 Delegations to Officers**

### **General delegation: Chief Executive**

11.5.1 The Chief Executive shall, without prejudice to the general delegation to the Chief Executive Strategic Directors as set out below, be authorised to act on behalf of the Council in relation to any matter and consider and determine within the overall policies of the Council any matter except those matters reserved to the Council by Statute, subject to (except in an emergency) consultation with the Leader, the Cabinet or Executive Member for that portfolio in respect of matters for which they have respectively been allocated responsibility.

11.5.2 Where an appointment is required (other than on an annual basis at the Annual meeting of the Council) the Leader and Chief Executive acting jointly will have the authority to make and give effect to appointments to bodies to exercise advisory and other functions on the Council's behalf, and make appointments to outside bodies.

### **Delegations to Strategic Directors**

11.5.3 The Chief Executive, Monitoring Officer, Chief Financial Officer and Strategic Directors shall as and when required (after consulting the Executive Member, Chair of any relevant Committee or the Cabinet as appropriate) take all necessary steps for protecting the interests or advancing the business of the Council.

11.5.4 The Chief Executive and each Strategic Director, as set out in paragraph 11.1 is authorised to act on behalf of the Council in relation to any matters within the service area for which he/she is responsible subject to the overriding provision in paragraph 11.5.5.

11.5.5 Any action by a Strategic Director under delegated powers shall be in accordance with:

- The overall policies approved by the Council, the Cabinet or the relevant Executive Member;
- The requirements of this Constitution including financial and contract rules.

11.5.6 Where the exercise of a delegated power is likely to affect more than one service area, consultation shall take place with any other Strategic Director whose service area is likely to be affected.

11.5.7 A Strategic Director is expected to:

- Maintain a close liaison with the appropriate Executive Member and Overview and Scrutiny Committee;
- Ensure that the Councillor for the local electoral ward is consulted on or advised of the exercise of delegated powers;
- Consult the Monitoring Officer and Chief Financial Officer where any matter has legal or financial implications;
- Consult the Head of Human Resources on any matter which has human resources

implications

- Ensure that the Chief Executive is consulted or informed where appropriate.

11.5.8 Any power conferred upon a Strategic Director may be exercised by an authorised officer in his/her absence or at other times in accordance with any specific or general directions or scheme of delegation approved by the Strategic Director.

#### **General Delegations: Personnel**

11.5.9 Delegations relating to the recruitment, appointment, dismissal and discipline of staff are detailed in paragraphs 10.3 and 10.4. For all other employment matters each Strategic Director in consultation with the Head of Strategic Human Resources or his or her staff, is authorised to act, within their sphere of responsibility, within the adopted employment policies of the Council.

11.5.10 Each Strategic Director may authorise staff to exercise such powers of entry, inspection and survey of land, buildings or premises and may issue any necessary evidence or authority as may be appropriate to the execution of their duties and in respect of which the Council has statutory powers.

#### **General Delegations: Property**

11.5.11 A Strategic Director may declare land surplus to the requirements of the Department concerned.

11.5.12 In accordance with the Scheme of delegation the Chief Legal Officer may authorise and approve the disposal of land and the granting, or variation in granting, of leases, licences, dedications of or over any land subject to any policy approved by the Cabinet.

11.5.13 A Strategic Director may arrange for sessional lettings of premises for periods of less than 24 hours.

#### **General Delegations: Legal and Procedural**

11.5.14 The Chief Legal Officer is authorised to serve statutory notices to ascertain the legal interest of any person in land.

11.5.15 The Chief Legal Officer is authorised to institute, defend or settle legal proceedings (either in the name of the Council or an individual Officer of the Council) at Common Law or under any enactment, statutory instrument, order or byelaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any such decision. For the avoidance of doubt this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices, and Notices to Quit.

11.5.16 The Chief Legal Officer may authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.

11.5.17 The Common Seal of the Council shall be kept in a safe place by the Chief Legal Officer. The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by some person or body authorised to do so but the decision authorising the action shall be sufficient authority for sealing any document necessary to give effect to the decision of the Council, Cabinet, Planning or Licensing Committee or a Strategic Director.

11.5.18 The seal, and any associated documents shall be signed by, the Chief Legal Officer or an Authorised Officer and an entry of every sealing or signing of a document shall be made and consecutively numbered in the book to be provided for the purpose and kept under the control of the person who shall have attested the seal or signed any associated documents.

11.5.19 Where any document will be a necessary step in legal proceedings or shall be a legal agreement, contract, notice or order under hand on behalf of the Council, it shall, unless any enactment otherwise requires or authorises, or the Council or Chief Legal Officer shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Legal Officer.

#### **General Delegations: Contracts**

11.5.20 Strategic Directors' authority in respect of letting contracts is contained in the Council's Contract Standing Orders as set out at Appendix 16.

#### **General Delegations: Financial matters**

11.5.21 The powers of Strategic Directors in relation to financial matters are set out in the Financial Regulations in Appendix 17.

### **11.6 Confidential Reporting Procedure**

11.6.1 The Confidential Reporting Procedure for employees is attached as Appendix 18.

#### **Statutory Provisions:**

Section 101 of the Local Government Act 1972

Part VA, section 99 and Schedule 12 of the Local Government Act 1972

The Public Interest Disclosure Act 1998

Part I of the Local Government and Housing Act 1989

Section 82 of the Local Government Act 2000

The Code of Conduct (Qualifying Local Government Employees) (Wales) Regulations 2001

**End of Part Eleven**

## **PART 12 - PENSIONS**

### **12.1 Pensions Committee**

12.1.1 There shall be a Pensions Committee consisting of 6 (six) councillors (appointed at the Annual meeting of the Council) and representing political balance together with such other co-opted or independent members as Council may determine and appoint from time to time for such period as Council thinks fit.

12.1.2 An “independent member” means a person who is not a member or officer of any County Borough Council, County Council, National Park Authority or Fire Authority or the spouse or partner of any such Member or Officer.

12.1.3 The Chair of the Pensions Committee shall be appointed by Council.

12.1.4 No member of the Cabinet shall be a member of the Pensions Committee.

### **12.2 Terms of Reference of the Pensions Committee**

12.2.1 The role of the Pensions Committee is to discharge the duties of the Council as Administering Authority of the Greater Gwent (Torfaen) Pension Fund. The powers and functions are delegated by the Council to the Pensions Committee and are expressly excluded from the delegation of authority to the Cabinet.

More specifically, the terms of reference include overseeing the following functions:

1. To ensure proper arrangements are made for the governance, management, benefits and financial administration and investment of the Pension Fund.
2. To determine the overall policy objectives and to oversee the formulation and publication of the statutory statements of the Pension Fund in accordance with the best interests of Fund members and in accord with relevant legislation.
3. To determine the strategy for the investment of Pension Fund monies including the variety and suitability of investments and to monitor investment performance.
4. To ensure appropriate investment management arrangements are in place for the Fund monies and to review investment manager performance.
5. To establish and maintain arrangements for the effective management and administration of the Pension Fund, including staffing and budgetary arrangements.
6. In undertaking the above, to consult as appropriate and consider any views expressed by employing organisations and staff representatives
7. To receive regular training to enable committee members to make effective decisions and be fully aware of their statutory and fiduciary responsibilities and their stewardship role; and
8. To establish a scheme of delegation giving officers powers to make decisions on such terms as they consider appropriate within the overall terms of reference of the Pensions Committee

### **12.3. Rules of Proceedings of the Pensions Committee**

12.3.1 The following paragraphs of Part 4 of this Constitution shall apply to meetings of the Pensions Committee as if reference to the Council were to the Committee and references to the Presiding Member were to the Chair of the Committee: Paragraphs 4.9, 4.10, 4.11, 4.12, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, 4.26, 4.27.

12.3.2 The Pensions Committee shall meet at least quarterly during each calendar year.

### **13.4. Access to Information**

12.4.1 The provisions of paragraph 4.27 shall apply to proceedings of the Committee as they apply to Council.

### **12.5. Greater Gwent (Torfaen) Pension Board**

12.5.1 In accordance with Section 5 of the Public Service Pensions Act 2013, and Section 106 of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, a local Pension Board assists Torfaen County Borough Council in the governance and administration of the Greater Gwent (Torfaen) Pension Fund. The Board's role, members, terms of reference and working arrangements are set out in the Terms of Reference which are available from the Head of Human Resources and Pensions.

**Statutory Provisions:** Section 101 and Part VA of the Local Government Act 1972, Public Service Pensions Act 2013 and the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015

**End of Part Twelve**





**THE CONSTITUTION  
OF  
TORFAEN COUNTY BOROUGH COUNCIL  
  
APPENDICES**

**Adopted by Council 18 May 2004  
Took effect 14 June 2004**

**VERSION 62 (issued on 5 June 2024)**

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## INTRODUCTION

Torfaen County Borough Council, in common with other relevant authorities in Wales, is required by the Local Government Act 2000 (the Act) to adopt a Code as regards the conduct which is expected of its members and co-opted members.

In 2001 the National Assembly for Wales issued the first Model Code of Conduct under the Act. The Assembly Government reviewed the Code in the light of experience of its operation by Local Government. The National Assembly's power to issue a Model Code of Conduct was transferred to the Welsh ministers by the Government of Wales Act 2006 and the New Model Code of Conduct was made on the 20 March 2008.

The Council resolved at its meeting on the 15 April 2008 to adopt the form of the New Model Code and include an ICT Protocol setting out specific requirements in relation to the operation of ICT equipment, software and services provided by the Council.

On 21 June 2016 the Council resolved to adopt an amended Model Code of Conduct in accordance with the Local Authorities ( Model Code of Conduct) ( Wales) ( Amendment) Order 2016.

Members and co-opted Members are required to give a written undertaking to the authority for the time to observe the Code as to the conduct which is expected of them.

The Code appears at pages 2 to 10 of this document. It is in four parts which may be summarised as follows:-

- Part I deals with Interpretation
- Part II provides for the General Provisions of the Code including details of the circumstances in which Members must observe the Code together with the conduct which is expected of them.
- Part III concerns personal interests and prejudicial interests and disclosure of and participation by Members and co-opted Members in respect of such interests.
- Part IV concerns a Register of Interests and Registration of Gifts and Hospitality.

The Council's Ethics and Standards Committee, which comprises four independent persons, three Torfaen Councillors and one Community Councillor, plays an important part in relation to the Code of Conduct. This includes assisting members in observing the Code, monitoring its operation and advising the Council on any adoptions or revisions which may be necessary.

Members, who have any queries in relation to the Code or its operation, are advised to consult with the Monitoring Officer.

**Delyth Harries**  
**MONITORING OFFICER AND ASSISTANT CHIEF LEGAL OFFICER**  
**TORFAEN COUNTY BOROUGH COUNCIL**



# THE MODEL CODE OF CONDUCT

## PART 1 INTERPRETATION

1.—(1) In this code —

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who —

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

"meeting" ("*cyfarfod*") means any meeting —

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

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

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

"registered society" means a society, other than a society registered as a credit union, which is —

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"register of members' interests" ("*cofrestr o fuddiannau'r aelodau*") means the register established and maintained under section 81 of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means—

(a) a county council,

(b) a county borough council,

(c) a community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority; and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

(a) “proper officer” (“*swyddog priodol*”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” (“*pwyllogor safonau*”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

## **PART 2 GENERAL PROVISIONS**

**2.**—(1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

**3.** Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**4.** You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

**5.** You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

**6.—(1) You must —**

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

**7. You must not —**

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

**8. You must —**

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

### **PART 3 INTERESTS**

#### **Personal Interests**

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

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

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

*[Note: subparagraph (b) is omitted.]*

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

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

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

### **Disclosure of Personal Interests**

**11.—**(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### **Prejudicial Interests**

**12.**—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

- (a) relates to —
  - (i) another relevant authority of which you are also a member;
  - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
  - (iii) a body to which you have been elected, appointed or nominated by your authority;
  - (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
  - (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
- (b) relates to —
  - (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children

Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

### **Overview and Scrutiny Committees**

**13.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

### **Participation in Relation to Disclosed Interests**

**14.—**(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

## **PART 4 THE REGISTER OF MEMBERS' INTERESTS**

### **Registration of Personal Interests**

**15.**—(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.



(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

### **Sensitive information**

**16.**—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

### **Registration of Gifts and Hospitality**

**17.** You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

## **PART 5**

### **ICT PROTOCOL**

**18.** When using ICT equipment and software provided by the Council, a member must at all times comply with the ICT Protocol approved by the Council and contained within the Constitution and the Council's ICT Security Policy as amended from time to time.

<b>APPENDIX 2      CODES OF CONDUCT AND PROTOCOLS</b>
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This Appendix is reserved for the inclusion of any Codes of Conduct or Protocols developed to assist Councillors in the specific roles they perform.

### **MEMBERS ICT PROTOCOL**

This document sets out specific requirements in relation to the operation of ICT equipment, software and services provided by the Council. Members are required to conform to all aspects of this protocol AND the relevant sections of the ICT Security Policy, the main points of which are attached for ease of reference.

A breach of the ICT Security Policy<sup>#1</sup> or this Protocol is a breach of the Code of Conduct for Elected Members. Additional guidance for members is attached which is not mandatory.

You may use the equipment, software and services only in accordance with the uses permitted under this Protocol and you must not use it for any other purposes whatsoever.

If you have any doubt about the application of the Protocol or the ICT Security Policy you should seek clarification and advice from the Monitoring Officer.

**You must at all times meet the following conditions for using the equipment and software provided.**

- You comply with any specific guidelines issued by the Monitoring Officer during any election period and at no time use the equipment for publishing<sup>#2</sup> any material which in whole or in part appears designed to effect public support for a political party.
- You are permitted to use the equipment, software and services for the purposes of carrying out Council business and the business of an organisation on which you represent the Council.
- You are permitted to make ancillary use of the equipment, software and services for personal, business and political purposes but the following conditions apply:
  - The use is genuinely ancillary to your use for Council business
  - Use for personal, business or political purposes is only “ancillary” if you are making regular significant use of the equipment, software and services for Council business and that your use for any other purposes does not interfere with Council business.
  - There is no additional cost to the Council
  - The provision of IT hardware and software is for Council business purposes but the member and his/her family are to use the equipment for personal use. Members however, must ensure that anyone utilising the equipment must comply this protocol and the Council’s ICT Security Policy
  - Personal use is allowed but it must not interfere with Council needs and members should therefore keep personal use to a minimum.
  - The provision of Broadband however is considered to be a vital business tool for Council; it is thus provided for business purposes and must be kept available for such work.

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<sup>#1</sup> ICT Security Policy is stored on Members Intranet site under Useful Documents

<sup>#2</sup> Please refer to ‘Publishing’ Note at the end of this Protocol

- You must lock your computer if it is left unattended and you must not allow it to be used by an unauthorised person.
- You must take all reasonable steps to safeguard the system against accidental or deliberate damage, theft, vandalism, misuse and loss.
- If equipment is either stolen or damaged by intruders while at the home of a member, then you must be able to demonstrate a forced entry to the home (to ensure that the insurance cover operates).
- If left in a vehicle between office, home, etc, then the equipment must be stored in the boot of the vehicle where it is not visible to a potential thief.
- If left in a vehicle overnight, then the vehicle must be kept in a secure compound. As a garage, in most circumstances, would probably not meet this description, members are strongly advised not to leave equipment in a vehicle overnight.
- Any equipment stored or affixed in a member's home must be protected against extremes of temperature and dust.
- In accessing any information relating to individual persons you must ensure that you comply with the provisions of the Data Protection act 1998 and you should ensure that you obtain the consent of any individual before you store any personal information about them.
- The equipment will need to be Portable Appliance Tested (PAT) on an annual basis to conform to current I.E.E. regulations and prevailing legislation. If a visit is required to your home by the PAT engineer you must give them access to carry out this test.
- You must make the equipment available for audit if necessary.
- You must return the equipment to the Council on request.

When using the Council's equipment and software you must not:

- Use any equipment that you already own or operate to access the Council network but use the equipment that we provide.
- Alter the technical setup of the equipment or add any additional software or hardware without the written consent of Head of Information Services and Standards or the Services and Technical Manager.
- Access the Council's information data systems except for the purposes of carrying out the Council's business.
- Send on the Internet confidential information about the Council or any of its partner agencies or associates
- Send, receive or copy copyright; sensitive or personal material via the internet unless it is encrypted.
- Engage in online gambling.
- Use the equipment for any illegal purposes including the posting or sending of information that may tend to disparage or harass others on the basis of gender, race, age disability, religion, sexual orientation or nation of origin or for the purposes of accessing, displaying or disseminating pornography or obscene material.

## **SUPPORT**

Support will be provided on the basis set in the Members Additional Guidance document attached.

## **HEALTH & SAFETY**

Working at home is subject to Health and Safety requirements. Ensure that you comply with the instructions set out in the Members Additional Guidance document attached.

## **TRAINING**

Provision of equipment is conditional on each individual member's ability to use it. Member training is therefore a key element in ensuring the best use of systems and the delivery of potential benefits.

It is a responsibility of members to use reasonable endeavours to make themselves available for any training which has been jointly identified. Periodically the levels of use and proficiency will be reviewed to ensure that the necessary capabilities are in place.

## **COST AND CHARGES**

Equipment and services will be provided to members free of charge for the duration of their tenure. Information on any tax implications are detailed in the Members Additional Guidance document attached.

### **Note: #2 Publishing Material**

For the purposes of defining what is meant by the phrase "publishing material which in whole or in part appears designed to affect public support for a political party" the following apply:

- You must not use the Council's e-mail address provided to you for the purpose of publishing any material which in whole or in part appears designed to effect public support for a political party.
- You must not use the equipment to canvass members of the public for political support
- You may use the equipment to communicate with your colleagues within your own political group (including party members who are not elected members)
- You may not circulate materials provided to you by your political party which are designed or appear to be designed to effect public support
- You may use the equipment to communicate with your own constituents on matters that are politically contentious and which relate to the Council's decision making or functions provided and to explain your views provided in doing so you do not explicitly seek their support for a political party or its political position on that issue.
- You may use the equipment for carrying out your responsibilities as a Ward representative including constituency casework and make representations on behalf of the Constituents provided that these are not of a party political nature.

## APPENDIX 3 THE SCHEME OF MEMBERS' REMUNERATION

The following pages set out the scheme of remuneration which sets out the salaries and expenses which may be claimed. First they explain the entitlement to salaries and expenses and what they cover. Then they set out the current levels of salaries, expenses and maximum limits. Finally they set out the definition of "approved duties". Councillors can only claim expenses for approved duties.

## SALARIES AND EXPENSES (FOR CURRENT RATES SEE BELOW)

### SALARIES

TYPE OF SALARY	DESCRIPTION OF SALARY	ENTITLEMENT - WHAT YOU CAN CLAIM
<p>BASIC SALARY</p> <p>The Council will provide without charge as much support as is necessary (for example laptops, telephones, postal costs) to enable Members to fulfil their duties as set out in an approved package of specific support and which may be varied from time to time.</p>	<p>This is paid to all Members. The Basic Salary does not incorporate a sum to meet a Councillor's IT and office costs. The maximum level of the Basic Salary is set by the Independent Remuneration Panel for Wales ('the Panel') as a recompense for the time, worth and responsibility dedicated to the local government role.</p> <p><b>Note: To assist members to carry out constituency business a free phone line is provided into the Council switchboard to make contact with Council officers.</b></p> <p><b>The Council meets the costs of accommodation for Councillor surgeries where these are unavoidable and provides stationery solely for Council and constituency business.</b></p>	<p>No Member can claim more than one Basic Salary</p> <p>A Basic Salary is paid pro rata for Members elected mid-term based on the number of days of the financial year for which they are an elected member</p>
<p>SENIOR SALARY</p>	<p>This is paid to individual Members who undertake specific duties (see the list below) for which the remuneration consists of a consolidated amount known as a Senior Salary. Each Senior Salary is inclusive of the basic salary.</p>	<p>No claim is required; payment is automatic every month.</p> <p>No Member can claim more than one Senior Salary</p> <p>The Maximum number of Senior salaries to be paid is 17.</p>

## CARE ALLOWANCE

Members are entitled to claim a Care Allowance if they have dependent children under the age of 15 or they have a dependant aged 15 or over who requires supervision and for whom they have caring responsibilities. Members must necessarily incur expenditure to enable them to perform their duties and must satisfy the Council that it is reasonable and appropriate. The arrangements for Care Allowance are determined by the Independent Remuneration Panel (Wales) and are as follows:

- Formal (registered with Care Inspectorate Wales) care costs to be paid as evidenced.
- Informal (unregistered) care costs to be paid up to a maximum rate equivalent to the Real Living Wage hourly rates as defined by the Living Wage Foundation at the time the costs are incurred..

For clarification, care costs cannot be paid to someone who is a part of a member's household. The Care Allowance will not be paid to more than one Member of the authority in relation to the same dependent.

More than one Care Allowance will not be paid to any member, unless it can be clearly demonstrated that that member needs to make separate arrangements for the care of different dependants, and needs to pay for that care. Members must disclose any financial support provided under this allowance when applying for other care services offered by the Local Authority

Councillors may join an employees' salary sacrifice scheme as an alternative to claiming the Care Allowance.

Senior Salaries are paid pro rata if a member does not have a particular special responsibility throughout a financial year based on the number of days during which they have that responsibility.

A claim with receipts for expenditure incurred must be submitted on a monthly basis. Receipts are required for both informal and formal care arrangements.

CO-OPTTEES Payments	The payments to co-optees are available for co-optees with voting rights. A co-opted Member refers to someone who is appointed to a Council Committee or sub committee but is not a Torfaen County Borough Councillor. They are also entitled to receive travel and subsistence allowances on the same basis as Councillors. For co-optees who chair the Council's Ethics and Standards committee and the Governance and Audit Committee, the payment is £268 per day, £134 for half a day and £33.50 hourly rate. For a co-opted ordinary member (ordinary members of standard committees who also chair standards committees for community and town councils) the payment is £238 per day, £119 for half a day and £29.75 hourly rate. For a co-opted ordinary member (standards committees: learning scrutiny committee, crime and disorder scrutiny committee and governance and audit committee) the payment is £210 per day, £105 for a half day and £26.25 hourly rate. These payments are capped at a maximum of the equivalent of 10 full days a year for each committee to which an individual who may be co-opted. Payments are for meeting time only and include time spent on preparation and travelling. For the purposes of claiming, a half day meeting is defined as up to 4 hours and a full day meeting is defined as over 4 hours. Co-optees who are employed [full time] within the public sector will not receive the allowance. There should be local flexibility for the relevant officer to decide when it will be appropriate to apply a day or a half day rate or to use an hourly rate where it is sensible to aggregate a number of short meetings.
Suspension of Salaries	If a member is suspended or partially suspended from that member's responsibilities or duties as a member of the Council, the following salaries will be withheld, and if overpaid, will be recovered:-  Basic Salary, Senior Salary, National Park Allowance, Care Allowance and Travel and Subsistence Allowances.
Member's Entitlement	A Member may forgo any part of that Member's entitlement to a salary under this Scheme, by writing to the Monitoring Officer.



## TRAVEL

A Member is entitled to travel by road, rail, air or sea when carrying out “Approved duties” and by any reasonable route. Members are expected to travel by the cost effective means, taking into account the actual cost of the travel and cost of any overnight stay expenses. A Member who, in the opinion of the Monitoring Officer does not travel by the most cost effective means may have the amount of his/her claim adjusted by an appropriate amount. For example if a Member chooses to use a car/taxi when the journey could reasonably and more economically made by public transport the cost of the public transport will be payable unless an explanation is included with the claim demonstrating why public transport was not appropriate.

All claims for travel such as bus/taxi fares should be accompanied by appropriate receipts showing the actual expense and any claim for payment by way of travel or subsistence expenses shall include a statement signed by the Member that the Member has not made and will not make any other claim in respect of the matter to which the claim relates.

Members are encouraged to claim their travel expenses monthly and must claim at least quarterly. The annual accounts must include details of member’s entitlement to expenses for the previous financial year. For that reason, a member will lose his or her entitlement to claim travel expenses for any year if he or she has not claimed those expenses by 30<sup>th</sup> April following the year-end unless there are exceptional reasons why it was not possible to claim before this date.

Council officers will make arrangements for councillors’ travel and accommodation outside the county borough and direct payments will be made by the Council wherever possible.

TYPE OF EXPENSE	DESCRIPTION OF EXPENSE	ENTITLEMENT – WHAT YOU CAN CLAIM
MILEAGE	The maximum rates payable are those set by HM Revenue & Customs (HMRC)	<p>A Member may undertake travel by car/motor vehicle/bicycle and claim a mileage allowance based on actual mileage travelled.</p> <p>The claim should be based on the shortest route and should not be a private journey. Where a business journey includes a detour for private purposes this must be deducted from the claim.</p> <p>Claims must be based on the personal use of a vehicle by the Member at his/her personal expense.</p> <p>A Member may also claim for other assisted travel expenses necessarily incurred such as parking fees, tolls etc based on actual expenditure incurred, supported by relevant receipts.</p> <p>The Council allows Members to claim the journey between their house and Council Offices as a business journey.</p> <p>Where a Member uses a vehicle for travel from their home to the nearest suitable railway station/bus station/airport etc the cost of the return journey may be claimed if undertaken by another person</p> <p><b><u>NOTE</u></b></p> <p><b>Members are reminded to make sure that insurance covers them for their business journeys.</b></p> <p><b>If a Member changes a vehicle during the month then a separate claim form should be completed for each vehicle used in the period relating to the claim.</b></p>

TYPE OF EXPENSE	DESCRIPTION OF EXPENSE	ENTITLEMENT – WHAT YOU CAN CLAIM
TAXI FARES	A business journey necessarily undertaken by taxi, where other modes of transport are unavailable or not appropriate to the circumstances	<p>Subject to the expectation that Members will travel by the most cost effective means, there may be occasions when a Member will need to travel by taxi, in cases of urgency, or where suitable public transport is not available or appropriate</p> <p>Normally the reimbursement would not exceed the mileage allowance that would have been payable if the journey had been undertaken by car. If it was not reasonably practicable for the Member to travel other than by taxi, they shall be entitled to claim the actual level of expense incurred by them).</p> <p>Claims must be supported by the submission of relevant receipts.</p>
RAIL FARES / FERRY CROSSINGS	For Business Travel as appropriate	<p>Rail fares and ferry crossings can be claimed at standard class. If a Member chooses to travel first class, that Member will meet the difference in cost.</p> <p>Air fares can be claimed at either the standard class or available cheap fare rate, depending on a Member’s personal preference and availability</p> <p>A member may also claim for other related expenses necessarily incurred, such as booking fees, reservation fees, based on actual expenditure incurred</p> <p><b>Claims must be supported by the submission of relevant receipts.</b></p> <p><b><u>NOTE</u></b></p> <p><b>Tickets purchased through Member Services make use of specially negotiated discount facilities with approved suppliers</b></p> <p><b>The cost of railcards / bus cards will be met if it can be demonstrated that, by providing a Member with a railcard, the Council will save money.</b></p>
Mobile telephones	All Members	Costs of line rental and business related call costs will be met by the Council. Personal calls costs will be met by the member.

## SUBSISTENCE

A Member is entitled to receive payments by way of subsistence allowance where expenditure is actually and necessarily incurred in the performance of an “approved duty”. The allowances in the Appendices are the amounts for commencing on 1 April 2012. Maximum allowance rates are set by the Panel. Members may not use this allowance when conducting official business in – County.

Members are encouraged to claim their subsistence monthly and must claim at least quarterly. The annual accounts must include details of member’s entitlement to expenses for the previous financial year. For that reason, a member will lose his or her entitlement to claim subsistence for any year if he or she has not claimed those expenses by 30<sup>th</sup> April following the year-end unless there are exceptional reasons why it was not possible to claim before this date.

CATEGORY OF SUBSISTENCE	PROVISIONS RELATING TO THESE CATEGORIES	ENTITLEMENT – WHAT YOU CLAIM
Day Allowance	Where the main expenses of attending a course, conference or specific function /event are met directly by the Council, host organisation or a third party then a day allowance will be payable to cover incidental expenses. A day subsistence rate of a maximum of £28 per day (including breakfast when not provided as part of overnight accommodation).	Allowances provided are maximum sums that can be paid and reimbursement will be on the basis of actual expenditure incurred up to these amounts, supported by relevant receipts. Claims are for specific courses, conferences, events or functions where incidental expenses arise. Claims are not permissible where incidental expenses are incurred as part of a Member’s normal working day (eg lunch at County Hall or the Civic Centre).
Overnight Subsistence Allowance	An absence overnight from the normal place of residence shall be deemed to cover a continuous period of absence of 24 hours as far as the maximum rate payable is concerned and this sum will cover all expenses incurred including incidental expenses such as newspapers, laundry and telephone calls home. Expenses cannot be claimed under this allowance if a day allowance is claimed (see above). This Allowance is set at a maximum of £200 for London and £95 elsewhere. London means the City of London, and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.	Allowances provided are maximum sums that can be paid and reimbursed will be on the basis of actual expenditure incurred up to these amounts, supported by relevant receipts. Councillors must book through central booking arrangements set up by the Council and which may be varied from time to time.
Overnight stay with friends/relatives	A maximum of £30 is available for an overnight stay with friends or relatives whilst on approved duty.	

## MEMBERS' REMUNERATION

### LEVEL OF MAXIMUM SALARIES FROM 1 APRIL 2024 - 31 MARCH 2025

The Independent Remuneration Panel for Wales prescribes the salaries payable to elected members for the roles undertaken across the Council. The table below sets out the IRP Wales prescribed salary levels for 2024/25. Some Members, and or groups of Members, may choose to forgo part of their prescribed salary. These instances will be described in the Council's Member Remuneration Schedule which will be published in July 2024.

SALARY TYPE	Basic Salary	Senior Salary/Civic Salary (Consolidated amount)	
Leader of the Council		59,498	
Deputy Leader		41,649	
Executive Member		35,699	
Chairs of Planning, Licensing, Audit and Democratic Services Chairs of Overview and Scrutiny Committees		27,999	
Chair of Pensions Committee		27,999	
Leader of the largest Opposition Group		27,999	
Leaders of other political groups larger than 10%		22,406	
Members without a position of special responsibility set out above	18,666		
Care Allowance (payable for actual and receipted costs) <sup>3</sup>	There is no maximum that can be paid for Care and Personal Assistance.		

### MILEAGE RATES (Rates as set by HMRC which are currently all vehicle sizes of private motor vehicle)

<u>Up to 10,000 miles</u>	<u>45p per mile</u>
<u>Over 10,000 miles</u>	<u>25p per mile</u>
<u>Private motor cycles</u>	<u>24p per mile</u>
<u>Pedal cycles</u>	<u>20p per mile</u>
<u>Passenger supplement</u>	<u>5p per passenger per mile</u>

## **SUBSISTENCE EXPENSES**

Councillors are entitled to claim expenses where expenditure is necessarily incurred when undertaking “approved duties” out of County.

Approved duties are defined as follows:

- (a) Attendance at a meeting of the authority or of any committee of the authority or of any body to which the authority makes appointments or nominations or of any committee of such a body;
- (b) Attendance at a meeting of any association of authorities of which the authority is a member;
- (c) Attendance at any other meeting the holding of which is authorised by the authority or by a committee of the authority or by a joint committee of the authority and one or more other authorities;
- (d) A duty undertaken for the purpose of or in connection with the discharge of the functions of an executive where the authority is operating executive arrangements within the meaning of Part II of the 2000 Act;
- (e) A duty undertaken in pursuance of a standing order which required a member or members to be present when tender documents are opened;
- (f) A duty undertaken in connection with the discharge of any function of the authority which empowers or requires the authority to inspect or authorise the inspection of premises;
- (g) Attendance at any training or developmental event approved by the authority or its executive or board;
- (h) Any other duty approved by the authority, or any other duty of a class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees;
- (i) Attendance at a Civic function when invited to attend as the representative of the authority; and
- (j) Attendance at a meeting with officers of the authority where attendance by the member is necessary to progress the essential business of the authority.

## **PENSIONS**

All current and future elected Members of Torfaen County Borough Council are entitled to join the Local Government Pension Scheme (LGPS) and their Basic and (where appropriate) Senior Salary is pensionable. All Torfaen County Borough Councillors can join the LGPS.

## **SUB-COMMITTEES**

### **EQUALITIES SUB-COMMITTEE**

#### **Objective**

The Cabinet (Equalities) Sub-Committee is a standing Sub-Committee of the Cabinet and shall be responsible for seeking to ensure the strategic development, monitoring and review of mainstreamed equalities action planning within each service area of the authority and compliance with equalities legislation and EU Directives related to equal rights. It has a wider remit to develop policy and encourage best practice across the Council in relation to addressing all forms of inequality.

#### **Scope**

The Cabinet (Equalities) Sub-Committee shall be responsible for promoting, overseeing and prioritising the following areas of activity:

- i. Development of the impact of Council policies and strategies on matters of equality & social justice;
- ii. Development of the impact of Council policies on issues of community cohesion;
- iii. Development of the impact of Council strategies on poverty and specifically child poverty and wider income inequalities;
- iv. The implementation of the Equality Improvement Framework;
- v. The monitoring and review of service delivery and employment compliance with equalities legislation, such as the Sex Discrimination Act 1975, The Race Relations Act 1976, The Disability Discrimination Act 1995, The Human Rights Act 1998 and The Welsh Language Act 1993;
- vi. The monitoring and review of service delivery and employment compliance with EU Directives related to equal rights;
- vii. Ensuring that equality objectives are established, mainstreamed, monitored and reviewed for each service area; and
- viii. Overseeing the Council's Progress in relation to the Route to Health Improvement, as a means of addressing the wider health inequalities, and through this acting as the Corporate Health Improvement Group (CHIG)

#### **Membership**

The membership is full Cabinet, and when meeting to consider the Corporate Health Improvement Group (CHIG), the Committee will co-opt the Director of Public Health.

#### **Meeting Arrangements**

The Cabinet (Equalities) Sub-Committee shall meet on a quarterly basis

## **EUROPEAN AND REGIONAL AFFAIRS SUB-COMMITTEE**

The European and Regional Affairs Sub-Committee is a standing Sub-Committee of the Cabinet.

The membership is the full Cabinet.

Its Terms of Reference are as follows:

- To consider issues of local importance that have a regional and collaborative significance;
- To ensure that these areas of work are taken forward in a way that is complementary to the Corporate Plan and the Community Strategy;
- To formulate policy positions for the Council around how we engage with this agenda;
- To sanction (or not) significant projects recommended to it by the Capital Programme Review Board involving external funding and where appropriate recommend them for Council approval;
- To receive structured updates on all forms of external funding that the Council has attracted, or is seeking to attract.

## **TASK GROUPS**

### **CLIMATE CHANGE CABINET STANDING TASK GROUP**

1. To champion the Climate Change Declaration and associated Action Plan on behalf of Cabinet
2. To constructively challenge the Action Plan, identifying gaps and areas for improvement
3. To assist in prioritisation for delivery, capacity and resources
4. To support Officers on finding solutions to barriers to delivery
5. To lead on public engagement on Climate Change matters e.g. videos, vlogs, public meetings, stakeholder engagement
6. To champion Member Engagement programmes on climate change

## **JOINT COMMITTEES**

### **GREATER GWENT CREMATION JOINT COMMITTEE**

(NOTE: The following is a summary of the functions, arrangements and committee responsibilities of the above body. The Joint Agreement between the constituent Local Authorities sets out the arrangements in more detail. The constituent Local Authorities are Blaenau Gwent County Borough, Caerphilly County Borough, Monmouthshire County, Newport City and Torfaen County Borough).



## FUNCTIONS OF THE SERVICE

All matters relating to the Crematorium to include land, buildings and equipment and ensuring the provision of an efficient cremation service for the benefit of all the inhabitants of Greater Gwent.

## FUNCTIONS OF THE JOINT COMMITTEE

Subject to the terms of the Joint Agreement the constituent Local Authorities delegate to the Joint Committee all powers of the councils with reference to the joint discharge of cremation functions other than the powers of :-

- a. borrowing money
- b. levying or issuing of precept or rate
- c. incurring capital expenditure
- d. incurring revenue expenditure not provided for in Estimates approved by the councils
- e. payment of salaries or wages or granting of conditions of service other than those approved by the councils

## ARRANGEMENTS

The Joint Committee holds four meetings in every year for the transaction of general business and may hold such other meetings (including special meetings, called by the Chair or requisitioned by members) at such intervals as it finds necessary or convenient. The Joint Committee has the power to appoint sub committees from among its members for any purpose which in its opinion could be better considered or managed by a sub committee.

Not later than 30 November in every financial year the Joint Committee determines its Estimates for the forthcoming financial year and forwards them to each of the councils.

## MEMBERSHIP

The Joint Committee consists of 10 members, two members to be appointed by each of the constituent Local Authorities. If a representative member fails to attend four consecutive meetings of the Joint Committee the Council by whom that member was appointed may declare that office to be vacant and nominate a replacement member.

## QUORUM

Three voting members.

## VOTING

Each constituent authority has one vote and in the case of an equality of votes the Chairman has an additional casting vote.

## CHAIRMANSHIP

At its first meeting in each municipal year the Joint Committee appoints a Chairman and Vice Chairman respectively for the ensuing year. It is good practice for the Chairmanship to pass each year to the next constituent authority.

## HOST AUTHORITY

The Finance and Contract Standing Orders of Newport City Council apply.

The Chief Financial Officer and Monitoring Officer for this function are the Chief Financial Officer and Monitoring Officer of Newport City Council.

The staff are employed by Newport City Council and that Council's Personnel policies and procedures apply to those staff.

The Committee is managed and supported by the Democratic Services Team in the Information Systems and Communications Division of Newport City Council which publishes the agenda for meetings. They can be contacted on 01633 232044 or at The Civic Centre, Newport, NP20 4UR.

## **GWENT ARCHIVES JOINT COMMITTEE**

(NOTE: The following is a summary of the functions, arrangements and committee responsibilities of the above body. The Joint Agreement between the constituent Local Authorities sets out the arrangements in more detail. The constituent Local Authorities are Blaenau Gwent County Borough, Caerphilly County Borough, Monmouthshire County, Newport City and Torfaen County Borough).

## FUNCTIONS OF THE SERVICE

The services of the Gwent Archive Service are divided into 3 main categories:-

1. services connected with the custody of historic records – obtaining, preserving, conserving and managing the archives.
2. services involving the management of legal and recent administrative records including title deeds, contracts, committee agendas and minutes, advice and information and public relations.
3. services provided for the public including public search rooms, advice and information, postal and telephone enquiries, library, photocopying and photographic services, publications, archive educational service to schools, open studies classes and talks on local history given by staff.

## FUNCTIONS OF THE JOINT COMMITTEE

Subject to the terms of the Joint Agreement the constituent Local Authorities delegate to the Joint Committee all powers of the Councils with reference to the care, preservation and maintenance of archives and records other than powers of :-

- a. Borrowing money
- b. Incurring capital expenditure unless it is agreed by all Constituent Councils or it is funded by revenue contribution or grant
- c. Capital financing except as specified in b) above.

- d. Incurring revenue expenditure not provided for in the Revenue Estimates, unless it is supported by additional/supplementary financial contributions agreed by the constituent councils or by grant aid.
- e. Payment of salaries or wages or granting of conditions of service.

The Joint Committee does however have the powers to carry forward unspent balances.

## ARRANGEMENTS

The Joint Committee holds no less than four meetings in any calendar year for the transaction of general business and may hold such other meetings (including special meetings, called by the Chair or requisitioned by Members) at such intervals as it shall find necessary or convenient. The Joint Committee has the power to appoint sub-committees from among its members for any purpose which in its opinion could be better considered or managed by a sub committee.

Not later than 31 December in every year the committee determines its Estimates for the cost of the service for the forthcoming financial year and shall forward them to each of the councils.

## MEMBERSHIP

The Joint Committee consists of two members from each of the constituent Local Authorities. Any of the Council's may nominate a Deputy for any Member appointed by them and vote at any meeting of the Joint Committee in place of the member so appointed who for any reason is unable to attend that meeting, The Joint Committee shall at its discretion, appoint such co-opted or independent members to the Joint Committee and for such period as the Committee thinks fit. Such co-opted or independent members shall have an advisory role without voting rights.

## QUORUM

Four elected representatives shall form a quorum.

## VOTING

Each Elected Member shall have one vote per Elected Member and in the case of an equality of votes the Chair has an additional casting vote.

## CHAIRMANSHIP

At its first meeting in each municipal year the Joint Committee appoints a Chairman and Vice Chairman respectively for the ensuing year. The Chair of the Joint Committee is to rotate on an annual basis across all constituent Councils.

## HOST AUTHORITY

The Finance and Contract Standing Orders of Torfaen County Borough Council apply.

The Chief Financial Officer and Monitoring Officer for this function are the Chief Financial Officer and Monitoring Officer of Torfaen County Borough Council.

The staff are employed by Torfaen County Borough Council and that Council's Personnel policies and procedures apply to those staff.

The Committee is managed and supported by the Democratic Services Team in the Strategic Services Division of Torfaen County Borough Council which publishes the agenda for meetings. They can be contacted on 01495 742162 or at The Civic Centre, Pontypool, Torfaen, NP4 6YB.

## **HEADS OF THE VALLEY WASTE PROGRAMME JOINT COMMITTEE**

(Note: Details of the Joint Committee and this Project are more particularly set out in an Inter Authority Agreement dated 2 August 2010 and made between Torfaen, Caerphilly and Blaenau Gwent County Borough Councils)

### **Aims/Purpose**

- 1 To oversee the progress and implementation of the Project, to give the Project strategic direction and to carry out those functions set out in the Schedule below (Procurement Milestones) as being matters being allocated to the Joint Committee.
- 2 The Joint Committee will be the key body to oversee the Project and to represent the interests of the Authorities and its stakeholders. The Joint Committee will also be responsible for monitoring Project progress and managing the political dimensions of the Project.
- 3 The Joint Committee will also carry out the following functions:
  - Provide strategic direction to the Project Board (to include approval of remit for the Project Board and approval of any resourcing issues)
  - Act as a representative for each Authority's Executive/Cabinet to ensure consistency with individual objectives and visions
  - Monitor Project performance, management and working arrangements (to include the necessary audit and assurance checks)
  - Ensure that sufficient resources are committed to the Project
  - Arbitrate on any conflicts within the programme or negotiate a solution to any problems between the programme and external bodies
  - Communicate and provide progress on strategic issues within the Project
  - Promote Partnership working between the Authorities.

#### **Terms**

At the start of the Project, to agree:

- The Project plan
- Decision-making process prior to making recommendations to each Authority's Executive/Cabinet.

During the planning and development stages, to:

- Review Project status against the Project plan
- Monitor the management of Project budget, risks and quality
- Promote and support the Project among relevant stakeholders and where appropriate obtain their consent.
- Seek to resolve disputes where these cannot be resolved satisfactorily through other means
- Ensure that the proposals are affordable and deliver maximum value for money for the public sector.

Once the Joint Committee is in place, to agree:

- Measures against which the benefits realisation should be measured

- Arrangements for quality assurance and risk management
  - Arrangements for communications
  - Arrangements for procurement launch
  - As the procurement progresses, to:
    - Review the Project status against the Project plan
    - Monitor the management of procurement budget, risks and quality
    - Monitor progression through key stages (eg Invitation to Submit Outline Solutions, Invitation to Submit Detailed Solutions, Invitation to Submit Refined Solutions (if required), preferred bidder).
  - Review draft procurement documents (output specification, Project Agreement)
  - Agree the process for evaluating bids and the detailed evaluation criteria and scoring
  - Report to each Authority's Executive/Cabinet on the progress of the procurement
  - Act as the ambassadors for the procurement and the Project it facilitates
- At the end of the procurement, to:
- Ensure that the expected products have been delivered satisfactorily
  - Ensure that the pre contract risk review is completed
  - Agree the Full Business Case and recommend it to each Authority's Executive/Cabinet
  - Recommend award of contract to each Authority's Executive/Cabinet and obtain all final approvals.

Blaenau Gwent County Borough Council as the Lead Authority will provide clerical support for the Joint Committee including convening meetings and maintaining minutes.

The Authorities will provide financial, legal, procurement and technical advice and support to the Joint Committee as and when required and the Project Board shall determine which Authority shall provide the relevant area of expertise.

The Section 151 Officer and Monitoring Officer (or his or her nominated deputies) for each Authority shall be entitled to attend and speak at any meeting of the Joint Committee but not vote.

## **GWENT REGIONAL PARTNERSHIP BOARD**

Details of the Joint Committee and this Programme are particularly set out in a Section 33 Agreement between Torfaen, Caerphilly, Newport, Monmouthshire Blaenau Gwent County Borough Councils and Aneurin Bevan Health Board.

### **Aims/Purpose**

- 1 To oversee the progress and implementation of the Frailty programme and to give the Programme strategic direction.
- 2 The Gwent Adults Strategic Partnership under the Gwent Regional Partnership Board will be the key body to oversee the Programme and to represent the interests of the Authorities, the Health Board and its stakeholders. The Adults Strategic Partnership will also be responsible for monitoring progress on implementation of the programme and managing the political dimensions of the Project.
- 3 The Adults Strategic Partnership will also carry out the following functions:
  - Provide strategic direction to the Programme and approval of any resourcing issues

- Act as a representative for each Authority's Executive/Cabinet to ensure consistency with individual objectives and visions
- Monitor Programme performance, management and working arrangements (to include the necessary audit and assurance checks)
- Ensure that sufficient resources are committed to the Programme
- Arbitrate on any conflicts within the programme or negotiate a solution to any problems between the programme and external bodies
- Communicate and provide progress on strategic issues within the Programme
- Promote Partnership working between the Authorities and the Health Board

#### Terms

At the start of the Year, to agree:

- The Annual Commissioning Plans

During the implementation phase, to:

- Review Programme against the Programme plan
- Monitor the management of Programme budget, risks and quality
- Promote and support the Programme among relevant stakeholders
- Seek to resolve disputes where these cannot be resolved satisfactorily through other means
- Ensure that the proposals are affordable and deliver maximum value for money for the public sector.
- Ensure that the benefits are properly measured and realised
- Ensure that arrangements for quality assurance and risk management are in place

As the implementation phase progresses, to:

- Review the Programme against the Programme plan
- Monitor the management of budget, risks and quality
- Monitor progression through key stages and ensure that WAG trigger points are met
- Review outcomes
- Agree the process for evaluation and oversee the process
- Report to each Authority's Executive/Cabinet/Health Board on the progress of the programme

Caerphilly County Borough Council as the Lead Authority will provide support for the Joint Committee including convening meetings and maintaining minutes.

The organisations will provide financial, legal, procurement and technical advice and support to the Joint Committee as and when required

The Section 151 Officer and Monitoring Officer (or his or her nominated deputies) for each Authority and their equivalent from the Health Board shall be entitled to attend and speak at any meeting of the Joint Committee but not vote.

## **PENSIONS JOINT GOVERNANCE COMMITTEE**

(NOTE: The following is a summary of the functions, arrangements and committee responsibilities of the above body. The Joint Agreement between the constituent Local Authorities sets out the arrangements in more detail. The constituent Local Authorities are Carmarthenshire County Council, City and County of Swansea Council, City of Cardiff Council, Flintshire County Council, Gwynedd Council, Powys County Council, Rhondda Cynon Taff County Borough Council and Torfaen County Borough Council)

## FUNCTIONS OF THE JOINT COMMITTEE

Subject to the terms of the Joint Agreement the committee shall undertake those matters set out below;

1. Making a recommendation on the appointment , replacement or termination of the Operator to the Constituent Authorities
2. Appointing and replacing service providers, advisers to the Joint Governance Committee (other than the Operator)
3. Approving the creation of new pooled vehicles for the Operator
4. Approving the creation of new sub-funds provided by the Operator
5. Approving the termination of sub-funds provided by the Operator
6. Preparing a plan relating to the overall transition of assets in accordance with each Constituent Authority's asset transition plan
7. Approving changes to the Operator Contract which are not material changes to the nature of the Operator contract
8. Dealing with the necessary general ongoing management of the Pooling Collaboration
9. Delegation of tasks to the Officers Working Group , including the preparation of reports and draft documents and the undertaking of consultations
10. Liaison with Pension Boards as appropriate in line with CIPFA guidance , guidance issued by the Pensions Regulator and other applicable legislation or regulatory guidance
11. Determining the best means of alternative investment structures for assets where a sub-fund is not being provided by the Operator

## ARRANGEMENTS

The Joint Committee will meet at least 4 times a year. The Joint Committee shall form such sub- committees and working groups as it considers expedient

## MEMBERSHIP

The Joint Committee shall consist of one elected member (or their appointed deputy) from each Constituent Authority's Pensions Committee.

## QUORUM

The quorum shall be five members.

## VOTING

The Chair shall seek consensus wherever possible. However where a vote is required each member present shall have one vote and voting will be by means of a show of hands. In the event of a tied vote, the Chair shall have a second or casting vote. All decisions will be by simple majority.

## CHAIRMANSHIP

The Chair and Vice Chair shall be members and shall be appointed by vote for a term of 12 calendar months.

## HOST AUTHORITY

Carmarthenshire County Council will be the Host Authority. The Host Council will act as the employing authority for any staff engaged in the discharge of the Pooling Collaboration's functions, provide any necessary administrative resources and facilities, hold all Pooling Contributions, provide the necessary governance and administrative services, provide training for members, provide officers who will act as the primary legal and financial advisers, enter into contracts for supplies and services as required and liaise with the Operator.

## **EAS AUDIT AND RISK ASSURANCE COMMITTEE**

The Constituent Local Authorities are Blaenau Gwent County Borough Council, Caerphilly County Borough Council, Monmouthshire County Council, Newport City Council and Torfaen County Borough Council.

## FUNCTIONS OF THE COMMITTEE

1. Financial reporting, internal controls and external / internal auditors
  - To monitor the integrity of the financial statements of the company.
  - To review the company's internal financial controls.
  - To monitor and review the effectiveness of the company's internal audit function.
  - To make recommendations to the board in relation to the appointment of the external auditor and to approve the remuneration and terms of engagement of the external auditor.
  - To review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements.
2. Risk management
  - Review and assess the risk management of the company.
  - Review and monitor the processes for assessing the completeness of the risk portfolio and changes thereto and identifying emerging risks, as well as understanding how the risks are managed.
3. Compliance with law and regulations
  - To monitor and review HR policy and procedures and applied across the company.
  - To monitor and review compliance with the current Welsh Language Measures Act.
  - To monitor and review compliance with the Health and Safety Act and the risk assessments where appropriate.
  - To monitor and review the corporate governance agreement to ensure compliance and fit for purpose. To include Members, local authorities, Directors / Chief Education Officers and officers.
4. Technology
  - To review ICT policies to ensure compliance across the company.
  - To review measures in place to protect Cybersecurity.
  - To review and monitor the measures in place to protect data privacy and compliance with the transfer of sensitive pupil information.



## 5. Conflict of Interest

- To ensure that Members, Directors / Chief Education Officers and officers are free from conflicts that compromise judgement.

## 6. Reporting on Impact and Value for Money

- To review the integrity of systems developed to measure impact and value for money the SEWEAS is having on local authorities, schools and children and young people.

## 7. Report to the board on how it has discharged its responsibilities

### MEMBERSHIP OF THE COMMITTEE

The committee consists of two non-executive members from each of the five local authorities from the South East Wales Education (SEWC) region.

### CHAIRMANSHIP

The Chair of the Committee will be derived from a Local Authority that is not currently chairing the Joint Executive Group (JEG) and the EAS Company Board.

### ARRANGEMENTS

The Committee will meet once a quarter unless special meetings are called.

### QUORUM

The quorum shall be a member from at least 3 of the Councils.

### VOTING

Each member shall have one vote.

### **PATROL ADJUDICATION JOINT COMMITTEE**

The Committee provides resources to support the Independent Adjudicators and staff who comprise the Traffic Penalty Tribunal which deals with appeals in relation to Penalty Charge Notices for civil parking offences

(NOTE: The following is a summary of the functions, arrangements and committee responsibilities of the above body. The Joint Agreement between the Constituent Local Authorities sets out the arrangements in more detail.)

### FUNCTIONS OF THE COMMITTEE

- To appoint (re-appoint and dismiss) subject to the Lord Chancellor's consent (and that of the Lord Chief Justice as required) Adjudicators for the purposes of the Part 6 of the 2004 Act.
- To appoint a proper officer and deputy of the Committee

- To appoint (and terminate and accept the resignation of) a Lead Authority
- To provide or make arrangements for the provision of accommodation and administrative staff and facilities for the Adjudicators
- To determine after consultation with the relevant Participating Authority where the Adjudicators are to sit
- To commission and receive an annual report upon the Adjudication Service from the Adjudicators
- To make and publish an annual report to the Appropriate National Authority as appropriate on the discharge by the Adjudicators of their functions
- To defray all the expenses of the adjudication process and in particular expenses in relation to the remuneration of Adjudicators
- To establish and approve annual budgets and receive annual accounts and regular monitoring reports on associated expenditure
- To undertake such other functions as are reasonably incidental to the efficient operation of the adjudication process
- Such other associated functions as the Participating Authorities may lawfully arrange for the Committee to perform as they from time to time consider appropriate, provided that the Committee agrees to such associated functions

#### MEMBERSHIP OF THE COMMITTEE

The Joint Committee consists of one representative from each of the Constituent Authorities. If a representative is unable to attend the Participating Authority may be represented by a substitute duly appointed by that Authority.

#### QUORUM

The quorum shall be one twentieth of the numbers of the Participating Authorities representatives but in any event not less than three

#### CHAIR

The Joint Committee shall appoint a Chair on an annual basis

#### VOTING

Each representative (or if absent the named substitute) shall be entitled to one vote. In the case of equality of votes the Chair has a second or casting vote.

## **JOINT COMMITTEE FOR THE NATIONAL ADOPTION SERVICE AND FOSTER WALES**

(NOTE: the following is a summary of the functions, arrangements and committee responsibilities . The Joint Agreement between the 22 Constituent Local Authorities sets out the arrangements in more detail)

### **FUNCTIONS OF THE JOINT COMMITTEE**

- Providing leadership to set the direction for NAS and Foster Wales including strategic planning by agreeing priorities, targets and resourcing following engagement with partners and stakeholders as well as support to operational planning.
- Reviewing progress including analysis of performance data and service information from the regions and VAA's.
- Providing annual and mid-year reports each year for agreement by the Combined Governance Board, Joint Committee and submission to Welsh Ministers as well as to WLGA and ADSS-C where required.
- Providing specific functions nationally to support and enable NAS operations (currently as below)
  - Establishing and maintaining a website for the National Adoption Service for Wales
  - Management of the Adoption Register for Wales (under contract from Welsh Government)
  - Commissioning and contracting national contracts to support service delivery functions and support
  - Maintaining arrangements for service user engagement across Wales
  - Leadership, matrix management oversight, advice and support to regions and VAA's.
  - Promotion of best practice and a culture of continuous improvement throughout the NAS.
  - Securing appropriate resourcing through new / additional finance or re-profiling of existing as well as managing the central team allocation, grants and investment.
  - Strategic commissioning as necessary for the discharge of functions
  - Maintaining arrangements for national governance and allied sub / task & finish groups to engage stakeholders in carrying out the actions / work agreed by the Combined Governance Board
  - Promotion of adoption, including national PR and marketing and the provision of the 'face and voice' of adoption in Wales.
  - Stakeholder and relationship management including with allied services and organisations in Wales and UK, Ministers and Welsh Government.
- Providing specific functions nationally to support and enable Foster Wales operations (currently as below)
  - Establishing and maintaining a national website for Foster Wales
  - Commissioning and contracting national contracts to support service delivery functions and support
  - Leadership, matrix management oversight, advice and support to regions and LA's
  - Promotion of best practice and a culture of continuous improvement
  - Managing the central team allocation, grants and investment, enabling negotiations with funding bodies to secure ongoing resourcing.

- Maintaining arrangements for national governance and allied sub / task & finish groups to engage stakeholders in carrying out the actions / work agreed by the Lead Heads of Children's Services Group
- Promotion of Foster Wales, including national PR and marketing.
- Stakeholder and relationship management including with allied services and organisations in Wales and UK, Ministers and Welsh Government

## ARRANGEMENTS

The Joint Committee shall meet at least annually.

## MEMBERSHIP

The Joint committee consists of one voting member from each of the Constituent Local Authorities.

The Council may nominate one or more substitute members, subject to notification being given to the officer acting as Monitoring Officer to the Joint Committee before the start of the meeting. The member appointed as a substitute shall have voting rights where the member for whom they are substituting does not attend.

Any member of the Council who is not a member of the Joint Committee is entitled to attend the Joint Committee but he or she shall not be entitled to vote, shall not take part in the consideration or discussion of any business save by leave of the Chair and comments will be recorded only on the direction of the Chair.

## VOTING

Each voting member of the Joint Committee shall have one vote

## CHAIR

The Joint Committee shall appoint one of its voting members as Chair and one of its voting members as Vice Chair

## HOST AUTHORITY

The Council of the City of Cardiff will be the Host Authority

## APPENDIX 5 EXECUTIVE DECISION MAKING RULES

### INTRODUCTION

1. This Appendix sets out the Rules for Executive decision making referred to in paragraph 5.5.2 of the Constitution.
2. The formal delegation of powers to make Executive decisions is set out in paragraph 5.5 of the Constitution.
3. These rules set out the process for making decisions.

### WHO SHOULD MAKE THE DECISION?

4. Executive decisions can be made:
  - By Cabinet
  - By an Executive Member
  - By the Deputy Chief Executive or Strategic Directors or delegated to other officers
  - By Council if the decision is contrary to the Policy Framework (see paragraph 4.2.1 of the Constitution).
5. The formal powers delegated to Executive Members and officers to make decisions are set out specifically but not exclusively in the table at the end of this Appendix. Provided that a decision is within the formal powers of a decision maker it will be his or her judgement whether to make the decision or refer it higher. He or she will be accountable not just for the decision itself but also for why he or she chose to make the decision rather than refer it higher and may have to justify it to the Overview and Scrutiny Committee, Cabinet or to Council.
6. Executive Members, Deputy Chief Executive and Strategic Directors are expected to work together to develop mutually agreed understandings on the type and range of decisions that will be referred to the Executive Member for a decision. Categories of delegated executive member decisions (Category A ) and delegated decisions to Strategic Directors ( Categories B and C) are set out in the table at the end of this Appendix.

### DECISION MAKING BY CABINET

7. The procedure for Cabinet decision making is set out in the Constitution part 4 and is not repeated here.

### DECISION MAKING BY EXECUTIVE MEMBERS

8. Decisions by Executive Members can only be made on the basis of a written report from the Deputy Chief Executive or Strategic Directors with recommendations, that are in a format and includes the information required by the Proper Officer for such reports. The report shall make clear if it is exempt or confidential.
9. Notice of intention to make key decisions will be included in the Forward Work Programme referred to below unless the decision needs to be made too urgently for such inclusion.
10. If the Strategic Director does not accept the decision of the Executive Member, he or she may refer the matter to the Cabinet to make the decision. If such a referral is made, the decision of the Executive Member will not be effective and the decision making responsibility on that matter on that occasion shall be that of Cabinet whose decision shall be final (subject to the call in powers of the Council Overview and Scrutiny Committee).
11. The Leader, Chief Executive, Chief Financial Officer or Monitoring Officer may refer any Executive Member decision that has not been implemented to Cabinet for a decision. If such a referral is made, the decision shall not take effect until Cabinet have considered the matter.

A record shall be made of each Executive decision in a form and containing information required by the Proper Officer and the decision shall not be implemented until the challenge requirements set out in 5.12 of Part 5 have been met.

12. Non executive members will be notified of forthcoming executive decisions at least 5 clear working days before the decision is due to be made. During this period non executive members have the opportunity to submit comments to the relevant executive decision maker who can then consider them before making the decision. That decision (unless urgent) will not be implemented until a set period of 2 clear working days afterwards. During this latter period, a minimum of 2 members who have commented in the pre scrutiny period may challenge that decision where there are genuine and serious concerns about the decision taken.

### FORWARD WORK PROGRAMME

13. Strategic Directors shall forward to the Democratic Services Team a forward work programme setting out the key decisions expected to be taken within the next month. They may choose the frequency of updating.
14. The programme will be in a form and contain such information as the Proper Officer shall determine.

The Democratic Services Team will publish the programme and forward a copy to the members of the relevant Overview and Scrutiny Committee.

### DECISION MAKING BY STRATEGIC DIRECTORS

15. The categories of delegated decisions by Strategic Directors (Categories B & C) are set out in the Table at the end of this Appendix. The types of decisions that are key decisions may include some decisions by Strategic Directors or by other officers and notice of these key decisions by officers will also be included in the Forward Work Programme unless the decision needs to be made too urgently for such inclusion.

16. Category B decisions set out in the table at the end of this Appendix shall also be subject to the same process as executive member decisions (unless urgent) as set out in paragraph 12 above.
17. Category C decisions will be made available to members of the relevant overview & scrutiny committee after the decision has been taken. These decisions will not be subject to challenge.
18. If the Executive Member does not accept a decision of the Strategic Director he or she may refer the matter to the Cabinet whose decision is final (subject to call in by the Council Overview and Scrutiny Committee.)

#### **PARTNERSHIPS**

19. Where an Executive Member or a Strategic Director is attending a meeting of a decision making Partnership body listed in Appendix 19, the following rules apply in place of those set out above if the Partnership has a constitution approved by the Monitoring Officer on behalf of the Council and by all the Partners which is publicly available and sets out the terms of reference of the partnership and the rules requiring advance publication of agendas and reports and the publication of minutes.
20. A decision making Partnership body means a partnership body that is making decisions which would be reported to the Overview and Scrutiny Committee if made by the Council alone.
21. Executive Members and officers attending partnerships may participate in decisions and vote on matters being considered by the Partnerships including decisions that would normally amount to key decisions.
22. The Democratic Services Team will be nominated to receive all agendas, reports and minutes of partnerships with Constitutions and will publish these documents (unless exempt or confidential) and circulate them to members of the relevant Overview and Scrutiny Committee.
23. The rules in respect of the specific delegated powers granted by Cabinet on 5 July 2016 are that executive decisions made by the Leader at the Cardiff Capital Region City Deal Shadow Joint Committee will be reported back to Cabinet by the Chief Executive.

**TORFAEN COUNTY BOROUGH COUNCIL  
SCHEME OF DELEGATION – EXECUTIVE DECISION MAKING**

<b><u>CATEGORY A</u></b>	<b><u>CATEGORY B</u></b>	<b><u>CATEGORY C</u></b>
Decisions by Executive Members which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which are not subject to challenge before implementation and will be reported in due course in the relevant Overview & Scrutiny Committee
<b># These decisions must be made available for overview and scrutiny members to comment on 5 clear working days prior to the decision being made and subject to comments being made, may be challenged up to 2 clear working days following the date of decision.</b>		
<b>Key Decisions</b> All decisions identified as key decisions by Executive Members in the Forward Work Programme for the service area.	<b>Key Decisions</b> All decisions identified as key decisions by Strategic Directors in the Forward Work Programme for the service area.	
		<b>Staff</b> To approve the appointment & dismissal of staff in accordance with the Constitution and to include: Discipline & grievance procedures; Contractual progression through grades; Re-grading; Re-designation of posts; Honoraria; Flexible retirement Termination of employment; Health & Safety matters; changes to the staff structure
<b>Budget Provision</b> To approve budget provision for the portfolio area including variations to budgets in accordance with financial regulations and the Constitution.		<b>Expenditure</b> To commit & authorise expenditure within budget provisions including budget variations in accordance with Financial Regulations & the Constitution.
		<b>Tenders</b> To seek tenders offers or bids in accordance with Contract Standing Orders.
	<b>Contract Award</b> To award contracts (subject to tendering) not awarded on the basis of lowest price or most economically advantageous tender [£0 to £75,000]	<b>Contract Standing Orders Exemptions &amp; Contract Award</b> To award Contract Standing Orders exemptions and the associated contract (£0 to £150,000) and to award Contracts (subject to tendering) based on the lowest price or most economically advantageous tender (£0 to £150,000)
	<b>Contract Standing Orders Exemptions &amp; Contract Award</b> To award Contract Standing Orders exemptions and the associated contract (£150,001 to £2,000,000) and to award Contracts (subject to tendering) based on lowest price or most economically advantageous tender (£150,001 to £2,000,000)	
<b>Policies &amp; Strategies</b> To recommend policies & strategies to Cabinet & Council.		<b>Operational Policies &amp; Procedures</b> To adopt operational policies & procedures.
<b>Service Provision</b> To introduce / adjust / withdraw service provision within the portfolio.	<b>Service Objectives</b> To determine service objectives within operational & action plans consistent with the Council's corporate objectives & processes.	
<b>Performance Indicators &amp; Monitoring</b> To determine local performance indicators for services within the portfolio; To monitor performance management targets as set out in the Council's agreed performance management processes & to determine any actions arising.		
<b>Joint Arrangements</b> To arrange for delivery of services with other public bodies or through joint arrangements; To decide whether to enter into any non statutory partnership or compact arrangements or to take part in any non statutory forum arrangements subject to accordance with the Council's Policy Framework budget and Constitution.		
<b>Fees</b> To increase / decrease / introduce fees including: To set fees & charges for services within the portfolio; To determine subsidies or concessions within any charging or other Schemes; To determine circumstances in which payment or repayment of a grant may be waived.		

**TORFAEN COUNTY BOROUGH COUNCIL  
SCHEME OF DELEGATION – EXECUTIVE DECISION MAKING**

<b><u>CATEGORY A</u></b>	<b><u>CATEGORY B</u></b>	<b><u>CATEGORY C</u></b>
Decisions by Executive Members which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which are not subject to challenge before implementation and will be reported in due course in the relevant Overview & Scrutiny Committee
<b># These decisions must be made available for overview and scrutiny members to comment on 5 clear working days prior to the decision being made and subject to comments being made, may be challenged up to 2 clear working days following the date of decision.</b>		
	<b>Projects</b> To undertake projects.	
<b>Buildings and Land</b> To acquire or dispose of land with a capital value between £100,001 and £200,000. To acquire or grant leases and licences with a rental value between £100,001 and £200,000 per annum (Executive Member for Resources).		<b>Buildings and Land</b> To declare buildings or land surplus to service requirements (All Strategic Directors for their respective areas). To acquire or dispose of land with a capital value up to £100,000 (Deputy Chief Executive, only). To acquire or grant leases and licences with a rental value up to £100,000 per annum (Deputy Chief Executive, Resources only).
	<b>Funding</b> To make applications or submit bids for funding or financial assistance in kind to any person or body.	
	<b>External Funding</b> To allocate external funding.	
	<b>Grants</b> To award grants.	
		<b>Public Consultation</b> To make arrangements for publicity & public consultation documents.
		<b>Feasibility Studies</b> To commission any feasibility or other study subject to available finance.
		<b>Observations</b> To provide observations to National & Local Government & other bodies on behalf of the Council.



## APPENDIX 6 EXECUTIVE PORTFOLIOS

**Leader of the Council** – Strategic Leadership

**Deputy Leader of the Council** – to include one of the portfolios below:

**Executive Member**, Economy, Skills & Regeneration

**Executive Member**, Corporate Governance & Resources

**Executive Member**, Children, Families & Education

**Executive Member**, Communities

**Executive Member**, Adult Services & Housing

**Executive Member**, Environment

**Executive Member**, Waste & Sustainability

## **Leader**

The Leader is responsible for any matters not within the responsibility of another Executive Member that is an Executive function.

The Leader of the Council also has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- All executive functions not within the remit of other Executive Members
- County Plan
- Wider Corporate & Strategic Activities
- Cross Cutting Policy & Strategy
- Cardiff Capital Region City Deal / Corporate Joint Committee
- Communication & Engagement
- Civil Contingencies
- Armed Forces Covenant
- Future Generations & Well-Being
- Inequalities Agenda
- Strategic Finance
- Financial Services

### **Reporting Strategic Directors:**

Chief Executive

Deputy Chief Executive

Strategic Director, Adults and Communities

### **Reporting Heads Of Service:**

Director – Corporate Services

Director – Financial Services

Head of PSSU

## **Deputy Leader**

The Deputy Leader will act on the Leader's behalf in his/her absence and will have a coordinating role with respect to all portfolios other than the Leader.

The Deputy Leader will be appointed one of the following portfolios at the annual meeting of the Council.

- Executive Member Children, Families & Education
- Executive Member Corporate Governance & Resources
- Executive Member Waste and Sustainability
- Executive Member Adult Services & Housing
- Executive Member Economy, Skills & Regeneration
- Executive Member Environment
- Executive Member Communities

## **Executive Member, Corporate Governance & Resources**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Administration & Business Support
- Democratic & Members Support
- Complaints & Freedom of Information (FOI)
- Performance Improvement (Policy Framework Document - Local Well-Being Plan)
- Electoral Registration
- Registrars
- Business Continuity
- Local Councils Partnership Committee
- Library & Information Services
- Community Safety
- Youth Offending Service
- Statutory Support for Welsh Language (Policy Framework Document - Welsh Language Scheme)
- Survey Design and Analysis
- Local Land & Property Gazetteer
- General Data Protection Regulations / Information Governance
- Council's Equality Plan (Policy Framework Document - Equality Improvement Framework for Wales)
- Programme Delivery & Performance (Project Management Office (PMO) & County Plan)
- Customer Services
- ICT and Digital
- SRS Client Relationship
- Internal Audit
- Procurement
- Human Resources
- Legal
- Revenue & Benefits
- Archives

### **Reporting Strategic Directors:**

Chief Executive

Deputy Chief Executive

Strategic Director Adults and Communities

### **Reporting Heads of Service:**

Director – Corporate Services

Director – Financial Services

Head of PSSU

Head of Programme Delivery

Head of Customer, ICT and Digital

Monitoring Officer

Head of Human Resources

Head of Revenue, Benefits

Head of Audit & Procurement

Head of Pensions & Investments

Head of Legal Services

## **Executive Member, Children, Families & Education**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

This portfolio also includes the statutory responsibility to act as Lead Member for Children and Young People

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Safeguarding & Equalities in Schools
- Additional Learning Needs for Pupils
- Schools' Finance
- Forward Planning, Capital & Access to School Places
- Early Years Education
- Pupil Attendance
- Healthy Schools
- School Improvement
- Commission of the Education Achievement Service
- County Youth Forum & Children and Young People's National Participation Standards
- Schools Catering & Cleaning
- Commissioning of Social Care Services
- Youth Engagement & Progression (including NEETS)
- Children & Families Social Care
- Safeguarding \* (Policy Framework Document - Corporate Safeguarding Policy)
- Support Services (Including Young Carers, Looked After Children & Care Leavers)
- Specialist Occupational Therapy Assessments
- Foster Care
- Children's Rights / Citizenship for Children and Young People
- Play Service
- Youth Service
- Early Intervention & Prevention (service focus)

### **Reporting Strategic Directors:**

Strategic Director, Children & Family Services

### **Reporting Heads Of Service:**

Director of Education

Head of Resources & Planning

Head of ALN, Inclusion & Wellbeing

Head of Learning

Head of Children & Family Services

## **Executive Member, Adult Services & Housing**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Adult Social Care & Housing
- Community Based Reablement
- Health, Social Care & Housing Partnerships
- Hospital Discharges
- Adaptations
- Mental Health Professional Services
- Adult Protection Referrals
- Supporting People
- Common Housing Register
- Homelessness Prevention
- Local Housing Strategy

### **Reporting Strategic Directors:**

Strategic Director, Adults and Communities

### **Reporting Heads of Service:**

Head of Adult Services

Head of PSSU

## **Executive Member, Communities**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Community Cohesion and Resilience Strategy
- Resettlement of Refugees
- Leisure & Sports Development
- Commission of the Leisure Trust
- Torfaen Local Authority Partnership Agreement (LAPA)
- Community Services
- Volunteering
- Public Service Board – Wellbeing Plan
- Major Third Sector Grants Programme
- Welsh Church Fund in Torfaen
- Personal And Community Resilience
- Community Halls
- Greenmeadow Farm
- Community Sector
- Early Intervention & Prevention (Community Focus)

### **Reporting Strategic Directors:**

Strategic Director, Adults and Communities

### **Reporting Heads of Service:**

Head of Communities & Renewal

Head of PSSU

## **Executive Member, Economy, Skills & Regeneration**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Deputise for the Leader on City Deal
- Regeneration Projects and Programmes
- Economy & Enterprise Strategy
- Marketing Torfaen
- Business Incubation, Business Support & Advice
- Pontypool Indoor Market
- Blaenavon World Heritage Centre / Library
- Arts & Culture
- Skills
- Employability Services
- Adult Community Learning
- External Funding
- Blaenavon Partnership / Local Authority World Heritage Forum (LAWHF)
- Placemaking Plans across the County Borough
- Development Control & Planning Enforcement
- Building Control
- Forward Planning & Planning Policy Including Local Development Plan
- Planning Guidance
- Asset management

### **Reporting Strategic Directors:**

Strategic Director, Economy & Environment  
Strategic Director Adults and Communities

### **Reporting Heads of Service:**

Head of Economic Development, Assets & Property  
Head of Planning & Development  
Head of Communities and Renewal



## **Executive Member, Environment**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Greenspace Management & Cleansing Operations Including Upland Commons,
- Formal Parks, Local Nature Reserves, Allotments, Leased Sports Grounds & Formal
- Play Areas
- Countryside / Ecology
- Environmental & Recreational Improvement Schemes
- Public Rights of Way & Cycle Routes
- Cemeteries & Bereavement Services
- Property Maintenance, Management & Construction
- Highway Development Control & Maintenance
- Highways, Traffic & Engineering
- Integrated Transport Unit (Including Schools, Social Care, Commercial & Public)
- Local Transport Plan
- Food, Health and Safety
- Licensing
- Trading Standards
- Public Protection

### **Reporting Strategic Directors:**

Strategic Director, Economy & Environment

### **Reporting Heads of Service:**

Deputy Director Highways, Transport & Climate Change

Head of Public Protection

Head of Recycling & Environment

Head of Economic Development, Assets and Property

## **Executive Member, Waste and Sustainability**

This Executive Member has the strategic oversight and direction of the following policy and operational areas and the lead role on the following strategies:

- Waste Management & Recycling
- Raise the Rate
- Climate & Nature Emergency
- Decarbonisation of the Torfaen Estate and Fleet
- Net Zero
- Energy
- Food resilience programme

### **Reporting Strategic Directors:**

Strategic Director, Economy & Environment

### **Reporting Heads of Service:**

Deputy Director Highways, Transport & Climate Change

Head of Recycling & Environment

**All portfolios will also include the following roles and responsibilities**

<p>The portfolio holder is required to consider the following when discharging the functions set out above:</p> <p>Equalities / Diversity / Planning for Future Generations.</p> <p>They are also required to promote the following when discharging the functions set out above:</p> <ul style="list-style-type: none"><li>• The effective democratic functioning of the Council in a manner that secures the rights of Councillors and the public under this Constitution.</li><li>• The involvement of the public and organisations within the Borough in decisions that affect them.</li><li>• Social inclusion and sustainable and cohesive communities.</li><li>• Partnerships and good relationships between individuals, organisations and communities within the Borough.</li></ul>
<p>They are also required to:</p> <ul style="list-style-type: none"><li>• Witness the sealing of documents which confers the Freedom of the Borough on behalf of the Council.</li><li>• Attend such functions as the council and he / she determines appropriate.</li></ul>
<p>The portfolio holder is accountable to:</p> <p>Council in all matters / Cabinet / relevant Overview and Scrutiny Committees.</p>
<p>They are responsible for the performance of:</p> <p>Deputy Chief Executive and Strategic Directors for those functions set out above.</p>

**APPENDIX 7 ALLOCATION OF MISCELLANEOUS FUNCTIONS**

	<b>Function</b>	<b>Decision Making Body</b>
1.	Power to create footpaths and bridleways	Officers or Cabinet/relevant Executive Member
2.	Power to stop up footpaths and bridleways	Officers or Cabinet/relevant Executive Member
3.	Power to divert footpaths and bridleways	Officers or Cabinet/relevant Executive Member
4.	Duty to assert and protect the rights of the public to use and enjoyment of highways	Officers
5.	Powers relating to the removal of things so deposited on highways as to be a nuisance	Officers
6.	Duty to keep a definitive map and statement under review	Officers
7.	Duty to reclassify roads used as public paths	Officers
8.	Duty to approve authority's statement of accounts and expenditure and balance sheet or record of receipts and payments (as the case may be)	Council
9.	Functions relating to sea fisheries	Officers
10.	Powers relating to the preservation of trees	Officers or Planning Committee
11.	Powers relating to the protection of important hedgerows	Officers or Planning Committee
12.	Power to make limestone pavement order	Officers
13.	Power to make standing orders	Council
14.	Power to appoint staff	See Section 11 (Officers)
15.	Power to make standing orders as to contracts	Council
16.	Power to consider adverse reports from the Local Commissioner	Council
17.	Power to make an order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption	Licensing Panels

18.	Powers in respect of registration of Motor Salvage Operators	General Licensing Committee and Officers
19.	Power to appoint officers to a Particular Purpose, Appointment of Proper Officers	Council and the Chief Executive
20.	Duty to designate an officer as the head of the authority's paid service and to provide staff etc	Council
21.	Duty to designate an officer as the monitoring officer and to provide staff etc	Council
22.	Duty to determine Affordable Borrowing Limit	Council
23.	Approval of Annual Investment Strategy in accordance with Guidance	Council
24.	Duty to make arrangements for proper administration of financial affairs	Chief Financial Officer

**APPENDIX 8      ALLOCATION OF LOCAL CHOICE FUNCTIONS**

	<b>Function</b>	<b>Decision Making Body</b>
1	Any function under a local Act other than a function specified or referred to in Schedule 1.	No local Acts in force
2	The determination of an appeal against any decision made by or on behalf of the authority.	The Appeals Committees identified in Section 9 in relation to matters within their terms of reference. Officers for other matters.
3	Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeal against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000(1).	
4	The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (appeals against exclusions of pupils).	Strategic Director Education, in consultation with the Monitoring Officer.
5	The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the School Standards Framework Act 1998 (admission appeals).	Strategic Director Education, in consultation with the Monitoring Officer.
6	The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).	Strategic Director Education, in consultation with the Monitoring Officer.
7	The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996[56] for enabling questions to be put on the discharge of the functions of a police authority.	Cabinet
8	The making of appointments under paragraphs 2 to 4 (appointments of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council

	<b>Function</b>	<b>Decision Making Body</b>
9	The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999[57].	Strategic Directors and the Cabinet /relevant Executive Members in consultation with the relevant Overview and Scrutiny Committees.
10	Any function relating to contaminated land [3].	Strategic Director Neighbourhoods, Planning & Public Protection Service and the Planning Committee.
11	The discharge of any function relating to the control of pollution or the management of air quality [1].	Strategic Director Neighbourhoods, Planning & Public Protection Service and the Planning Committee.
12	The service of an abatement notice in respect of a statutory nuisance[2].	Officers
13	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area[3].	Cabinet
14	The inspection of the authority's area to detect any statutory nuisance[4].	Officers
15	The investigation of any complaint as to the existence of a statutory nuisance[.].	Officers
16	The obtaining of information under section 330 of the Town and County Planning Act 1990[5] as to the interests in land.	Officers
17	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976[6].	Officers
18	The making of agreements for the execution of highways works [7].	Strategic Director Neighbourhoods, Planning & Public Protection Service, in consultation where appropriate with Executive Members

	<b>Function</b>	<b>Decision Making Body</b>
19	<p>The appointments of any individual</p> <p>a) to any office other than an office in which he is employed by the authority;</p> <p>b) to any body other than –</p> <p style="padding-left: 40px;">i) the authority;</p> <p style="padding-left: 40px;">ii) a joint committee of two or more authorities; or</p> <p>c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.</p>	<p>Appointments to be made at the Annual Council and thereafter appointments to be made by the Leader and Chief Executive.</p>
20	<p>Power to make payments or provide other benefits in cases of maladministration etc[8].</p>	<p>Officers and the Council where adverse reports are received.</p>
21	<p>The discharge of any function by an authority acting as a harbour authority.</p>	<p>Officers</p>
22	<p>Functions in respect of the calculation of council tax base in accordance with any of the following :-</p> <p>(a) the determination of an item for T in section 33(1) and 44(1) of the Local Government Finance Act 1992;</p> <p>(b) the determination of an amount for item TP in Sections 34(3), 45(3), 48(3) and 48(4) of the Local Government Finance Act 1992;</p> <p>(c) the determination of an amount required for determining an amount for the item mentioned in para (a) or (b) above.</p>	<p>Cabinet</p>



	<b>Function</b>	<b>Decision Making Body</b>
23	<p>Functions in respect of gambling in accordance with any of the following:-</p> <p>(a) a resolution not to issue casino licences in accordance with section 166 of the Gambling Act 2005 (c19);</p> <p>(b) prescribing of fees in accordance with section 212 of the Gambling Act 2005;</p> <p>(c) Making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005;</p> <p>(d) Authorised persons in accordance with section 204 of the Gambling Act 2005;</p> <p>(e) Prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005;</p> <p>(f) Three-year licensing policy in accordance with section 349 of the Gambling Act 2005;</p>	<p>Council</p> <p>Strategic Director Neighbourhoods, Planning &amp; Public Protection Service</p> <p>Statutory Licensing Committee</p> <p>Strategic Director Neighbourhoods, Planning &amp; Public Protection Service</p> <p>Strategic Director Neighbourhoods, Planning &amp; Public Protection Service</p> <p>Council</p>

## APPENDIX 9 SCHEME OF DELEGATION FOR PLANNING MATTERS

1. Elected Members will be consulted:

- a) on all applications through the distribution of the weekly planning list by email;
- b) on specific applications in their ward and given 21 days in which to comment, including requesting that the application be determined by the Planning Committee for valid planning reasons.

2. All matters which are delegated to the Planning Committee under this constitution are delegated to the Strategic Director, Economy and Environment or the Head of Planning and Development as set out in the following paragraph.

3. The functions set out in:

- Part A of Schedule 1, Function 29 “Power relating to footpaths and bridleways” of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended from time to time); together with
- Part C of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended from time to time) relating to health and safety at work; together with
- local choice of functions in Schedule 2 of those Regulations which are listed in column 1 of Appendix 8 where the Committee appears in column 2

are delegated to the Strategic Director, Economy and Environment unless the Strategic Director, Economy and Environment considers that any matter should be considered by the Planning Committee.

The functions set out in:

- Part A of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended from time to time) relating to town and country planning and development control; together with the
- Miscellaneous functions set out in Part 1 of those Regulations which are listed in column 1 of Appendix 7 where the Committee appears in column 2

are delegated to the Head of Planning and Development unless:

- a) in accordance with the Council’s protocol, an Elected Member makes a written request for the application to be considered by the Planning Committee giving valid planning reasons;
- b) the Head of Planning and Development considers that the application should be considered by the Planning Committee;
- c) approval of the application would represent a significant departure from policies contained within the approved statutory development plan;
- d) Torfaen County Borough Council is the applicant and the scheme is not of a ‘minor’ nature in the opinion of the Head of Planning and Development (or his/her nominated representative);
- e) the applicant is an Elected Member of Torfaen County Borough Council or a person with whom the application lives;
- f) the applicant is a member of staff within the Planning Service or a person with whom the applicant lives;

- g) the applicant is the Chief Executive, Strategic Director, or any member of staff within the authority or a person with whom the applicant lives who in the opinion of the Monitoring Officer could be seen as having a direct input to and therefore influence on an application decision;
  - h) where recommended for approval, the application is for major development and there are valid planning objections to the application. [*Note: major development is defined in the Town and Country Planning (Development Management Procedure) (Wales) (Order) 2012 as follows:*
    - i The winning and working of minerals, or the use of land for mineral working deposits;*
    - ii Waste development*
    - iii Residential development of 10 or more units or, where not know, the site area is 0.5 hectares or more;*
    - iv Building(s) with the floor pace to be created is 1000 square metres or more;*
    - v Development on a site of 1 hectare or more.]*
  - i) where recommended for approval, applications for a telecommunications mast;
  - j) Consultations from local planning authorities, statutory bodies and agencies which, in the opinion of the Head of Planning and Development (or his nominated representative) would potentially have a significant impact on the County Borough.
4. The Chair of the Planning Committee will only be consulted on delegated matters where:
- a) he/she specifically asks to be consulted;
  - b) in the view of the Head of Planning and Development (or his/her nominated representative) or the Strategic Director, Economy and Environment (or his/her nominated representative) there are issues that need to be brought to the attention of the Chair prior to a decision being made.
5. Any decision delegated to the Strategic Director, Economy and Environment or the Head of Planning and Development shall be taken in accordance with an officer scheme of delegation approved by the Strategic Director Economy and Environment or the Head of Planning and Development from time to time and reported to Planning Committee for noting so there is clarity and openness in those exercising delegated decision making.

## APPENDIX 10 THE SCHEME OF DELEGATION FOR LICENSING MATTERS

The determination of all matters (including fee setting, applications renewals and reviews of licences) within the terms of reference of the appropriate Licensing Committees is delegated to Officers with the following exceptions:

- Approving any policy including enforcement policy, excluding policies required to be approved by Council of the Gambling Act 2005 and the Licensing Act 2003.
- Any matters (including Licensing Applications) which the Licensing Committees have reserved to itself.
- Where the Chair of the Committee (or in his or her absence the Chair elected by the Committee) considers that a matter should be determined by the Committee or the Strategic Director of the Neighbourhoods, Planning and Public Protection Service (or his nominated representative) considers the application should be considered by the full Committee.
- Where a matter is referred to a Licensing Committee by the Chief Executive or Monitoring Officer following a decision of a Licensing Panel under paragraph 7.10.3 of the Constitution.
- Such other matters as may from time to time under statute or practice fall to be considered by the Council in a quasi-judicial manner, other than employment appeals or grievances in so far as they are not governed by the Licensing Act 2003 and/or the Gambling Act 2005 or delegated separately under the Council's Constitution.

### **MATTERS TO BE DETERMINED BY THE STATUTORY LICENSING PANELS**

To discharge the functions of the Statutory Licensing Committee as required by the Licensing Act 2003 and the Gambling Act 2005 to authorise, approve or determine any enforcement matters under the Acts. This includes but is not limited to:

#### **Licensing Act 2003**

- Application for a new or renewal of a personal alcohol licence with unspent convictions and there is a Police objection
- Application for a premises licence/club premises certificate if a relevant representation is made and not withdrawn
- Application for a provisional statement if a relevant representation is made and not withdrawn
- Application to vary premises licence/club premises certificate if a relevant representation is made and not withdrawn (excludes minor variations under the Licensing Act 2003)
- Application to vary a designated premises supervisor if a Police objection is made
- Application for transfer of a premises licence (Licensing Act 2003) where there is a Police objection

- Application for interim authorities if there is a Police objection.
- Any application to review premises licence/club premises certificate
- Determination of a police objection to any temporary event notice

### **Gambling Act 2005**

- Application for a premises licence if a relevant representation is made and not withdrawn
- Application for a provisional statement if a relevant representation is made and not withdrawn
- Application to vary premises licence if a relevant representation is made and not withdrawn
- Any application to review premises licence
- Application for the transfer of a premises licence (Gambling Act 2005) where there is an objection from a responsible authority or the Gambling Commission
- Application for a club gaming/club machine permit where representations have been made and not withdrawn
- Cancellation of a Club gaming/club machine permit

### **MATTERS TO BE CONSIDERED BY THE GENERAL LICENSING PANELS**

To Discharge on behalf of the Council all matters relating to the grant, refusal, issue, revocation, cancellation and suspension of licences or permits and without prejudice to the generally of the foregoing to discharge these functions in respect of:

- Private Hire Operators
- Private Hire and Hackney Carriage Drivers
- Private Hire Vehicles
- Hackney Carriage Vehicles including setting tariffs
- Hypnotism
- Lottery Registrations
- Street Collections
- House to House Collections
- Street Trading
- Sex Shops and Sexual Entertainment Venues
- Burials in Public Cemeteries
- Reservoirs
- Dangerous Wild Animals
- Animal Boarding Establishments
- Guard Dogs
- Acupuncture/Cosmetic/Piercing/Electrolysis/Tattooing/Semi Permanent Skin Colouring

- Performing Animals
- Pet Shops
- Zoos
- Camping Sites
- Caravan Sites
- Pleasure Boats
- Filling Materials
- Riding Establishments
- Charities for Disabled Persons and War Charities
- Explosives
- Fireworks
- Petroleum
- Marriage and Civil Partnerships
- Those matters that are set out in Part B of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 in so far as they are governed by the Licensing Act 2003 and/or the Gambling Act 2005 or delegated separately under the Council's Constitution.

### **MATTERS TO BE DETERMINED BY EITHER LICENSING PANELS**

- Applications or renewals or reviews of licences, permits, consents and registrations where there are representations or objections from third party consultees or relevant unspent convictions.
- Any decision to object when the Council is a consultee and not the relevant authority considering the application.
- Where a Councillor makes a written request for the application to be determined by a Panel giving valid licensing reasons; or the Strategic Director of the Neighbourhoods, Planning and Public Protection Service (or his nominated representative) considers any matter should be considered by a Panel.
- Where the proposal involves the County Borough Council either as applicant or land owner and the scheme is not of a minor nature and/or is subject to objections which are of material weight in the assessment of the application.
- Where the applicant is a Councillor of Torfaen County Borough Council, a member of staff within the Planning and Public Protection Service, a member of the Council's Management Team, or service head or any member of staff within the Authority who could be seen as having a direct input to and therefore influence an application decision.
- Where approval of the application would represent a significant departure from the Licensing Policy of the Council or other published policy.
- Where any licensing consent or registration function is delegated to officers, the Licensing Committee shall hear appeals against officer decisions, unless there is a right of appeal direct to the courts.

## VISIT REQUEST GUIDELINES

- 1 Any Member requesting a site visit must be able to demonstrate that there is at least an aspect of the proposed development which needs to be clarified on site - or that a site visit is necessary to gain a better understanding and appreciation of the likely impact of the proposed development. Any request for a site meeting **must** be made in writing (and the request explain the justification) to the Strategic Director Neighbourhoods, Planning and Public Protection Service (via Members' Services) **at least one clear working day** before the Committee meeting to which the original report is submitted, so that the request can be properly considered. A pro forma will be issued to Members for this purpose.
- 2 A site visit may be justified in the following circumstances:
  - a) where the proposal is likely to have a major visual impact which could only be fully appreciated on site;
  - b) where the likely impact of the proposed development on adjoining development is such that it can only be fully appreciated on site;
  - c) to gain a better understanding of policy issues against which the proposed development is to be judged;
  - d) where the proposed development is likely to have a major impact over a wide area; or
  - e) where there are significant objections to a proposed development which could only be fully taken into account by visiting the site (a large number of objections in itself is not sufficient justification).
- 3 The Strategic Director Neighbourhoods, Planning and Public Protection Service has delegated powers to agree a site visit. If the application is on the published agenda for the Planning Committee, he may withdraw that item from the agenda. Any objectors or applicants wishing to speak at the meeting will then be informed of the application being deferred pending a site visit.
- 4 A request for a site visit that is considered by the Planning Committee will only be accepted with a majority vote. Before a vote is taken the Chair will seek advice from the Strategic Director Neighbourhoods, Planning and Public Protection Service and indicate to the Committee whether he considers a site visit is justified. The reasons for the site visit will be minuted and site visits will, wherever possible, be arranged as a matter of urgency (in consultation with Members), so that the Committee at its following meeting can reconsider the application in question.
- 5 Provisional dates for site visits will be entered in the Corporate Diary and if they are not needed the visits will be cancelled.

## VISITING AND DECISION-MAKING PROCEDURES

- 1 A "Site Inspection Panel" will be established to include the Chair of the Planning Committee and three additional Members (who will not be Ward Members for the sites to be visited) selected on a rotational basis. As the site visit is only intended for information gathering purposes only, it will not be necessary for the Chair to attend all site visits if they are not available. Two further planning committee members will be invited in their place.
- 2 The local Ward Members will be invited to attend site inspection panel meetings and, although they will not be members of the panel, they can nevertheless make representations to the panel on site if they so wish.
- 3 Appropriate officers will attend to outline the application proposals and issues and to answer questions.
- 4 The applicant, objectors and any other interested parties will not be invited to the meeting, and will not therefore be able to participate or lobby.
- 5 If the panel requires access to the site the permission of the owner will need to be obtained beforehand but he/she will not be permitted to participate.
- 6 The purpose of the site visit will be to view the site, its relationship to the surroundings and to clarify points of fact. Discussions between Members on matters affecting the merits of the proposals will inevitably take place on site, but will be of an informal nature only as the meeting itself will be informal and will not have decision-making powers.
- 7 Notes will be taken of the site visit (by the Democratic Services Officer) and a brief summary of the facts established reported to the following meeting of the Planning Committee, along with the original report and recommendation. The notes will also give a flavour of the discussion which takes place at the site visit.
- 8 The final decision will then be taken at the Planning Committee, taking account of the information contained in the notes of the site inspection panel.
- 9 Third parties will be allowed to address the full Planning Committee in the Council Chamber in accordance with the procedures adopted by the Cabinet on 13 November 2001.



## APPENDIX 12 THIRD PARTY SPEAKING RIGHTS AT MEETINGS OF THE PLANNING COMMITTEE

### CONTEXT

- 1.1 The procedures outlined below comprise the process for allowing third parties to address the Planning Committee in respect of planning applications.
- 1.2 It is suggested that the procedures be reviewed on a regular basis to allow Members and Officers to reflect on their effectiveness and to recommend any changes that could improve the process.

### PROCESS

- 2.1 Planning Committees are held as hybrid meetings. Members of the public will be entitled to speak on any planning application that appears on the agenda of the Planning Committee either in person or online. However, there will be certain exceptions to this rule including applications for “Lawful Development Certificates” and any item which is for information only.
- 2.2 Should an application be deferred for a site meeting after speakers have addressed the Committee, when the application is reconsidered speakers will not be entitled to speak again at the Committee meeting, although the views that they have expressed will be taken into account.
- 2.3 If an application is deferred for amendment or further information, speakers will be invited to address the Committee at the next appropriate meeting. However, they will be asked to limit their comments to the changes to the application rather than repeat previous observations.

### WHO IS ENTITLED TO SPEAK

- 3.1 **Objectors:** Objectors should express their objections to a particular application in writing to the Planning Section as part of the planning application process. They should notify the Democratic Services Section of their intention to speak two working days before the start of the Committee, e.g. by 10.00am on the Monday preceding Committee on the Wednesday.
- 3.2 **Supporters:** Supporters (other than the applicant or their nominated agent) who have expressed their support for a particular application in writing to the Planning Section as part of the planning application process. They should notify the Democratic Services Section of their intention to speak two working days before the start of Planning Committee, e.g. by 10:00am on the Monday preceding Planning Committee on the Wednesday.
- 3.3 **Community/Town Council Representatives:** Should the Community/Town Council make representations on an application within its boundaries, then a representative may address the Planning Committee. Community/Town Councils should also inform the Democratic Services Section of their intention to speak two working days before the date of the Planning Committee.
- 3.4 **Ward Councillors who are not members of the Planning Committee:** Councillors who are members of the Committee are entitled to speak on any planning application

and may influence the decision. Councillors who are not members of the Committee should be given the right to address the Committee on a planning application within their own ward. The Ward Councillor would be required to notify the Chair of their desire to speak.

- 3.5 **Applicants or their Nominated Agent:** The applicant or nominated agent (the agent identified on the application details) is entitled to speak if objectors, Ward Councillors or the Community/Town Council exercise their right to address the Planning Committee. This entitlement allows the applicant to refute the oral objections made. Applicants may not address the Committee if there are no objectors to the application, or if there are objectors who do not wish to address the Committee.

## **HOW THE PROCESS WILL WORK PRIOR TO PLANNING COMMITTEE**

- 4.1 Planning Applications are publicised by either advertisement, site notice, letter or a combination depending on the type and scale of the application. Anyone making representations will receive an acknowledgement letter advising them of public speaking rights and online guidance.
- 4.2 The applicant will be informed if there are speakers to enable them to prepare to answer any objectors at the next Planning Committee.
- 4.3 The onus is placed on the Community/Town Councils and objectors and supporters to inform the Authority of their wish to speak at the Committee Meeting whether in person or on line. A person or representative will not be permitted to speak at the Committee if they do not give the Council two working days' notice. Therefore, the initial publicity for the planning application has to be sent out giving all parties a reasonable notice period, e.g. at least 21 days prior to the application being considered by the Planning Committee.
- 4.4 It is the responsibility of Objectors/Supporters to find out when a particular application is to be determined by the Planning Committee. A full list of Committee dates is available on the Council's website or by contacting the Council's Democratic Services Section.
- 4.5 Every effort will be made to inform the applicant if anyone who has made representations take up their right to address the Planning Committee. The Democratic Services Section will inform them (either in writing or by telephone, depending on time constraints) that they may attend the Committee, should they wish to reply to any of the comments made. Applicants will be able to attend the Committee as observers even if there are no objectors to their application.
- 4.6 Prior to the meeting, the Head of Planning and Development will be provided with a list of persons wishing to speak, who they are representing (if applicable) and on which application they wish to speak, by an officer from Democratic Services.

## **HOW THE PROCESS WILL WORK DURING THE PLANNING COMMITTEE**

- 6.1 The order of business on each application will be:
- Planning Officer introduces the application;
  - The Chair calls upon the objectors to speak;

- The Chair calls upon supporters to speak;
- The Chair calls upon the Community/Town representatives to speak;
- The Ward Councillor is invited to speak;
- The applicant or agent responds to the comments made;
- Officers comment on the remarks made if necessary;
- Debate by Members, with officers comments and answers to question;
- Decision.

## **TIME ALLOWED FOR SPEAKERS**

- 6.1 Each category of speaker is allowed to speak for up to five minutes. Each objector/supporter is entitled to speak, but only if there are three or less objectors. If there are more than three objectors to an application, then a nominated spokesperson will be entitled to speak on their behalf. The spokesperson will be entitled to speak for up to ten minutes. A committee room will be available, if required, prior to the Committee meeting for both objectors and supporters (separately) to discuss their concerns and nominate a spokesperson. Objectors/supporters will be advised of this prior to the meeting.
- 6.2 The time limits for each speaker will be closely monitored and adhered to.
- 6.3 Speakers can use media (i.e. an overhead projector or a lap top projector) or other material to aid their presentation during the Planning Committee but only if they have advised the Democratic Services Officer no less than 10am the day before the meeting commences and have provided a copy of any presentation needing to be loaded on to a laptop by this deadline. If a speaker wishes, a copy of their presentation or any written submissions can be included with the minutes of the meeting.
- 6.4 The right to use media or other material is subject to:-
- The media or other material not containing new points that are not referred to within their previous written comments;
  - All media or other material to be used must be submitted to the Democratic Services Officer prior to the committee meeting to allow Planning Officers to carry out a check of content.
  - The Chair of Planning Committee has an absolute discretion to disallow media or material on a case by case basis.
  - Speakers should also be aware that any media or material which contains personal or sensitive information relating to them will be asked to give written consent to its use at Planning Committee, if consent is not provided the media or material supplied will not be permitted to be used at the meeting. Additionally, if media or material contains personal or sensitive information relating to third parties it will not be permitted to be used at the meeting.
- 6.5 The Chair will have the discretion to extend or curtail the speaking arrangements in exceptional circumstances. For instance, if an application is particularly controversial. This would happen on rare occasions only.
- 6.6 The members of the Committee will not be allowed to directly question the objectors, Community/Town Council representatives, the Ward Councillor or the applicant. The

Chair will clarify points on behalf of the Committee.

- 6.7 Objectors, supporters, Community/Town Council representatives, the Ward Councillor or the applicant may not speak directly to any member of the Committee during the meeting.
- 6.8 In very clear extenuating circumstances when the objector cannot attend at the last minute, a statement can be read out by the Democratic Services Officer.

#### **FOLLOWING THE DECISION**

- 7.1 Following the decision, a copy of the decision notice, webcast of the meeting and the minutes of the meeting will be available on the Council's website.

<b>APPENDIX 13 PROCEDURES FOR LICENSING PANELS AND COMMITTEES</b>
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**The procedure to be followed at meetings of Licensing Panels and at meetings of the Licensing Committees when conducting a hearing.**

### **PUBLIC HEARINGS**

- 1.1 All meetings of Licensing Panels and the Licensing Committees when conducting a hearing shall take place in public subject to paragraphs 1.2 and 1.3.
- 1.2 Material may be withheld from the public in advance of the hearing and at the hearing if the Proper Officer considers that the public interest in withholding the material outweighs the public interest in providing it.
- 1.3 A Licensing Panel or Licensing Committees may exclude the public from all or part of the hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
- 1.4 For the avoidance of doubt, a party and a person assisting or representing a party may be treated as a member of the public and therefore may be excluded from all or part of the hearing where the public interest in excluding that person outweighs the public interest in permitting them to attend the hearing.

### **RIGHT OF ATTENDANCE, ASSISTANCE AND REPRESENTATION**

- 2.1 Subject to the provisions of paragraph 1 (under which members of the public including their representatives may be excluded) and the rules below on disruptive behaviour, any party may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.

### **PROCEDURE AT THE HEARING**

- 3.1 The procedure at the hearing shall be at the discretion of the Chair of the Panel or Committee considering the matter.
- 3.2 At the beginning of the hearing, the Chair shall explain to the parties the procedure which he/she proposes to follow at the hearing and shall consider any request made by a party for permission for another person to appear at the hearing. That permission shall not be unreasonably withheld.
- 3.3 The hearing shall take the form of a discussion led by the Panel and its legal adviser and no cross-examination shall be permitted unless the Panel or Committee considers cross-examination is required in order for it to consider the representations, application or notice as the case may require.
- 3.4 The Chair of the Panel must allow the parties an equal maximum period of time in which to exercise their rights to make representations, question another party and provide supporting information.

- 3.5 The Panel or Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or permit them to return only on such conditions as the Panel may specify. Any person excluded from the hearing under this rule may submit to the Panel or Committee in writing any information which they would have been entitled to give orally had they not been required to leave.
- 3.6 Where the Council has given notice to a party that it will want clarification of particular points at the hearing, a party attending the hearing shall be entitled to give that further information in support of their application.
- 3.7 At the hearing a party may be permitted to question any other party at the hearing at the discretion of the Chair of the hearing.
- 3.8 At the hearing, any party attending will be entitled to address the Panel or Committee.
- 3.9 Members of the Panel or the Committee shall be given an opportunity to question any party or other person appearing at the hearing.
- 3.10 The Panel or Committee may take into account documentary or other information produced by a party in support of their application or representations or notice provided either before the hearing or with the consent of all the other parties at the hearing.

#### **FAILURE TO ATTEND THE HEARING**

- 4.1 If any party has informed the Authority that they do not intend to attend the hearing or to be represented at the hearing, the hearing may proceed in his/her absence.
- 4.2 If any party fails to attend or be represented at the hearing the Panel or Committee may adjourn the hearing to a specified date if it considers this to be in the public interest, or hold the hearing in the party's absence.
- 4.3 If the Panel or Committee continues to have a hearing in the absence of a party, they shall take into account representations or notice provided in advance by that party.

#### **DECISION**

- 5.1 Where required by law and in other cases where this is possible, the Panel or Committee will make its decision at the conclusion of the hearing. In other cases will do so within a period of 5 working days beginning with the last day on which the hearing was held.
- 5.2 Notification of the decision will be given to the parties within the timescale provided for in the Act or in other cases immediately on the making of a decision.

#### **RECORD OF PROCEEDINGS**

- 6.1 Proceedings of a Panel and Committee shall be recorded in permanent form.
- 6.2 The record of the hearing shall be approved by the Proper Officer or her or his representative on behalf of the Panel.

## **QUORUM**

- 7.1 The quorum of a Panel holding a hearing shall be two members. In the case of an equality of votes, the Chair of the Panel shall have a second and casting vote.

## **PROCEDURE FOR DEALING WITH ALLEGATIONS MADE AGAINST COUNCILLORS AND REFERRED TO THE ETHICS AND STANDARDS COMMITTEE**

### **INTRODUCTION**

1. The process used by the Ethics and Standards Committee for dealing with matters relating to the conduct of councillors should be the same for all councillors, no matter what political party they represent or what level of local government they represent. This document sets out the procedure that the Council's Ethics and Standards Committee will follow where it is called to make decisions about the conduct of members of the local authorities for which it is responsible.
2. The decisions, which the Ethics and Standards Committee may make, and the actions it may take are governed by legislation and if there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

### **INTERPRETATION**

3. In this document certain words and phrases have the meanings hereby ascribed to them as set out in the Schedule unless the context otherwise requires

### **BACKGROUND**

4. Under section 69 of the Local Government Act 2000 the Public Services Ombudsman (the Public Services Ombudsman) may investigate any alleged breach by members or co-opted members (or former members or co-opted members) of the code of conduct of the Council or one of the Community Councils in the area of the Council.
5. Where the Public Services Ombudsman ceases such an investigation into allegations that a councillor has breached the code of conduct before it is completed (under section 70(4) of the 2000 Act) he or she may refer the matter subject to the investigation to the Council's Monitoring Officer.
6. Alternatively, where the Public Services Ombudsman decides after investigating (under section 71(2) of the 2000 Act) that it is appropriate, he or she may produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Ethics and Standards Committee.
7. The Local Government Investigation (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 provide that the Monitoring Officer:
  - (a) will investigate matters referred under section 70(4) before reporting and, if appropriate, making recommendations, to the relevant authority's Ethics and Standards Committee, or



- (b) where a matter has been referred under section 71(2), he or she will consider the report of the Public Services Ombudsman, before, if appropriate, making recommendations to the relevant authority's Ethics and Standards Committee.
- 8. In carrying out an investigation the Monitoring Officer may follow such procedures as he or she considers appropriate in the circumstances of the case and in particular may:
  - (a) make such enquiries of any person as he or she thinks necessary for the purposes of carrying out the investigation,
  - (b) require any person to provide him or her with such information, explanation or documents as he or she considers necessary,
  - (c) require any member or co-opted member or officer of the Council to appear before him or her for the purposes of paragraph (a) and (b) above.
- 9. In conducting the investigation, the Monitoring Officer may be assisted by any person and may obtain expert or other advice. In certain cases expenses may be paid to persons attending or assisting the Monitoring Officer or providing advice to him or her.
- 10. After concluding an investigation, the Monitoring Officer must:
  - (a) produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Ethics and Standards Committee,
  - (b) send a copy of the report to any person who is the subject of the investigation, and
  - (c) take reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation.
- 11. The Ethics and Standards Committee must consider a report from the Monitoring Officer on his or her investigation or a report from the Public Services Ombudsman together with any recommendations of the Monitoring Officer. It must then make an initial determination either:
  - (a) that there is no evidence of a failure to comply with the code of conduct, or
  - (b) that any person who is the subject of the investigation must be given an opportunity to respond, either orally or in writing.
- 12. Where the Ethics and Standards Committee decides that an opportunity to respond needs to be given and after considering any response made by any such person, the Committee must come to one of three conclusions:
  - (a) there is no evidence of a failure to comply with the code of conduct and no further action should be taken,

- (b) there is evidence of a failure to comply with the code of conduct but no further action should be taken, or
  - (c) there is evidence of a failure to comply with the code of conduct and a member or co-opted member (or former member or co-opted member) should be censured or suspended,
13. The Ethics and Standards Committee must take any appropriate action arising from the conclusions it has drawn.
  14. The decision of the Ethics and Standards Committee is subject to a right of appeal to an appeals tribunal drawn from the Adjudication Panel for Wales.
  15. An appeals tribunal may endorse the decision of the Ethics and Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.

### **INITIAL DETERMINATION**

16. After the Monitoring Officer has
  - (a) produced a report on the findings of his or her investigation, or
  - (b) considered the report of the Public Services Ombudsman; and
  - (c) sent a copy to the person who is the subject of the investigation, and taken reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation

he or she will ask the Democratic Services Officer to call a meeting of the Ethics and Standards Committee as soon as possible and will send a copy of the report together with his or her recommendations (if any) to each of the Members of the Committee.
17. Where the report is that of the Public Services Ombudsman the Monitoring Officer will advise the Ethics & Standards Committee. Where the report is that of the Monitoring Officer, the Deputy Monitoring Officer or some other suitably qualified person will advise the Ethics and Standards Committee.
18. The Democratic Services Officer will give notice of the time and place of the meeting in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001.
19. The business of the meeting will be limited to considering the report and to making a determination either:
  - (a) that there is no evidence of any failure to comply with the code of conduct; or
  - (b) that any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, may have failed, to comply with the code of conduct.

20. Where the Ethics and Standards Committee decides that there is no evidence of any failure to comply with the code of conduct the Committee will ask the Democratic Services Officer to notify any person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Public Services Ombudsman accordingly.
21. Where the Ethics and Standards Committee decides that any person who is the subject of the investigation should be given the opportunity to make representations in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the code of conduct, the Committee will ask the Democratic Services Officer to notify the person who is the subject of the investigation of the Committee's decision and of the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

## **PROCEDURE PRIOR TO CONSIDERATION OF REPRESENTATIONS**

22. The Democratic Services Officer, in consultation with the Chair of the Ethics and Standards Committee, will write to the person who is the subject of the investigation to propose a date for the hearing, outline the meeting procedure and the person's rights.
23. The person who is the subject of the investigation will be required to notify the Democratic Services Officer in writing within not more than 14 days from the date of the communication sent by the said Officer, whether or not he or she
  - (a) wants to make representations and whether orally or in writing;
  - (b) disagrees with any of the findings of fact in the Monitoring Officer's report, including what matters he or she disagrees with and the reasons for any disagreements;
  - (c) wants to be represented at the meeting by a solicitor, barrister or any other person;
  - (d) wants to give evidence to the Ethics and Standards Committee, either orally or in writing;
  - (e) wants to call relevant witnesses to give evidence to the Ethics and Standards Committee;
  - (f) wants any part of the meeting to be held in private;
  - (g) wants any part of the Monitoring Officer's report or other relevant documents to be withheld from the public; and
  - (h) can come to the meeting.

24. The Investigating Officer will notify the Democratic Services Officer in writing within 7 days of any comments on the response and whether or not he or she
  - (a) wants to be represented at the hearing;
  - (b) wants to call relevant witnesses to give evidence to the Ethics and Standards Committee;
  - (c) wants any part of the meeting to be held in private; and
  - (d) wants any part of the Monitoring Officer's report or other relevant documents to be withheld from the public.
  
25. The Democratic Services Officer in consultation with the legal advisor to the Ethics and Standards Committee, will write to the members of the Committee and to everyone involved at least two weeks before the meeting to:
  - (a) set the date, time and place for the hearing;
  - (b) summarise the allegation;
  - (c) outline the main facts of the case that are agreed;
  - (d) outline the main facts which are not agreed;
  - (e) note whether the person who is the subject of the investigation or the Investigating Officer will go to or be represented at the hearing;
  - (f) list those witnesses, if any, who will be asked to give evidence;
  - (g) enclose the Investigating Officer's report, any relevant documents, the response from the person who is the subject of the investigation and any further response from the Investigating Officer; and
  - (h) outline the proposed procedure for the meeting.

## **CONSIDERATION OF REPRESENTATIONS AND FURTHER DETERMINATION**

26. The Ethics and Standards Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; it must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings.
  
27. The person who is the subject of the investigation or the Investigating Officer may be represented or accompanied whether or not legally qualified: but if in any particular case the Ethics and Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
  
28. The Ethics and Standards Committee may take legal advice from its legal advisor at any time during the meeting or while they are considering the outcome. The

substance of any legal advice given to the Committee will be shared with the person who is the subject of the investigation and the Investigating Officer if they are present.

## **FAILURE OF PARTIES TO ATTEND**

29. If a party fails to be present or represented at a meeting, the Ethics and Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence-
- (a) hear and decide the appeal/application or question in the party's absence; or
  - (b) adjourn the hearing.
30. Before deciding to dispose of any matter or question in the absence of a party, the Ethics and Standards Committee will consider any representations in writing submitted by that party in response to the notice of hearing and, for the purpose of this rule, the appeal and any reply shall be treated as representations in writing.
31. Where a party has failed to be present or represented at a meeting of which he or she was duly notified and the Ethics and Standards Committee has disposed of the matter, no fresh appeal/application may be made to the Ethics and Standards Committee.

## **ILLNESS OR INCAPACITY**

32. If the Ethics and Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the meeting and that the party's inability is likely to continue for a long time, the Ethics and Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter, including:
- (a) for the party to be visited at some convenient place by other persons appointed for the purpose by the Ethics and Standards Committee, for the purpose of recording the party's evidence and any statement he or she may wish to make;
  - (b) for taking the evidence of other witnesses on behalf of the party;
  - (c) for enabling the party's representative and the other party or parties to comment, whether at a meeting of the Ethics and Standards Committee or in writing, on the evidence so taken and to make a statement in writing or to address the Ethics and Standards Committee;
  - (d) for the consideration of the matter to take place at the party's home or elsewhere convenient to the party; or
  - (e) for the matter to be decided in the absence of the party:

but any arrangement made must make provision for the other party or parties and their representatives, if they so wish, to be present while the evidence of the party or his or her witnesses is taken and to ask questions of the party or the witnesses.

## THE PROCEDURE FOR THE MEETING

33. At the beginning of any meeting the Chair of the Ethics and Standards Committee will explain the manner and order of proceeding, having regard to any applicable burden and standard of proof and rules of evidence. The Ethics and Standards Committee may alter the procedure which is set out below if the circumstances of the particular case so require.
34. The Ethics and Standards Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report and will also consider whether or not the person who is the subject of the investigation has failed to follow the Code of Conduct.
35. If there is a disagreement as to the facts, the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the report and whether or not the person who is the subject of the investigation has failed to follow the Code of Conduct. With the Ethics and Standards Committee's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee shall give the person who is the subject of the investigation an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer.
36. The person who is the subject of the investigation will then be invited to make representations to support his or her version of the facts and whether or not he or she has failed to follow the Code of Conduct and, with the Ethics and Standards Committee's permission, to call any necessary witnesses to give evidence. The Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the person who is the subject of the investigation.
37. At any time, the Ethics and Standards Committee may question any of the people involved or any of the witnesses.
38. If the person who is the subject of the investigation disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the meeting. If the Investigating Officer is not present, the Ethics and Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the explanation of the person who is the subject of the investigation for not raising the issue at an earlier stage, the Committee may then:
  - (a) continue with the hearing, relying on the information in the Investigating Officer's report;
  - (b) allow the person who is the subject of the investigation to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
  - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.

39. At the conclusion of the representations the Ethics and Standards Committee will consider them in private and make their findings of fact and confirm whether there has been a breach of the Code of Conduct. The Ethics and Standards Committee will decide whether no further action should be taken or whether the person who is the subject of the investigation should be censured suspended or partially suspended. The Chair of the Ethics and Standards Committee will then announce their findings of fact, whether there has been a breach of the code and whether or not a penalty will be imposed.
40. The Ethics and Standards Committee will secure that its determination and the reasons for the determination are committed to writing. The Ethics and Standards Committee will instruct the Democratic Services Officer to send a copy of the written record of the determination to the person who is the subject of the investigation, to the person who made any allegation, which gave rise to the investigation and to the Public Services Ombudsman.

## **SUSPENSION**

41. A period of suspension or partial suspension will commence on the day after which ever is the later of:
- a) The expiry of the time allowed to lodge Notice of Appeal to an Appeals Tribunal (which is 21 days of receiving the Ethics & Standards Committee's determination;
  - b) Receipt of the notification of the conclusion of any appeal;
  - c) A further determination by the Ethics and Standards Committee made after receiving a recommendation from an appeals panel.

## **REFERRAL BY AN APPEALS TRIBUNAL**

42. If
- (a) the Ethics and Standards Committee determines that the person who is the subject of the investigation failed to comply with the Code of Conduct;
  - (b) that person appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and
  - (c) the said tribunal refers the matter back to the Ethics and Standards Committee with a recommendation that a different penalty be imposed

the Ethics and Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether it should uphold its original determination or accept the recommendation.

43. After making its determination the Ethics and Standards Committee will secure that its determination and the reasons for the determination are committed to writing. The Ethics and Standards Committee will instruct the Democratic Services Officer to send a copy of the written record of the determination to the person who is the subject of the investigation, to the person who made any allegation, which gave rise to the investigation, to the Public Services Ombudsman and to the president of the Adjudication Panel for Wales

## **PUBLICATION**

44. The Ethics and Standards Committee will cause to be produced within 14 days after:

- (a) the expiry of the time allowed to lodge a notice of appeal under Regulation 10(2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001,
- (b) receipt of notification of the conclusion of any appeal in accordance with Regulation 12(a)(i) or (b) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, or
- (c) a further determination by the Ethics and Standards Committee made after receiving a recommendation from an appeals tribunal under Regulation 12(a)(ii) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Public Services Ombudsman for Wales, the Monitoring Officer of the relevant authority concerned, the person subject to the investigation and take reasonable steps to send a copy to any person who made any allegation which gave rise to the investigation.

45. Upon receipt of the report of the Ethics and Standards Committee, the Monitoring Officer shall:

- (a) for a period of 21 days publish the report on Torfaen County Borough Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available,
- (b) supply a copy of the report to any person on request if he or she pays such charge as Torfaen County Borough Council may reasonably require, and
- (c) not later than 7 days after the report is received from the Ethics and Standards Committee, give public notice, by advertisement in newspapers circulating in the area of Torfaen County Borough Council and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by sub-paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.



## **COSTS**

- 46 The Ethics and Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

## **SCHEDULE**

<b>Word or phrase</b>	<b>Meaning</b>
Democratic Services Officer	the officer for the time being appointed by Torfaen County Borough Council to provide clerical and administrative assistance to the Ethics and Standards Committee
Investigating Officer	(a) in the case of an investigation undertaken by or on behalf of the Public Services Ombudsman and referred to the Monitoring Officer under section 71(2) of the Local Government Act 2000, the person who conducted the investigation; or (b) in the case of an investigation referred to him or her under section 70(4) of the Local Government Act 2000, the Monitoring Officer
Legal Advisor	the officer responsible for providing legal advice to the Ethics and Standards Committee. This may be the Monitoring Officer, the Deputy Monitoring Officer, another legally qualified officer of Torfaen County Borough Council, or someone appointed for this purpose from outside the authority.
Monitoring Officer	the officer for the time being appointed by Torfaen County Borough Council under section 5 of the Local Government and Housing Act 1989

**TORFAEN  
COUNTY  
BOROUGH**



**BWRDEISTREF  
SIROL  
TORFAEN**

**Policy Name:**

**CODE OF CONDUCT  
FOR ALL EMPLOYEES**

**The standards of behaviour Torfaen County Borough  
expect of you**

**Version: 8**

**Approved By: Chief Executive**

**Consultees :** Executive Member for Resources  
Assistant Chief Executive (Resources)  
Chief Legal & Monitoring Officer  
Head of HR and Pensions  
UNISON and GMB

**Date Approved:**  
July 2016

**Review Date:**  
As and when required

# CODE OF CONDUCT FOR ALL EMPLOYEES



## **1. Why we have a Code of Conduct**

- 1.1 The purpose of this Code is to ensure that all employees understand what is expected of them in order for the Council to provide services of the highest quality, fairly and efficiently.
- 1.2 In performing your duties you are required to act with integrity, honesty, impartiality and objectivity. These behaviors are to be applied to all areas of work undertaken on behalf of the Council including activities carried out by employees acting as members of companies or voluntary organisations.

## **2 What is required from the Employee?**

- 2.1 Compliance with this Code of Conduct is a requirement under your conditions of employment. As an employee you are accountable to the Council and therefore must act in accordance with the principles set out in this Code of Conduct.
- 2.2 If you do not comply with this Code of Conduct, the Council may take disciplinary action against you in accordance with the appropriate procedure. This may have serious consequences for you including the possibility of dismissal from the Council.
- 2.3 These are the requirements under the Code of Conduct for all employees:-
  - You should read and get to know the contents and meaning of the code
  - On commencement of your employment you must sign a declaration that you have received and understood this Code of Conduct.
  - If your circumstances change from the last declaration you must notify your line manager immediately of any matters specified in the code.
  - You will be expected to review the code and the declarations you have made annually to ensure that you understand and comply with what is expected of you.
  - It is your responsibility to ask your manager to explain anything that you do not understand
  - You should discuss with your manager if you do not know how to comply or have difficulty in complying with any part of the code.
  - You should tell your manager (or the most appropriate manager) if you believe the services we provide fall short of the standards in this code.
  - You should tell your manager (or the most appropriate manager) about anyone else breaking the code and/or breaking the law. If in any doubt please refer to the Council's whistle blowing policy.
- 2.4 The matters covered in this code are fairly comprehensive but are not considered all embracing. You should assume that conduct or actions that are not specified but which are similar to those described, or relate to similar standards and principles to those set out are also covered.

### **3. General Responsibilities at Work**

- 3.1 You will be expected to work within the scope of your **contract of employment** performing your duties to the highest possible standards with honesty, integrity and impartiality and be accountable for your own action.
- 3.2 You will be expected to treat others with respect, fairness and dignity at all times abiding by the **Dignity at Work Policy and any other** policies relating to equality issues agreed by the Council, in addition to the requirements of the law.
- 3.3 You will be expected to be welcoming, helpful, informative and courteous as well as being professional to the public and to all our internal and external customers.
- 3.4 You must be presentable and suitably dressed for your particular job, including wearing safety clothing and equipment in line with your responsibilities under the Health and safety Act 1974, if appropriate to your duties.
- 3.5 You must be ready and able to carry out your duties at agreed times and record your time at work accurately
- 3.6 You must comply with the Councils constitution, policies and procedures.
- 3.7 You must adhere to the safeguarding and welfare requirements of all children, young people and vulnerable adults the Council has responsibility for.
- 3.8 You must ensure that you use public funds entrusted to you on behalf of the Council in a responsible and lawful manner and must not use property, vehicles or other facilities of the Council for personal use unless authorised to do so. Public funds entrusted to you also include salary and wages. In the event that you find, or are notified that you have received an overpayment, the Council has an obligation to seek to recover the money. You will be expected to work with the Council in complying with the highest standards of integrity in helping meet this requirement in a measured and reasonable manner, in accordance with the agreed procedures of the Council.

### **4. Confidentiality and the Use of Information**

- 4.1 In your job, and in the event that you leave the Council's employment, in respect of any confidential information you come across, you must maintain the privacy and confidentiality of such information at all times unless you are expressly authorised to divulge it or are required to do so by law.
- 4.2 You must take time to read, understand and comply with the policies and procedures on information security.
- 4.3 You must ensure that all data is kept secure (i.e. locked away or protected by computer passwords, that are under no circumstance disclosed to others) and that data on computer screens and paper files are not left within the view of unauthorised persons.

- 4.4 You must not disclose the Council's information or any other organisations information to any person who does not have a legitimate business interest with the authority.
- 4.5 You must only access data in relation to the role that you undertake. You must not access any data that relates to yourself, your family or friends or for any personal reasons.
- 4.6 You must comply with the Data Protection Act 1998 and not use data held by the Council for any purpose other than that for which it is registered to be kept and used.
- 4.7 You must refer any request from the media for information to your Strategic Director, an Officer authorised by a Strategic Director, or the Council's Communications Team.
- 4.8 If you are in any doubt on any aspect of confidentiality or data security you must seek advice from your line manager.

## **5 Political Neutrality**

- 5.1 If your post is politically restricted (you will be aware of this upon appointment), or you are employed on grade 10 or above you cannot stand for a political office or engage in certain political activities such as canvassing or speaking publicly.
- 5.2 You must follow all policies of the Council and must not allow your own personal or political opinions to interfere with your work.

## **6 Dealing with Members, Contractors, Suppliers and Consultants**

- 6.1 You must be polite and professional in your dealings with Members and deal efficiently with all Members enquiries without bias and regardless of their political allegiances.
- 6.2 You must provide professional advice, not influenced by political views or preferences, which does not compromise the political neutrality in your role as an officer
- 6.3 You must report to your line manager at once if a Member asks or pressures you to deal with any matter outside Council procedures or policy.
- 6.4 If your role means that you come into contact with contractors, suppliers and consultants, for example, purchasing goods, commissioning and approving works or services done by contractors you must abide by Council's standing orders, contract procedures and financial procedures included in the Council's Constitution and Guide to Financial Management.
- 6.5 Any orders and contracts must be awarded by fair and open competition. No special favours should be shown to businesses with any connections to employees. You must therefore declare any relationship you have or have had of a business or private nature with external contractors/suppliers or potential contractors/suppliers of the Council in writing to your Strategic Director.

- 6.6 If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should notify your Line Manager, in writing, of this relationship.

## **7 Separation of Roles during Tendering**

- 7.1 If you are involved in the tendering process and dealing with contractors, you should be clear on the separation of client and contractor roles within the Council.
- 7.2 If you have both a client and contractor responsibility, you must be aware of the need for accountability and openness.
- 7.3 If you are employed in contractor or client units you must exercise fairness and impartiality when dealing with all customers, suppliers and other contractors and sub-contractors.
- 7.4 If you are privy to confidential information on tenders or costs for either internal or external contractors, you must not disclose that information to any unauthorised party or organisation.
- 7.5 If you are contemplating a management buyout you should, as soon as you have formed a definite intention, inform your Strategic Director, in writing, and withdraw from the contract awarding processes.
- 7.6 You should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them.

## **8 Involvement in the appointment of Staff**

- 8.1 If you are involved in the recruitment and appointment of staff you must ensure that appointments are made on the basis of merit in order to avoid any possible accusation of bias and unfair treatment.
- 8.2 You must not be involved in any part of the recruitment process, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom you are related, or with whom you have or have had a close personal relationship outside work.

## **9 Personal Life and Interests**

- 9.1 Whilst your private life is your own concern, you must not put yourself in a position where your job and your personal interests conflict. This includes behavior which, because of the nature of your employment, would undermine the Council's confidence and trust in you.
- 9.2 An example of this would be if you are facing civil or criminal charges, regardless of whether they were incurred on or off duty. You must tell your manager immediately if you are charged or cautioned with any offence which is in any way relevant to

your employment, such as drug offences, crimes of violence, dishonesty or driving offences, if your job involves the use of a Council vehicle, or using your own vehicle on Council business. If you are in doubt, consult your line manager or HR.

- 9.3 The Council recognises that many employees make use of social media in a personal capacity. Whilst you are not acting on behalf of the Council, you must be aware that you can still cause damage to the Council if you are recognised as being one of its employees.
- 9.4 You are allowed to say that you work for the Council and the Council recognises that it is natural for its staff to sometimes want to discuss their work on social media. However, your online profile (e.g., the name of a blog or a Twitter name, etc.) should not contain the Council's name.
- 9.5 Any communication that you make in a personal capacity through social media must not:
- Bring the Council into disrepute, for example, criticising or arguing with customers, elected members, colleagues or other organisations;
  - Breach confidentiality, for example revealing trade secrets or information owned by the organisation;
  - Divulging confidential information about an individual (such as a colleague, elected member or customer) or other organisation;
  - Discuss the Council's internal workings (such as deals or future business plans that have not been communicated to the public);
  - Do anything that could be considered as discriminatory such as bullying or harassment of any individual, making offensive or derogatory comments relating to sex, gender re-assignment, race (including nationality), disability, sexual orientation, religion or belief or age;
  - Make defamatory comments about individuals or other organisations or groups;
  - Posting images that are inappropriate or may cause offence to others or links to inappropriate content.
- 9.6 The use of the Councils property (including information that belongs to the Council) or equipment to do private work is not encouraged (for example making phone calls, postage, ordering personal items, using a Council vehicle or using IT systems). More specific guidance is however available by reference to the Council's "Guidance on the use of Social Media " and the "ICT Security Policy" and you are advised to familiarise yourself with their contents.

## 10 **Additional Employment**

- 10.1 You must declare any other employment or business you are involved in, including any voluntary work that you undertake or any membership of any organisation not open to the public which has secrecy about rules or membership or conduct. This includes any firm in which you are a partner or remunerated director.
- 10.2 The Council will not stop you taking on additional employment as long as it does not affect your duties and responsibilities or conflict with the interests of, or weaken public confidence in the Council. However no additional work whether paid or unpaid can be undertaken during the times you are contracted to work for the Council. The only exception is polling duties during elections.



- 10.3 If you are thinking about taking on additional paid work, you should get permission, which will not unreasonably be refused, in writing from your line manager beforehand. This applies to any employment, for example taking up office in an outside organisation or working with charities. It also includes special arrangements such, for example, a volunteer reservist in the armed forces
- 10.4 If you are paid for work or undertake unpaid work which is the same or similar to that for which you do for the Council you must not use assets or information belonging to the Council. This includes IT systems and customer information. You must also ensure that the customer realises and acknowledges the private nature of the work you are doing which is in no way connected to the business of the Council.
- 10.5 You must declare to your Line Manager, in writing, any financial and non-financial interests that you consider could bring about conflict with the Council's interests.

## **11 Gifts, Hospitality, Sponsorship and Endorsements**

- 11.1 You should be aware that it is a criminal offence under the **Bribery Act 2010** for you to corruptly receive any gift, fee, reward or advantage in your role as an officer of the Council. The penalties for conviction of corruption are severe. For an individual, the penalty can be a maximum sentence of 10 years' imprisonment and a fine and there are unlimited fines for companies. It is imperative that you are aware of your legal responsibilities.
- 11.2 You should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the Community. You should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. You should request, in writing, and receive your Line Manager's written permission prior to any attendance.
- 11.3 You should avoid accepting from anyone, gifts, hospitality (other than official hospitality such as a civic reception or a working lunch duly authorised by this Authority), material benefits or services for yourself or any person which might place you, or appear to place you, under any obligation.
- 11.4 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 11.5 You should not accept significant personal gifts from current or potential contractors and outside suppliers, although insignificant items of token value such as pens, diaries, etc. are acceptable.
- 11.6 Acceptance of hospitality through attendance at relevant conferences and courses is acceptable where it is clear that hospitality is corporate rather than personal, and/or where the Council or Strategic Director gives consent in advance, and/or where the Council or Strategic Director is satisfied that any purchasing decisions are not compromised or could be seen as a reward following the awarding of a contract. Where visits to inspect equipment, etc are required, you should ensure

that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

- 11.7 You must ensure that all gifts and hospitality are properly recorded in the Gifts and Hospitality Record held in each Service Area
- 11.8 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity you, or any partner, spouse or relative must not benefit from the sponsorship. In the event that there is any benefit a full disclosure must be made to your manager before any sponsorship is agreed.
- 11.9 Where the Council wishes to sponsor an event or service, you, or any partner, spouse or relative, must not benefit from the sponsorship. In the event that there is any benefit a full disclosure must be made to your line manager before any sponsorship is agreed.
- 11.10 You must exercise caution before providing any statement endorsing the quality or operation of any product or service that may be used for publicity purposes. You should therefore seek advice from your line manager where such circumstances arise.

## **12 What do I need to do?**

- 15.1 You will need to complete the Declaration Forms attached as Appendix 1 of this Code of Conduct. This will show that you have no interests to be declared within the terms of this Code or to list those interests that require declaration.
- 15.2 **The Declaration Forms must be completed by all employees of the Council at the start of their employment with the Council or upon any change in role with any changes of circumstances being notified to their line manager immediately. The employee must then complete a fresh Declaration Form.**
- 15.3 Each year you will be expected to remind yourself of the requirements of the Code of Conduct ensuring that you are aware what is expected of you.
- 15.5 Strategic Directors will be responsible for ensuring that declarations are completed by the appropriate employees on appointment or promotion. Completed forms will be held in the HR Division. The Strategic Director (the Chief Executive in the case of Strategic Directors) will be responsible for deciding whether anything revealed in the Declaration is incompatible with the duties of the employee making it. Where instances of incompatibility occur which cannot be resolved to the Strategic Director's satisfaction by agreement, a report will be submitted to the Executive Member for Resources & Corporate Governance. The employee and if appropriate, his/her trade union, will be consulted on such a report prior to its submission.

## **16 Investigations**

- 16.1 Where either the Chief Legal Officer and Monitoring Officer, Chief Executive, Strategic Director, Head of HR and Pensions (or his/her representative), or Chief Internal Auditor is undertaking an investigation in accordance with the Council's policies and procedures you must comply with any requirements made in connection with any investigation.

## **17 Whistle blowing**

- 17.1 In the event that you become aware of activities which you believe to be illegal, improper, unethical or otherwise inconsistent with this Code, you should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998 as amended, and with the Council's confidential reporting procedure.
- 17.2 The Council's Confidential Reporting Code (called **Whistleblowing Policy**) tells you what to do and what you can expect to be done in a "whistleblowing" situation. This Code can be located on the Council's Intranet site.

## **18 Conclusion**

- 18.1 **The standards laid down in this Code are considered to be fundamental to the reputation of this Council. As such, uncertainty on your part as to their meaning will not be accepted as a reason for your failing to comply with them so if in any doubt whatsoever, please ask for advice from your line manager.**

**Alison Ward  
CHIEF EXECUTIVE**

## CODE OF CONDUCT FOR ALL EMPLOYEES OF THE COUNCIL

Torfaen County Borough Council expects every employee to behave in a highly professional manner. All employees are expected to read and understand this Code of Conduct as it outlines the standards we expect of you.

Please complete in Block Capitals

Name			
Post Title			
Service Area			
Division/Team			
<p>If you have no information to declare please complete section A otherwise complete section B.</p>			
<b>Section A</b>			
<p>I confirm that I have read and understand the Code of Conduct and what is expected of me. I declare that I have no facts or circumstances that I am required to disclose.</p> <p>I understand that should my circumstances change I will immediately complete a further declaration with the required details.</p>			
Signed		Dated	
<p>On completion of Section A forward this form to Contracts, Employee Services, Civic Centre. Pontypool. Scanned and email versions can be sent to <a href="mailto:contracts@torfaen.gov.uk">contracts@torfaen.gov.uk</a></p>			
<b>Section B</b>			
<p>I confirm that I have read and understand the Code of Conduct and what is expected of me. I declare the following fact and circumstances.</p> <p>I understand that should my circumstances change I will immediately complete a further declaration with the required details.</p>			
<p>Please give full details:</p>			

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Signed		Dated	
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On completion of Section B this form should be sent to your Line Manager.

**Line Managers Section:**

This is confirmation that the interests declared by the employee above have been considered and where necessary guidance and advice issued. Appropriate advice has been sought from HR and the Head of Service as required.

Print Name			
Post Title			
Service Area			
Contact Number			
Signed		Dated	

On completion please forward this form to Contracts, Employee Services, Civic Centre. Pontypool. Scanned and email versions can be sent to [contracts@torfaen.gov.uk](mailto:contracts@torfaen.gov.uk)

## APPENDIX 16 CONTRACT STANDING ORDERS

### 1. CSO 1 - COMPLIANCE

- 1.1 The Local Government Act 1972 (Section 135) requires that Local Authorities make Standing Orders in respect of contracts for the supply of goods, services and materials or the execution of works to ensure competition and regulate the manner in which tenders are invited.
- 1.2 Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is concerned to ensure that high quality goods, works and services are provided. The Council's reputation is equally important and should be safeguarded from any imputation or dishonesty or corruption.
- 1.3 Every contract made by the Council or on its behalf should comply with European Procurement rules, these Contract Standing Orders and Financial Standing Orders.
- 1.4 For these reasons failure to comply with Contract Standing Orders when letting contracts will fall within the scope of the Councils Officer Code of Conduct and / or Disciplinary Code. Employees have a duty to report breaches of Contract Standing Orders to a Strategic Director, Head of Procurement, Head of Internal Audit, Monitoring Officer or the Section 151 Officer.
- 1.5 These Contract Standing Orders apply to all contractors for the supply of goods, services and works including the appointment of consultants. **(Download a copy of the Guidance on the Procurement of Consultants <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Guidance-on-the-Procurement-of-Consultants.pdf> )**
- 1.6 Schools are required to comply with the Local Management of Schools – Scheme of Delegation. **(<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Local-Management-of-Schools-Scheme-of-Delegation.pdf> )**
- 1.7 The Head of Procurement is authorised to make changes to the linked operational procedures.
- 1.8 Should the Head of Procurement be unavailable, the Deputy Chief Executive will allocate the Head of Procurements duties detailed to another officer.
- 1.9 All Procurement Exercises shall comply with the Council's Policies regarding the Wales Procurement Policy Statement, the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language.

## 2. CSO 2 – DECLARATIONS OF INTERESTS

2.1 Employees are required to complete a Code of Conduct declaration on appointment or change of role which shall be reviewed and signed by their Strategic Director. Employees are required to notify any changes in circumstances to their Strategic Director. (<http://swoop.torfaen.gov.uk/Intranet/Document-Library/HRPolicies/CodeofConductforEmployees.pdf> )

## 3. CSO 3 – EXEMPTIONS FROM CONTRACT STANDING ORDERS

3.1 Exemptions from the requirements of these Contract Standing Orders are to be exception and not the rule. Exemptions will not be granted as a matter of administration convenience and must be supported by documented and evidenced reasons as to the legitimate need for the exemption to be granted.

3.2 Where an exemption is sought from tendering or price testing, the report must justify the use of an alternative method of selection so that propriety value for money and compliance with EU legislation can be demonstrated, and it will also include reasons such as:

3.2.1 that only one provider is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive or proprietary rights;

3.2.2 that time limits required for tendering cannot be met for reasons of extreme urgency and which (in EU cases) were unforeseen and unattributable to the Council;

3.2.3 that additional goods, works or services are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience; and

3.2.4 that goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.

3.3 Exemptions and contract award are to be granted as follows: ([Download a copy of the Exemption from Contract Standing Orders Form http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Exemption-from-Contract-Standing-Orders-Form.docx](http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Exemption-from-Contract-Standing-Orders-Form.docx) )

Net Value Range (£)		Exemption and contract Granted by
From	To	
£0	£10,000	An exemption is not required.
£10,001	£75,000	Relevant Strategic Director after consultation with the Head of Procurement (or their delegated representative *).
£75,001	£150,000	Relevant Strategic Director after consultation with Monitoring Officer, Section 151 Officer and Head of Procurement (or their delegated representative) *.
£150,001	£1,000,000	Relevant Strategic Director in consultation with the relevant Executive Member and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. (or their delegated representative *).
£1,000,000	£2,000,000	Relevant Strategic Director in consultation with the relevant Executive Member, Leader and Chief Executive and after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement . (or their delegated representative *).
£2,000,000	Unlimited	Cabinet or Pensions Committee

\* *Head of Procurement*  
*Agreeing reduced number of tenders up to and over £150K (exemptions)*  
*Consultation on Chief Officer reports up to and over a £5M*

*Senior Category Manager*  
*Agreeing reduced number of tenders up to £150K (exemptions)*  
*Consultation on Chief Officer reports up to £5M*

*Category Manager*  
*Agreeing reduced number of tenders up to £150k (exemptions)*  
*Consultation on Chief Officer reports up to £1M*

3.4 Each Strategic Director will report to the relevant Overview and Scrutiny Committee of the Exemptions granted at the next available meeting.

#### **4. CSO 4 – ESTIMATES OF CONTRACT VALUE FOR SUPPLIES, SERVICES AND WORK**

4.1 The Strategic Director shall record an estimate net (ie excluding VAT) sum in writing of the likely expense of executing the work, or the provision of goods or services.

**(Download a copy of the Estimate of Contract Value Form**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Estimate-of-Contract-Value-Form.docx> )

4.2 The timeframes over which estimated costs apply are as follows:

4.2.1 If it is a construction project, the total costs over the full life-time of the project;

4.2.2 If it is a fixed-term service contract, the total costs over the full fixed-term of the service provided; or

4.2.3 If it is an indefinite life service (e.g. something the Council intends to buy over a number of years, or you are not sure when it will end), the costs you would expect to pay over the first 4 years of that service being provided.

4.3 Where the value is, or may be, equal to or greater than the relevant OJEU tendering threshold, the Council should also have regard to the EU valuation rules which are similar to the above, but more detailed. **(Download a copy of the EU Valuation guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Valuation.doc> )

4.4 ***No procurement may be artificially split to avoid compliance with these Contract Standing Orders and European Union procurement directives.***

#### **5. CSO 5 – OBTAINING QUOTATIONS / TENDERS FOR CONTRACTS**

5.1 Contracts under £75,000 net value must follow the following process as a minimum: **(Download a copy of the Selection of Suppliers or Approval not to Advertise on Sell 2 Wales guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Selection-of-Suppliers-or-Approval-not-to-Advertise-on-Sell-2-Wales.docx> )



Net Value Range (£)		Number of Quotations		Advertising on Sell 2 Wales		Requirements
From	To	To Seek	To be Obtained	Mandatory	Optional	
£0	£10,000					Obtain value for money and maintain records and raise Purchase Order. You should at the very least obtain one quotation and wherever possible obtain more than one quotation to be able to demonstrate obtaining value for money. It may be difficult to demonstrate obtaining value for money without having two or more quotations.
£10,001	£25,000	3	2		√	Advertise on Sell2Wales (or superseded system) or select firms from Sell2Wales.
£25,001	£75,000	3	2	√		Advertise on Sell2Wales (or superseded system) or seek approval from the Head of Procurement . (or their delegated representative *).not to advertise and seek and obtain quotations.

\* Head of Procurement

Agreeing reduced number of tenders up to and over £150K (exemptions)  
 Consultation on Chief Officer reports up to and over a £5M

Senior Category Manager

Agreeing reduced number of tenders up to £150K (exemptions)  
 Consultation on Chief Officer reports up to £5M

Category Manager

Agreeing reduced number of tenders up to £150k (exemptions)  
 Consultation on Chief Officer reports up to £1M

- 5.2 Tenders between £75,001 and EU Tendering Threshold will be advertised on Sell2Wales and will be invited on the e-tendering system approved by the Section 151 Officer. The invitation to tender documentation, including specification, evaluation criteria/weightings, must be approved in writing by the Head of Procurement. **(Download a copy of the written procedures for e-tendering guidance** <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Written-Procedures-for-e-Tendering.doc> ) **and EU Thresholds** (<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Thresholds.doc> )
- 5.3 The Head of Procurement should be consulted prior to any contract exceeding the current EU tendering threshold prior to commencing the tendering process. **(Download a copy of the EU Thresholds guidance** <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Thresholds.doc> )
- 5.4 Contracts which are not required to be tendered are:
- 5.4.1 Contracts under £10,000.
- 5.4.2 Contracts for which an exemption from tendering has been granted.

5.4.3 Purchases or sales by auction. **(Download a copy of the purchases or sales by auction guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Purchases-or-sales-byauction.doc> )

5.4.4 Contracts for the sale of land.

5.4.5 Contracts for the engagement of Counsel.

5.4.6 Orders placed under a corporate framework arrangement or contract arranged by the Head of Procurement. **(Download a copy of the Corporate framework arrangements/contracts arranged by the Head of Procurement**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Corporate-frameworkarrangementscontracts-arranged-by-the-Head-of-Procurement.doc> )

5.4.7 Orders placed under any other Framework Arrangements (eg Regional or national frameworks) that has been approved by the Head of Procurement. Not all Framework Contracts are the same, thus the advice of the Head of Procurement shall be sought before proceeding.

5.4.8 Orders placed with such consortia / Central Purchasing Bodies as may be approved by the Head of Procurement provided he/she is satisfied that the purchasing arrangements of the consortia / Central Purchasing Bodies in question comply with EU and UK legislation and provide value for money.

**(Download a copy of the Approved Consortia/Central Purchasing Bodies**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Approved-ConsortiaCentral-Purchasing-Bodies.doc> )

5.4.9 Individual Social Care Contracts which are established through the Council's Care Management Process.

## **6. CSO 6 – PRE TENDER / QUOTATION ENQUIRIES**

6.1 Enquiries of providers may be made before tenders or quotations are invited in order to:

6.1.2 establish whether the goods, works or services the Council wishes to purchase are available and within what price range;

6.1.2 prepare tender documents, price estimates and contracts;

6.1.3 establish whether particular providers wish to be invited to tender or quote.

6.2 In making enquiries:

6.2.1 No information will be disclosed to one provider which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or quote; and

6.2.2 No provider will be lead to believe that the information they offer will necessarily lead to them being invited to tender or quote or be awarded the contract.

## **7. CSO 7 – RECEIPT OF TENDERS**

7.1 Tenders shall be received on the e-tender system approved by the Section 151 Officer. **(Download a copy of the written procedures for e-tendering**  
<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Written-Procedures-for-e-Tendering.doc> )

## **8. CSO 8 – OPENING OF TENDERS**

8.1 Tenders shall be opened on the e-tender system approved by the Section 151 Officer. **(Download a copy of the written procedures for e-tendering**

## 9. CSO 9 – ALTERATIONS

- 9.1 Where examination of tenders reveals arithmetical or copying errors present in the documents submitted at the time of tender these shall be corrected. If the correction has the effect that the tender is no longer the most competitive tender then the next tender in competitive order is to be examined and dealt with in the same way.
- 9.2 Where examination of tenders reveals errors or discrepancies (other than outlined in 10.1) which would affect the tender figures(s) in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies but no other information and afforded an opportunity of confirming their offer.
- 9.3 If the tenderer withdraws, the next tender in competitive order is to be examined and dealt with in the same way. Any exception to the procedure outlined above may be authorised by the Monitoring Officer and Section 151 Officer after consideration of a report by the Strategic Director concerned.

## 10. CSO 10 – ACCEPTANCE OF TENDERS

- 10.1 Contracts which have been subject to a tendering exercise are to be awarded as follows: (**Download a copy of the Acceptance of Tenders Form** <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Acceptance-of-Tenders-Form.docx> )

Net Value Range (£)		Who can Award Contracts?
From	To	
£0	£75,000	Contract awarded on the basis of lowest price or using most economically advantageous criteria (price and quality), which were either detailed in the advertisement or in the Invitation to Quote may be awarded on behalf of the Council by a relevant Strategic Director.
£0	£75,000	<b>Not</b> awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the relevant Strategic Director in consultation with the relevant Executive Member and, after consultation with the Head of Procurement. . (or their delegated representative *).
£75,001	£150,000	Contract awarded on the basis of lowest price or using most economically advantageous criteria, which were either detailed in the advertisement or in the Invitation to Tender may be awarded on behalf of the Council by a Strategic Director in consultation with the Head of Procurement. . (or their delegated representative *).
£75,001	£150,000	<b>Not</b> awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the Cabinet or sub committee appointed by the Cabinet or Pension Committee for that purpose.
£150,001	£1,000,000	Awarded on the basis of lowest price or most economically advantageous tender may be Awarded by Strategic Director in consultation with the relevant Executive Member and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. . (or their delegated representative *).
£150,001	£1,000,000	<b>Not</b> awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council Cabinet or sub committee appointed by the Cabinet or Pension Committee for that purpose.
£1,000,000	£2,000,000	Awarded on the basis of lowest price or most economically advantageous tender may be awarded on behalf of the Council by a

Net Value Range (£)		Who can Award Contracts?
From	To	
		Strategic Director in consultation with the relevant Executive Member, Leader and Chief Executive and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. . (or their delegated representative *).
£1,000,000	£2,000,000	<b>Not</b> awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the Cabinet or Pension Committee or sub committee appointed by the Cabinet for that purpose.
£2,000,001	Unlimited	All contracts to be awarded on behalf of the Council by the Cabinet or Pension Committee or sub committee appointed by the Cabinet for that purpose.

\* *Head of Procurement*

*Agreeing reduced number of tenders up to and over £150K (exemptions)  
Consultation on Chief Officer reports up to and over a £5M*

*Senior Category Manager*

*Agreeing reduced number of tenders up to £150K (exemptions)  
Consultation on Chief Officer reports up to £5M*

*Category Manager*

*Agreeing reduced number of tenders up to £150k (exemptions)  
Consultation on Chief Officer reports up to £1M*

10.2 No contract may be awarded unless the expenditure involved has been included in the approved budget or has been otherwise approved by or on behalf of the Council.

10.3 All contracts over the value of £50,000 must be recorded on the Council's Contract Register.

## 11. CSO 11 – Standstill Period

11.1 Standstill periods should be used in accordance with the guidance note.

**(Download a copy of the standstill period guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Standstill-Period.doc> )

## 12. CSO 12 – LIQUIDATED DAMAGES, PERFORMANCE BONDS & INSURANCE

12.1 Every contract for the execution of works which exceeds £75,000 in value or amount shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

12.2 Where contracts exceed £250,000 in value the Head of Procurement shall be consulted to determine whether a performance bond or a parent guarantee should be used. **(Download a copy of the Performance Bond Requirement**  
<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Performance-Bond-Requirement.docx> )

12.3 Where construction projects exceed £250,000 the Project Officer shall liaise with the Insurance Manager to determine if the existing insurance arrangements in place are adequate. Separate bespoke insurance must be purchased for all construction projects over £500,000.

## 13. CSO 13 – FORM OF CONTRACT

13.1 A form of contract should be in place before the commencement of the work or supply of goods or services as follows:

Net Value Range (£)		Form of Contract
£0	£75,000	Standard form of contract or otherwise approved by the Chief Legal Officer.
£75,001	Unlimited	Form of contract to be agreed with the Chief Legal Officer.

## 14. CSO 14 – EXECUTION OF CONTRACTS

14.1 Contracts should be executed as follows:

Net Value Range (£)		Execution by:
From	To	
£0	£75,000	Signed for and on behalf of the Council by the Chief Legal Officer or duly authorised officer except where: The Strategic Director shall consider in consultation with the Chief Legal Officer whether, having regard to the need for extension of the period of limitations, a Contract should be attested Under Seal.
£75,001	Unlimited	Made under the seal of the Council.

## 15. CSO 15 – Contract Extension

15.1 Any contract may be extended or varied in accordance with its terms. Where the terms do not expressly provide for extension, contracts subject to the regulations may be extended by negotiation in accordance with the provisions of Contract Standing Order 3 – Exemptions from Contract Standing Orders.

15.2 Any extension, where the terms do not expressly provide for extension, must be:

15.2.1 Fully documented and approved in accordance with Contract Standing Order 3 – Exemptions from Contract Standing Orders. **(Download a copy of the Exemption from Contract Standing Orders Form <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Exemption-from-Contract-Standing-Orders-Form.docx> )**

15.2.2 Take into account:

- Probity;
- Best value / value for money principles; and
- Openness, fairness and transparency.

Note: Working links to the identified documents are available for officers through the Council intranet. Other enquiries on these should be directed to the Monitoring Officer or the Head of Procurement.

## INTRODUCTION

**This document refers to a number of supplementary guidance and procedural manuals which are available on the Authority's Intranet site.**

- 1.1 The interpretation of terms shown in Contract Standing Orders (CSO 1) apply also to Financial Standing Orders.

## FS02 GENERAL

- 2.1 This part of Standing Orders shall apply to all Services provided by the Council, schools and to joint arrangements where the Council is either lead or host Authority but only to the extent that they are consistent with such statutory provisions and any lawful agreements made in relation to schools and the said joint arrangements. FSO 27 deals with monies held on behalf of partnerships.
- 2.2 Reference in this part of Standing Orders to "Strategic Directors" are to all Deputy Chief Executive, Strategic Directors of the Torfaen County Borough Council and Heads of Service. References to "the Council" means the Torfaen County Borough Council (and where the context so admits) the Cabinet, a Committee or Sub Committee of the Council or the Cabinet exercising executive powers or an officer exercising his/her authority under the Council's approved Scheme of Delegation or under these regulations.
- 2.3 Strategic Directors shall immediately consult the Chief Financial Officer upon matters which are likely to materially affect the finances of the Council before any commitment is made and/or before any report is submitted to the Council, or its Committees.
- 2.4 The Chief Financial Officer shall be notified of all Government or other circulars, orders sanctioned regulations, etc affecting finance.

## FS03 FINANCIAL ADMINISTRATION

- 3.1 The Chief Financial Officer shall, for purposes of Section 151 of the Local Government Act, 1972 (as extended by Sections 114-116 of the Local Government Finance Act 1998) be responsible under the general direction of the Council for the proper administration of the Council's financial affairs.
- 3.2 The Cabinet will be responsible for regulating and controlling the finances of the Council subject to those matters which are or may be reserved by law to the Council.
- 3.3 The Chief Financial Officer shall each year report to the Council with respect to the level of resources proposed to be utilised in each financial year and shall keep the Cabinet informed with respect to the Council's finances and financial performance and he shall take steps to ensure that all Service Areas of the Council are informed of the financial implications of their activities.

- 3.4 Each Service through its Strategic Director shall be responsible to the Council for the observance of the Council's Financial Standing Orders and Financial Regulations as they relate to the Service and to partnership funds held by the Council falling within her or his area of responsibility.
- 3.5 Each Strategic Director shall be responsible for the accountability and control of staff, and the security, custody and control of all other resources appertaining to their respective Service Area and to partnership resources held by the Council falling within her or his area of responsibility.
- 3.6 The Chief Financial Officer shall report to the Council and to the Governance and Audit Committee any issues of financial irregularity, fraud or error that are of material significance to the Council.
- 3.7 The Scrutiny Committees or such other Committees of the Council which may be appointed for the purpose shall scrutinise such elements of their Service Area budgets as may be deemed appropriate from time to time.

## **FS04 FINANCIAL PLANNING**

### **Preparation of Annual Estimates**

- 4.1 Annual estimates of revenue and capital expenditure shall be prepared by the Chief Financial Officer in conjunction with the responsible officers of the spending Services and submitted with any necessary explanations to the Cabinet for timely consideration before the annual budget meeting of the full Council.
- 4.2 After any necessary decision by the Cabinet in particular on the distribution between services of the available resources, the Cabinet shall consider the aggregate effect of these estimates upon the Council's financial resources and submit them for approval with a recommendation of the Council Tax to be levied for the ensuing financial year to a meeting of the full Council.
- 4.3 Each member of the Council shall be provided with a copy of the proposed estimates, together with a statement by the Chief Financial Officer of their effect on the Council's finances and the Council Tax to be levied. The estimates and statement shall be provided with the summons to attend the meeting of the Council at which such matters will be considered.
- 4.4 Where any sanction of a Government Department is required to expenditure, such expenditure shall not be incurred before any such approval has been obtained.

### **Revenue Forward Planning**

- 4.5 Revenue forward planning will be set by the Cabinet in accordance with the budget framework. The Cabinet shall subsequently settle the long term plans for Council services and the distribution between services of available resources to provide a framework within which annual budgets will be prepared.

## **Capital Forward Planning**

- 4.6 The Chief Financial Officer shall submit a programme for capital expenditure to the Cabinet and estimates of the revenue consequences of that expenditure, and income for such future periods, in such form and by such dates as the Cabinet may from time to time require.
- 4.7 The Cabinet shall consider the aggregate effect of these programmes and estimates upon the Council's financial resources and shall recommend the programme to Council accordingly.
- 4.8 Upon the approval by the Council of a programme of capital expenditure the relevant Strategic Director shall be authorised:
- (a) to prepare a scheme and estimate including associated revenue expenditure for decision by the appropriate Service Area, within approved revenue budget and
  - (b) to take steps in conjunction with the Chief Executive or his or her authorised representative to enable land required for the purposes of the programme to be acquired in due time.

## **Scrutiny**

- 4.9 The Overview and Scrutiny Committee shall receive such reports as are necessary to effectively scrutinise compliance with the requirements of FS04.

## **FS05 BUDGETARY CONTROL**

- 5.1 It shall be the duty of every Service Area through its Strategic Director to monitor and regulate its financial performance during the currency of each estimate period. In order to assist with the financial monitoring the Chief Financial Officer has issued guidance entitled 'A Guide to Financial Management – A Statement of Proper Practice'.
- 5.2 A Service Area may not incur expenditure which cannot be met from the amount provided in the revenue estimates under a head of estimate (including any virement made in accordance with Standing Order 5.5 below) to which that expenditure would be charged or would result in an overspending in the year on that head of estimate unless a supplementary estimate has been submitted to and approved by the Chief Financial Officer in consultation with the relevant Executive Member or by the Cabinet. This Standing Order shall equally apply to a reduction in income as to an increase in expenditure.
- 5.3 Where a Service Area proposes to adopt or to recommend to the Council a policy which, if implemented, will involve the Council in expenditure not already specifically approved by the Council, or for which provision has not been made in the appropriate estimates, it shall first obtain from the relevant Strategic Director and Chief Financial Officer, an estimate of the cost. It shall then forward to the Cabinet such an estimate of the cost as will enable that Service Area to report to the Cabinet upon the immediate and prospective financial effects of the proposal. No liability shall be incurred by the Service Area without the consent of the Cabinet or the Chief Financial Officer under the Council's approved Scheme of Delegation.



- 5.4 Amounts provided under the approved annual revenue estimates may be diverted to other purposes by the Service Area concerned in accordance with the approved virement scheme operating within that Service Area, which has been previously approved by the Chief Financial Officer but may not be diverted otherwise than strictly in accordance with such scheme.
- 5.5 Subject to paragraph 5.7, Strategic Directors may not normally vire capital expenditure without consent of the Cabinet or the Chief Financial Officer. Only Council can increase the overall capital programme where additional resources become available from any source and authorise the use of revenue for capital purpose on the recommendation of Cabinet.
- 5.6 Strategic Directors may incur expenditure which is essential to meet any immediate needs related by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972 subject to this action being reported to the Cabinet, as soon as practicable.
- 5.7 The inclusion of items in approved revenue estimates or capital programmes, shall, subject to any Government sanction, constitute authority to incur such expenditure save to the extent to which the Cabinet or the Council shall have placed reservation on any such item or items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservation has been removed.
- 5.8 The Cabinet shall from time to time keep the Council informed as to the state of the Council's finances and shall report on the accounts of each financial year as soon as practicable.
- 5.9 The relevant Overview and Scrutiny Committee shall receive such reports as are necessary to effectively scrutinise the requirements of FS05.

## **FS06 ACCOUNTING**

- 6.1 The Chief Financial Officer shall be responsible to the Council for the whole of the accounting records of the Council and Strategic Directors shall obtain the approval of the Chief Financial Officer before introducing any books, forms, computer systems or procedure relating to cash, stores or other accounts of the Council and it shall be the duty of the Chief Financial Officer to see that uniform systems shall, as far as practicable, be adopted throughout the Service Areas of the Council.
- 6.2 The following principles shall be observed in the allocation of accounting duties:-
- (a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- (b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these functions.

## **FS07 IMPREST ACCOUNTS AND ADVANCES**

- 7.1 The Chief Financial Officer shall provide such imprest accounts as he considers appropriate for such officers of the Council as may need them to meet petty disbursements which shall be supported by receipted vouchers to the extent that the Chief Financial Officer may require.
- 7.2 Petty disbursements shall not include payments to employees, sums due to any tradesman with whom the County Borough Council normally trade, nor any account for goods exceeding a sum fixed from time to time by the Chief Financial Officer, unless as otherwise agreed, nor travelling and subsistence expenses other than those of a casual nature.
- 7.3 Where he considers it appropriate, the Chief Financial Officer shall open an account with the Council's bankers or National Giro for use by the imprest holder who shall not cause such account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's banking account shall forthwith be reported to the Chief Financial Officer.
- 7.4 No income received on behalf of the Council may be paid into an advance or imprest account but must be banked or paid to the Council as provided in Section 12(6) of Financial Standing Orders unless specifically agreed with the Chief Financial Officer.
- 7.5 An officer responsible for an advance or imprest account shall, if so requested, give to the Chief Financial Officer a certificate as to the state of his or her advance or imprest account.
- 7.6 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the Chief Financial Officer for the amount advanced.

## **FS08 AUDIT**

- 8.1 A continuous internal audit, under the independent control and direction of the Chief Financial Officer, shall be arranged to carry out an examination of accounting, financial and other operations of the Council.
- 8.2 The Chief Financial Officer shall have the responsibility to independently review, appraise and report to the Governance and Audit Committee and the Council upon the internal controls and procedures in operation as a contribution to the efficient, effective and economic use of resources. This includes:
- (i) The soundness, adequacy and application of internal control.
  - (ii) The extent to which the Council's assets and interest are properly accounted for and safeguarded.
  - (iii) The suitability and reliability of financial and related management information, and
  - (iv) That value for money is being obtained.
- 8.3 The Chief Financial Officer or his representative duly authorised by him shall have authority to:-

- (a) enter at all reasonable times on any Council premises or land
- (b) have access to all records, documents, computer programmes and files 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 cash, stores or any other Council property under his or her control.

8.4 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the Strategic Director concerned shall forthwith notify the Chief Executive and the Chief Financial Officer who shall take such steps as are necessary by way of investigation and report.

8.5 The Chief Internal Auditor shall liaise with the Council's external auditors and Monitoring Officer where appropriate to maximise the efficient use of audit resources.

#### **FS09 BANKING ARRANGEMENTS AND CHEQUES**

9.1 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Financial Officer, who shall be authorised to operate such banking accounts, including National Giro Accounts, as he may consider necessary.

9.2 All cheques, but excluding cheques drawn on authorised imprest accounts, shall be ordered only on the authority of the Chief Financial Officer who shall make proper arrangements for their safe custody.

9.3 Cheques on the Council's main banking accounts, shall bear the facsimile signature of the Chief Financial Officer or be signed by the Chief Financial Officer, or other officer so authorised.

#### **FS010 CONTRACTS FOR BUILDING, CONSTRUCTIONAL OR ENGINEERING WORK**

10.1 Where contracts provide for payment to be made by instalments, the Chief Financial Officer shall arrange for the keeping of a contract register or registers to show the state of account on each contract between the Council and the contractor, together with any other payments and the related professional fees.

10.2 Payments to contractors on account of contracts shall be made only on a certificate issued by the appropriate Strategic Director (or private architect, engineer or consultant where engaged by the Council issued through the appropriate Strategic Director) or by an officer nominated by him in writing for the purpose.

10.3 All payments made to contractors must be in line with the requirements of the Construction Industry Tax Scheme as outlined in the Guide prepared by the Chief Financial Officer.

- 10.4 Subject to the provisions of the contract in each case every extra or variation shall be authorised in writing at the time the decision is made by the appropriate Strategic Director (or private architect, engineer or consultant as may be appropriate) or by an officer nominated by him in writing for the purpose. The variation order shall record the estimated costs of that variation.
- 10.5 Where by reason of such extra or variation it is apparent that the original tender sum is to be exceeded by 7½% (or 10% if the tender sum contains no contingency), the Strategic Director concerned in consultation with the Chief Financial Officer shall report to the next meeting of the Cabinet. Should further variations cause additions to the tender sum by a further 2½% these also shall be reported to the Cabinet.
- 10.6 The final payment for any contract shall not be authorised until the appropriate officer, private architect, engineer or consultant has produced to the Chief Financial Officer a detailed statement of account, and all relevant documents if required and the Chief Financial Officer has signified his agreement to the final payment due.
- 10.7 The Chief Financial Officer shall, to the extent he considers necessary, examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself as to the accuracy of the accounts.
- 10.8 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Chief Executive or his or her approved legal representative for consideration of the Council's legal liability and, where necessary to the Chief Financial Officer for financial consideration before a settlement is reached.
- 10.9 Where completion of a contract is delayed, it shall be the duty of the Strategic Director concerned to take appropriate action in respect of any claim for liquidated damages. The Strategic Director shall submit a report describing the action taken to the Executive Member and the Chief Financial Officer where the delay is anticipated to exceed a period of three months.
- 10.10 A report concerning expected final costs at practical completion shall be made to the Executive Member in respect of all contracts in excess of a sum prescribed from time to time by the Chief Financial Officer.

## **FS011 PROPERTY**

- 11.1 The Chief Executive or an officer nominated by him or her will maintain an asset register of all properties owned by the Council, recording the holding Service Area, purpose for which held, location and extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 11.2 Before acquiring any building, the appropriate Strategic Director shall report to the appropriate Executive Member/Cabinet. The report shall contain:
- Confirmation that appropriate financial approval has been received.

- Confirmation that sufficient provision is available within the current revenue estimates to meet the revenue costs of owning and operating the property.
  - An assessment of the future revenue cost stream relating to owning and operating the property and the anticipated impact of future revenue spending.
- 11.3 The Chief Executive or his or her legal representative shall have the custody of and responsibility for all title deeds of the Council under secure arrangements.

## **FS012 INCOME**

- 12.1 The collection of all money due to the Council shall be under the supervision of the Chief Financial Officer and in accordance with the Debt Management Strategy approved by the Council.
- 12.2 Each Strategic Director shall furnish the Chief Financial Officer with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, as may be required by him to record correctly all sums due to the Council, and to ensure the prompt rendering of accounts for the recovery of income due.
- 12.3 All accounts for money due to the Council (other than periodical items such as rents, etc or unless otherwise agreed by the Chief Financial Officer) shall be issued in accordance with procedures determined by the Chief Financial Officer.
- 12.4 The Chief Financial Officer shall be notified promptly in writing of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council, and shall have the right to inspect any documents or other evidence in this connection as he may decide.
- 12.5 All receipts, forms, books, tickets and cash receipting machines etc shall be ordered and supplied to departments in accordance with procedures determined by the Chief Financial Officer.
- 12.6 All money received by an officer on behalf of the Council shall without delay be paid to the Chief Financial Officer, or, as he may direct, to the Council's banking or National Giro account or transmitted directly to any other body or person entitled thereto. No deduction may be made from such money save to the extent that the Chief Financial Officer may specifically authorise. Each officer who so banks money shall enter on the paying-slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque; on the reverse of each cheque, the officer shall enter the name of his or her service area, office or establishment.
- 12.7 Personal cheques shall not be cashed out of the money held on behalf of the Council.
- 12.8 Every transfer of official money from one member of staff to another will be evidenced in the records of the service areas concerned by the signature of the officer receiving the money.

- 12.9 No debit in respect of an amount due to the Council once established shall be discharged otherwise than by payment in full. The definition “payment in full” includes payment of the full amount by instalments where such arrangements are governed by guidelines and procedures issued by the Chief Financial Officer. Where a debit cannot be discharged by payment (either in part or full), the debt outstanding can only be written off following a decision of the Chief Financial Officer in accordance with a write off policy approved by the Executive Member for Resources and Strategic Leadership.

### **FS013 INSURANCES**

- 13.1 The Chief Financial Officer shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 13.2 The Chief Financial Officer is authorised to incur any necessary expenditure deemed appropriate to protect the assets and income of the Authority against avoidable loss.
- 13.3 Strategic Directors shall give prompt notification to the Chief Financial Officer of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances, and shall advise the amount of cover required for new risks or alterations.
- 13.4 Strategic Directors shall notify the Chief Financial Officer in writing forthwith upon knowing of any loss, liability or damage or any event likely to lead to a claim, and shall arrange for an estimate of the cost or reinstatement to be obtained.
- 13.5 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 13.6 The Chief Financial Officer shall annually, or at such other period as he may consider necessary, review all insurances in consultation with other Strategic Directors as appropriate.
- 13.7 Strategic Directors shall consult the Chief Financial Officer respecting the terms of any indemnity or guarantee which the Council is requested to give.

### **FS014 RISK MANAGEMENT**

- 14.1 The County Borough Council has an active Risk Management Policy and all Strategic Directors should ensure adherence to this policy. Strategic Directors must bring to the attention of all staff the need for risk awareness and loss prevention.
- 14.2 Wherever necessary, risk assessments will be undertaken and in these circumstances, and any other situation where doubt exists; the advice of the Chief Financial Officer must be sought.

## **FS015 INVENTORIES**

- 15.1 All Service Areas (including outlying establishments) shall maintain inventories recording an adequate description of furniture, fittings and equipment, computer hardware/software, plant and machinery, belonging to the Council. The extent of such property shall be so recorded and the form in which the inventories shall be kept will be determined by each Strategic Director in consultation with the Chief Financial Officer.
- 15.2 Each Strategic Director shall be responsible for ensuring that systems are in place to undertake an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly.
- 15.3 The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used to otherwise than for the Council's purposes except in accordance with specific directions issued by the Strategic Director of each Service Area.

## **FS016 INVESTMENTS, BORROWINGS AND TRUST FUNDS**

- 16.1 All investments of money under its control excepting where necessary Pension Fund monies for which the Council is responsible as administrating authority, shall be made in the name of the Council or in the name of nominees approved by the Deputy Chief Executive; bearer securities shall be excepted from this Standing Order but any purchase of such securities shall be reported to the Council as part of the Council's Treasury Management Strategy.
- 16.2 All securities of the property of, or in the name of, the Council or its nominees shall be held in custody of the Council's bankers, or otherwise, as the Council may specifically direct.
- 16.3 All borrowings shall be effected in the name of the Council.
- 16.4 The Deputy Chief Executive or such registrar as the Council may appoint, shall be the Council's registrar of stocks, bonds and bills.
- 16.5 The County Borough Council has adopted CIPFA's "Code of Practice for Treasury Management in Local Authorities" which requires:-
- a) A Treasury Policy Statement setting out its strategy and procedures shall be adopted by the Council, reviewed periodically by the Council, and thereafter its implementation and monitoring shall be delegated to the Governance and Audit Committee. The Governance and Audit Committee will also be responsible for ensuring scrutiny of the treasury management strategy and policies before making recommendations to Council. This Treasury Management strategy will include suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
  - b) All money in the hands of the Council excepting where necessary Pension Fund monies or other monies held in trust shall be aggregated for the purposes of treasury management and shall be under the control of the officer designated for the purposes of Section 151 of the Local Government

Act 1972, Section 73 of the Local Government Act 1985 and Section 113 of the Local Government Finance Act 1988, referred to in the Code as the Finance Officer.

- c) All executive decisions on borrowing, investment or financing i.e. the execution and administration of Treasury Management decisions shall be delegated to the Deputy Chief Executive or through him to his staff, who shall all be required to act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.
  - d) The Deputy Chief Executive shall report to the Council no fewer than three times in each financial year on the activities of the treasury management operation and on the exercise of treasury management powers delegated to him. The reports as a minimum will include an annual strategy and plan in advance of the year, a mid-year review and an annual report on treasury management. The Annual report must be available for presentation by 30 September of the succeeding financial year.
- 16.6 All Trust Funds shall be in the name of the Council unless the Trust deed otherwise provides.
- 16.7 All officers acting as trustees by virtue of their official position shall deposit all securities etc relating to the Trust with the Deputy Chief Executive, or according to his order, unless the Trust deed otherwise provides.
- 16.8 The management of the Pension Fund is delegated to the Pensions Committee of the Council.
- a) The Pension Committee delegate the day to day investment decisions to authorised investment managers duly appointed by the Council or in the case of internally managed investments to the Deputy Chief Executive or through him to his staff, who are required to act in accordance with the relevant requirements of paragraph 16.5 above and also in accordance with Local Government Pension Scheme Regulations (as amended) as they apply to investments. Such Regulations specifically restrict the circumstances in which the Pension Fund may borrow.
  - b) Although not required to do so by statute, the Pension Fund has chosen to mirror the Councils statutory requirement to, each year, report its treasury and cash investment strategy, management and approved counterparty list for lending activity for the forthcoming period. In doing so, there is recognition that cash is a specific category of investment within the Pension Funds overall asset allocation decisions linking investment return, risk and liquidity.

## **FS017 ORDERS FOR WORK, GOODS AND SERVICE**

- 17.1 Official orders shall be in a form approved by the Chief Financial Officer (after consultation, if appropriate, with the Chief Executive) and are to be signed only by officers authorised by the appropriate Strategic Director who shall be responsible for official orders issued from his or her service area. The Chief Financial Officer may approve the use of electronic orders and such orders shall only be input and approved electronically by officers authorised by the appropriate Strategic Director.



- 17.2 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purposes or such other exceptions as the Chief Financial Officer may approve.
- 17.3 Each order shall conform with the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

## **FSO18 PAYMENT OF ACCOUNTS**

- 18.1 Apart from petty cash and other payments from advance accounts the normal method of payment of money due from the Council shall be by cheque, BACS or other instrument drawn on the Council's banking account by the Chief Financial Officer.
- 18.2 The Strategic Director issuing an order is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources in his or her service area. Such certification shall be in manuscript by or on behalf of the Strategic Director. The names of officers authorised to sign such records shall be sent to the Chief Financial Officer by each Strategic Director, together with specimen signatures and initials and shall be amended on the occasion of any change thereof.
- 18.3 Before certifying an account, the certifying officer shall, save to the extent that the Chief Financial Officer may otherwise determine, have satisfied her/himself that:-
- (a) the work, goods or services to which the account relates have been received carried out and approved;
  - (b) the prices, extensions calculations, trade discounts, other allowances, credits and tax are correct;
  - (c) the relevant expenditure has been properly incurred and is within the relevant estimates provision;
  - (d) appropriate entries have been made in inventories, stores records or stock books as required; and
  - (e) the account has not been previously passed for payment and is a proper liability of the Council.
- 18.4 Duly certified accounts shall be submitted for payment without delay. The officer responsible for effecting payment shall examine them to the extent that that s/he considers necessary, for which purpose s/he shall be entitled to make such enquiry and to receive such information and explanation as s/he may require.
- 18.5 Invoices should not be amended, rather on additional invoice/credit note should be obtained prior to payment.
- 18.6 Each Strategic Director shall as soon as possible after 31 March and not later than 30 April in each year, notify the Chief Financial Officer of all outstanding expenditure relating to the previous financial year. The final notification date shall

be specified by the Chief Financial Officer within the accounts closure timetable issued annually.

## **FS019 PROTECTION OF PRIVATE PROPERTY**

- 19.1 The Strategic Director Social Care and Housing and any other Strategic Director affected shall notify the Chief Financial Officer in such form as s/he may require, of any case known to him/her where steps are necessary to prevent or mitigate loss or damage of moveable property of a third party into the possession of the Council, or of that officer, and shall forward to the Chief Financial Officer an itemised inventory in each case, prepared in the presence of two officers.
- 19.2 All valuables such as jewellery, watches and other small articles of a similar nature and documents of title belonging to a third party (unless in any case otherwise decided by the Chief Financial Officer) be deposited with the Chief Financial Officer for safe custody.

## **FS020 SALARIES, WAGES AND PENSIONS**

- 20.1 The payment of all salaries, wages and pensions, compensation and other emoluments to all employees and former employees of the Council shall be made by the Chief Financial Officer or under arrangements approved and controlled by him. The Authority has produced a number of specific procedural guidance documents relating to this area:
- Procedure document for the appointment, termination or amendment of conditions of service of employees
  - Personnel Policies and Procedures Guide for Managers
  - Guidance for school based staff on the administration of conditions of service of employees
  - Criminal Records Bureau – Disclosures - Updated Guidance
  - Employment Status Procedure
- 20.2 Each Strategic Director shall notify the Chief Financial Officer as soon as possible and in the form prescribed by him, of all matters affecting the payment of such emoluments and in particular:-
- (a) appointments, resignations, dismissals, suspension, secondments and transfers;
  - (b) absences from duty for sickness or other reason, apart from approved leave;
  - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application; and
  - (d) information necessary to maintain records of service for pensions, income tax, national insurance and the like.
- 20.3 Appointments of all employees shall be made in accordance with the Standing Orders of the Council within the approved establishments, grades and rates of pay.

- 20.4 All records or other pay documents shall be in a form prescribed or approved by the Chief Financial Officer and shall be certified in manuscript by or on behalf of the Strategic Director. The names of officers authorised to sign such records shall be sent to the Chief Financial Officer by each Strategic Director, together with specimen signatures and shall be amended on the occasion of any change.

## **FS021 SECURITY**

- 21.1 Each Strategic Director is responsible for maintaining reasonable security at all times for all buildings, stocks, stores, furniture, equipment, cash etc under his or her control. He or she shall consult the Chief Financial Officer in any case where security is thought to be inadequate or where it is considered that special security arrangements may be needed.
- 21.2 Maximum limits for cash holding shall be agreed with the Chief Financial Officer and shall not be exceeded without his express permission.
- 21.3 Each Strategic Director will be responsible for making reasonably secure arrangement in regard to the custody and availability of keys to safes and similar receptacles in his or her service area and the loss of any such keys must be reported to the Chief Financial Officer forthwith.
- 21.4 No property belonging to the Council shall be sold or otherwise disposed of without the prior approval of the Strategic Director concerned in accordance with the Council's approved Scheme of Decision making.

## **FS022 STOCKS AND STORES**

- 22.1 Each Strategic Director shall be responsible for the care and custody of the stocks and stores in his/her service area.
- 22.2 Stocks shall not be in excess of normal requirements except in special circumstances with the approval of the Strategic Director concerned in accordance with the Council's approved Scheme of Decision making.
- 22.3 Strategic Directors shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.
- 22.4 The Chief Financial Officer shall be entitled to receive from each Strategic Director such information as he requires in relation to stores for the maintenance of accounting, costing and financial records.
- 22.5 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the Strategic Director concerned, in accordance with the Council's approved Scheme of Decision making, decides otherwise in a particular case taking into account any guidance that may be issued from time to time by the Chief Financial Officer.

## **FS023 DATA PROTECTION**

- 23.1 Each Strategic Director shall furnish the Chief Financial Officer with sufficient information and in prescribed form, of all systems (IT and manual) holding personal data (as defined by the Data Protection act 1998), in order to notify such details to the Information Commissioner.
- 23.2 Each Strategic Director shall notify the Chief Financial Officer in writing forthwith of the introduction or amendment of any system (IT or manual) containing personal data.
- 23.3 All departments shall ensure, under the general direction of the Chief Financial Officer, compliance with the principles of the Data Protection Act 1998.
- 23.4 A general guide to the Data Protection Act is available on the Intranet.

## **FS024 TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES**

- 24.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Chief Financial Officer duly certified in a form approved by him, made up to a specified day of each month, within three days thereof. The names of officers authorised to sign such claims shall be sent to the Chief Financial Officer by each Strategic Director together with specimen signatures and shall be amended on the occasion of any change. The Authority has a number of procedural documents relating to this area as follows:
- Departmental Guide to Officers Expenses and Benefits
  - Officers Expenses Manual
  - A Guide to Expenses Summary
  - Re-imbusement of disturbance allowances
  - Members expenses manual
- 24.2 The certification by or on behalf of the Strategic Director shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 24.3 Officers' claims submitted more than three months after the last date of a monthly claim will be forwarded to the Chief Financial Officer for consideration, while claims over six months will be submitted to the Executive Member for Resources and Strategic Leadership.
- 24.4 Payments to members, including co-opted members of the Council or its committees who are entitled to claim travelling or other allowances, will be made by the Chief Financial Officer on receipt of the prescribed form duly completed in accordance with guidance issued from time to time. All claims for a financial year are to be submitted within one month of 31<sup>st</sup> March.

- 24.5 The accuracy of the information contained in a claim for travelling, and subsistence etc shall be the responsibility of the Officer or Member concerned.

### **FS025 UNOFFICIAL FUNDS**

- 25.1 An unofficial fund is a fund not belonging to the Council.
- 25.2 The relevant Strategic Director shall be responsible for ensuring sound arrangements for the financial management and audit of unofficial funds and shall consult with the Chief Financial Officer before formulating regulations that apply to such funds.

### **FS026 DOCUMENT RETENTION**

- 26.1 The relevant Strategic Director shall ensure that documentation is retained securely, in an appropriate format and in accordance with statutory and/or regulatory requirements. The Chief Financial Officer shall issue guidance concerning recommended document retention periods.

### **FS027 PARTNERSHIPS**

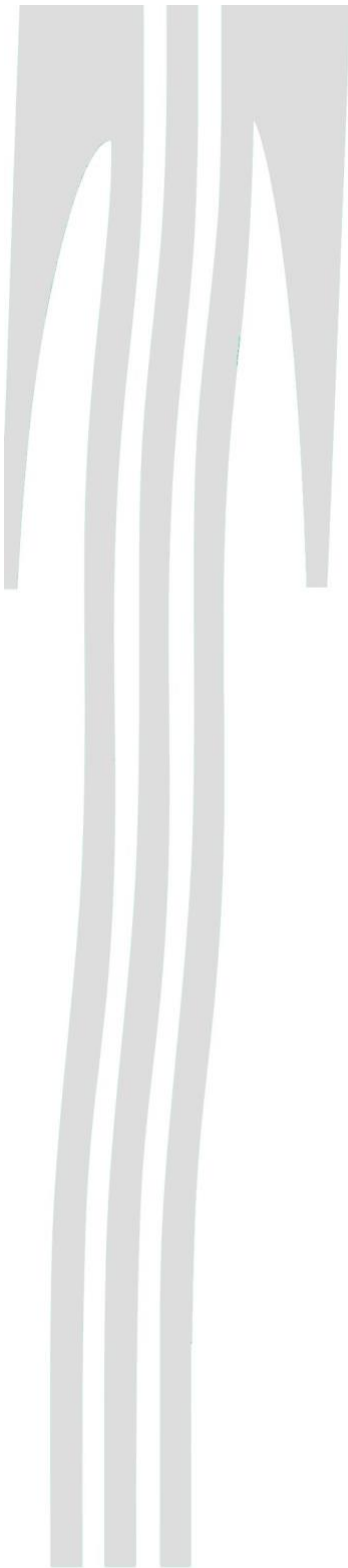
- 27.1 Where the Authority holds monies or property belonging to a partnership as an accountable body for those monies or property, the relevant Service Area Strategic Director within whose responsibilities the activities and functions of the partnership falls shall ensure that those funds are handled and that property is dealt with in accordance with these Standing Orders subject only to any variation that may be approved in writing by the Chief Financial Officer from time to time.

### **FSO28 VALUE ADDED TAX (VAT)**

- 28.1 The relevant Strategic Director shall ensure that all transactions involving Value Added Tax are correctly accounted for in accordance with the guidance issued by the Chief Financial Officer, namely, the VAT Guide and the VAT Guide for Schools.

### **FSO29 EXTERNAL FUNDING**

- 29.1 The relevant Strategic Director shall ensure that all potential and actual bids for external funding to supplement the financial resources of the Authority are in accordance with the procedures laid down in the External Grants Protocol issued by the Chief Financial Officer.



**Policy Name:**

**WHISTLEBLOWING POLICY**

**Version: 4**

**Approved By:**

**Ethics and Standards Committee**

**Date Approved: 21 September 2023**

**Review Date:**



# WHISTLEBLOWING AND PROCEDURE

# POLICY



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### **1 Background**

- 1.1 Staff who work within the Council may be in the best position to identify any serious concerns or any actions or proposals which are or appear to be improper, or fall below the professional standards which the Council and the community are entitled to expect.
- 1.2 As public servants, all Council workers should recognise their responsibility to report any workplace concerns as part of day to day contact with management, but where these are serious concerns and are also in the public interest, and of the nature outlined in this policy, they may be reported confidentially using the whistleblowing procedure.

### **2 Definition**

- 2.1 When a worker provides a certain type of information usually to an employer or regulator to raise a serious concern which they reasonably believe is in the public interest, this is defined as whistleblowing.
- 2.2 Workers who have legitimate concerns about any aspect of the Council's work are encouraged to come forward and voice those concerns rather than overlooking them.

### **3 Scope**

- 3.1 This policy applies to the concerns of Council workers' which fall outside the scope of individual grievances about work, working conditions, or relationships with colleagues that they wish to discuss with, and seek resolution through management and employment processes.
- 3.2 Members of the public who wish to report a concern should do so through the Council's complaints procedures and other statutory reporting procedures applying to some Council Service Areas. Details regarding these processes are available on the Council's website.

### **4 Sources of Information**

- 4.1 In raising concerns Council workers should have due regard to the reporting obligations under other policies, and professional codes of practice, in



particular those relating to the safeguarding of children, young people and adults who may be placed at immediate risk by any delays in reporting.

- 4.2 Employees are encouraged to refer to the following Council policies
- (a) Anti-Fraud and Corruption Policy
  - (b) Grievance Procedure
  - (c) Corporate Complaints Procedure
  - (d) Employee Code of Conduct
  - (e) Councillors Code of Conduct
  - (f) The Constitution of Torfaen County Borough Council
  - (g) Safeguarding of Children, Young People and Adults at Risk – Corporate Policy and Guidelines
  - (h) Social Care Complaints Procedure
- 4.3 Individuals who suspect wrongdoing and disclose these concerns in good faith to their employer using the whistleblowing procedure, are able to do so without fear of victimisation, subsequent discrimination or disadvantage both during and after employment. Whistleblowing concerns may also be made to appropriate regulators, details of which are set out in Section 12 of this document.
- 4.4 The policy incorporates provisions set out in the Public Interest Disclosure Act (PIDA) 1998 and Employment Rights Act 1996, which are intended to protect individuals from suffering a detriment who disclose genuine concerns, and sets out details of the concerns which are held to be in the public interest.

## **5 Qualifying Disclosures**

- 5.1 A protected disclosure is a disclosure which, in the reasonable belief of the worker, shows a concern in one or more of the following circumstances:
- (a) A criminal offence has been committed, is being committed or likely to be committed
  - (b) A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
  - (c) A miscarriage of justice has occurred, is occurring or is likely to occur
  - (d) The health and safety of any individual has been, is being or is likely to be endangered
  - (e) The environment has been, is being or is likely to be damaged

And

- (f) Information tending to show any matter falling within any one of the proceeding paragraphs has been, is being, or is likely to be deliberately concealed.

## **6 Whistleblowing Protection**

- 6.1 Any disclosure made to the Council or other responsible person must be made in good faith, and the information disclosed, or the allegations made must be substantially true, of a serious nature, and must not be made for personal gain.
- 6.2 Where the disclosure is made regarding a person other than the employer to that other person, subject to all other conditions set out in this procedure regarding subject and conditions will be making a qualifying disclosure and be eligible for the protections set out in the Public Interest Disclosure Act 1998.
- 6.3 For a disclosure to be protected by the law an individual must:
  - (a) Make the disclosure in the public interest;
  - (b) Make it through the process outlined in this policy statement
  - (c) Include sufficient, specific, factual content to show any breach of obligation or malpractice of the types set out in the legislation.
- 6.4 Individuals are protected as a whistle blower if they:
  - (a) Make the disclosure in good faith
  - (b) Make the disclosure to their employer
- 6.5 Individuals should believe that malpractice in the workplace may be happening, has happened in the past, or will happen in the future; be revealing information that would meet the criteria for being a qualifying disclosure, and reveal it to the right person and in the right way.
- 6.6 Some disclosures are not qualifying disclosures. An individual will not be protected for whistleblowing if they break the law when making a disclosure

or the information is protected under legal professional privilege e.g. if the information was disclosed when someone wanted legal advice.

## **7 Confidentiality**

- 7.1 The Council recognises that workers may want to raise concerns in confidence and will do its utmost to protect the identity of members of staff who raise a concern and do not want their name to be disclosed. An investigation into the concern may however reveal the source of the information and statements may be required from the worker who has made the whistleblowing disclosure which may be used as evidence. If the investigation leads to prosecution the whistle blower may be called to give evidence in court as part of the legal process.

## **8 Protection from Detriment**

- 8.1 The Council operates a zero tolerance approach to any individual who deters or attempts to deter any other worker from raising genuine concerns under this Whistleblowing Policy.
- 8.2 Attempts to identify, harass or victimise a whistleblower or suspected whistleblower by another employee are misconduct, and may be identified as gross misconduct and will be dealt with formally under the Council's Disciplinary Procedure. Where misconduct is found, this may be gross misconduct, and lead to dismissal without notice or pay in lieu of notice.
- 8.3 The Council will not tolerate any attempt on the part of an individual, councillor, Council contractor or supplier to apply any sanction or detriment to any person who may have reported to the Council any serious and genuine concern that they may have about apparent wrongdoing. Any such conduct by a Councillor is liable to be reported as a breach of the members Code of Conduct.
- 8.4 Where any such conduct is undertaken by any contractor or supplier of the Council, the Council will regard that as a serious breach of contract.
- 8.5 Any such behaviour by any recipient of a Council service will be regarded as a breach of the condition under which that service is provided.
- 8.6 The Council will take steps to address any difficulties an employee may experience, or, any detriment as a result of raising a concern under this policy.

## **9 False and Malicious Allegations**

- 9.1 If a member of staff makes an allegation, but it is not upheld by the investigation, no action will be taken against them if this was made in good faith and the information disclosed and/or allegations made are substantially true. If an allegation is made frivolously, maliciously or for personal gain, this may be regarded as a matter to be investigated under the Council's formal employment procedures.

## **10 Whistleblowing Reporting Process**

- 10.1 If an individual knows or suspects that some wrongdoing is occurring within the Council, they should raise the matter in writing at the earliest opportunity either to Head of Strategic Human Resources. A form is attached as an appendix to this policy to assist with the notification process. Individuals may secure the assistance of their trade union representative, or a work colleague who is not connected with the concern when making a whistleblowing disclosure.
- 10.2 The disclosure should be set out in writing and include sufficient facts to enable the matter to be investigated. A pro forma (**Appendix A**) can be used to make a protected disclosure.
- 10.3 At the absolute discretion of the Head of Strategic Human Resources and/ support will need to be provided to the worker, at the time the allegation is raised, during the investigation itself and following the outcome of the investigation. The nature and type of support offered will be discussed with the whistleblower.

## **11 How the Council will respond**

- 11.1 When complaints are made using the whistleblowing process, the Council will thoroughly and efficiently investigate any allegation of wrongdoing in order to establish the facts, and where appropriate, remedy the situation. In doing this the Council will seek to ensure that such wrongdoing is prevented in future.
- 11.2 Concerns will be investigated as quickly as possible. Individuals should be aware that it may be necessary to refer a matter to an external agency and this may result in an extension of the investigative process.
- 11.3 Individuals should also be aware that the seriousness and complexity of any complaint may have an impact upon the time taken to investigate a matter. A designated person will indicate at the outset of the anticipated time scale for investigating the complaint.

- 11.4 Once any potential wrongdoing is identified the Head of Strategic Human Resources will make arrangements for the matter to be investigated. In doing so, every effort will be made to maintain the anonymity of the individual who has made the allegation of wrongdoing.
- 11.5 In circumstances where the Head of Strategic Human Resources identify that the disclosure is outside of the remit of the Whistleblowing Procedure the worker making the complaint will be formally notified and advised of the alternative process that will apply in that circumstance.
- 11.6 Where appropriate, the matters raised may
- (a) Be investigated by internal audit;
  - (b) Be investigated by the Head of Strategic Resources, or any other officer of the Council nominated by him/her
  - (c) Be referred to the Police;
  - (d) Be referred to the external auditor;
  - (e) Form the subject of an independent investigation
- 11.7 Within 10 working days of a concern being raised, Human Resources will write to the individual to:
- (a) Acknowledge that the concern has been received;
  - (b) Indicate how he/she proposes to deal with the matter;
  - (c) Give an estimate of how long it will take to provide a final response;
  - (d) Indicate whether any initial enquiries have been made;
  - (e) Supply information on staff support mechanisms; and
  - (f) Advise whether further investigations will take place and if not, why not.
- 11.8 The amount of contact between the officers considering the issues and the individual will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Council will seek further information from the worker who has raised the concern.
- 11.9 The Council will take into account the details of the alleged wrong doing, publicity, role and duties of the employee and will respond in a proportionate and reasonable manner in considering any action, if any, against the named employee.
- 11.10 For reasons of confidentiality any actions taken against a Council employee under its' employment processes may not be fully disclosed to the whistleblower.

## 12 Raising concerns outside the Council

12.1 The Council hopes that members of staff will be satisfied with the action taken by the Council in investigating their concerns. However, employees do have the right to raise concerns externally if they feel that to be appropriate. Organisations include:

[Protect](#) (formerly Public Concern at Work) provide information and advice on raising a concern. Details are available at [www.protect-advice.org.uk](http://www.protect-advice.org.uk) or by telephone on 020 3117 2520.

Some examples of prescribed people and bodies are listed below:

### **The Auditor General For Wales**

About the proper conduct of public business; value for money, fraud and corruption in public bodies in Wales

PIDA Officer  
The Auditor General for Wales  
24 Cathedral Road  
Cardiff  
CF11 9LJ  
Tel: 029 20 320 522  
Email: [whistleblowing@audit.wales](mailto:whistleblowing@audit.wales)

### **Children's Commissioner for Wales**

About matters relating to the rights, welfare and interests of children in Wales

Children's Commissioner for Wales  
Llewellyn House  
Harbourside Business Park  
Harbourside Road  
Port Talbot  
SA13 1SB  
Tel: 01792 765600  
Freephone: 08088011000  
Email: [post@childcomwales.org.uk](mailto:post@childcomwales.org.uk)  
[www.childcomwales.org.uk](http://www.childcomwales.org.uk)

## **Social Care Wales**

About matters relating to the registration of social care workers in Wales

Social Care Wales  
South Gate House  
Wood Street  
Cardiff  
CF10 1EW  
Tel: 0300 30 33 444  
[info@socialcare.wales](mailto:info@socialcare.wales)

## **Estyn**

Estyn is the office of Her Majesty's Chief Inspector of Education and Training in Wales. Estyn inspects quality and standards in education and training providers in Wales

Estyn  
Anchor Court  
Keen Road  
Cardiff  
CF24 5JW  
029 2044 6446  
For general enquiries  
[enquiries@estyn.gov.uk](mailto:enquiries@estyn.gov.uk)

## **The Health and Safety Executive**

About health or safety of individuals at work or the health and safety of the public that is work related in connection with those industries and work activities for which HSE is the enforcing authority

Health and Safety Executive  
Tel: 0300 003 1647  
Online form: <http://www.hse.gov.uk/contact/raising-your-concern-htm>  
[www.hse.gov.uk](http://www.hse.gov.uk)

## **Public Services Ombudsman for Wales**

About breaches by a member or co-opted member of a relevant authority's code of conduct in Wales

Public Services Ombudsman  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ  
Tel: 0300 790 0203  
Fax: 01656 641199  
Email: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)

[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

A full list of prescribed people and bodies to whom malpractice can be reported can be found via the gov.uk website.

## **Human Resources**

**October 2022**



**WHISTLEBLOWING  
DISCLOSURE FORM**



This form is intended for use by any individual working for the Council (including contractors, agency workers and volunteers) who wish to raise a serious concern, the disclosure of which is in the public interest.

**Making a public interest disclosure (whistleblowing)**

Once you have submitted this form, the Council' will investigate the matter in accordance with the whistleblowing procedure. You may be contacted by the Head of Strategic Human Resources or the Monitoring Officer or the investigating officer appointed by him/her to obtain additional information.

In certain circumstances, you can request that your concerns be kept anonymous. Where possible, the Council will respect a request for anonymity, but cannot guarantee that it will be able to do so. Investigation into the concern could reveal the source of the information and statements may be required from the complainant as part of the evidence which may be seen by all parties involved. If the investigation leads to prosecution the complainant may be called to give evidence in court.

This form should be completed and delivered to the Head of Strategic Human Resources, Torfaen County Borough Council, Civic Centre , Pontypool, NP4 6YB in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line. To xxxx email address

**WHISTLEBLOWING  
DISCLOSURE FORM**



<p><b>Formal public interest disclosure (whistleblowing)</b>  <b>Please refer to the information set out in the Whistleblowing Policy before completing this form</b></p>			
<p>I am</p> <p>An employee      An agency worker      A contractor      Other (please detail)</p>			
<b>Workers name:</b>			
<b>Job title:</b>			
<b>Service area:</b>			
<b>Date:</b>			
<b>Does your disclosure relate to one or more individuals and/or a Council service. Please tick that which applies</b>	Individual		Service

<p><b>Your Contact Details</b></p> <p><b>Your Address</b></p> <p><b>Your Tel No</b></p> <p><b>Your Email</b></p>
<p><b>Are you raising a concern regarding the area in which you normally work</b></p> <p><b>Yes No</b></p>
<p><b>Nature of Concern (please tick those which apply)</b></p> <p>A criminal offence has been committed, is being committed or is likely to be committed</p> <p>A person has failed, or is likely to fail to comply with any legal obligation to which they are subject</p> <p>A miscarriage of justice has occurred, is occurring or is likely to occur</p> <p>The health and safety of any individual has been, is being or is likely to be endangered</p> <p>The environment has been, is being or is likely to be damaged</p> <p>Information falling into one or more of the above is being or is likely to be deliberately concealed</p>
<p><b>Summary of disclosure:</b></p>

Please set out the details of the concern you wish to raise, providing as much detail as possible of the circumstances including any known dates and locations. You may attach additional sheets if required.

**Individuals involved:**

Please provide the names and contact details of any people involved in your concerns, including witnesses. If you do not know the names of those involved please provide sufficient information for the investigating officer to identify these individuals

**Declaration:**

I confirm that information made on this form to the best of my knowledge is true and has not been made for personal gain.

**Form completed by:**

**Name (please print):**

**Signature:**

<b>Date:</b>	
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<b>For completion by the Council:</b>
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<b>Name of Officer:</b>	
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<b>Signature:</b>	
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<b>Date:</b>	
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**EDUCATION HUMAN RESOURCES**

**WHISTLEBLOWING  
POLICY FOR SCHOOL  
STAFF**

September 2015

## 1. Introduction

1.1 Whistleblowing has been defined as:

**'the disclosure by an employee or professional of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the work place, be it of the employee or his/her fellow employees'**

*(Public Concern at Work Guidelines 1997)*

Employees have a responsibility to ensure that they, their colleagues and others working in the school follow safe working practices so that pupils are kept safe at all times. Employees must also understand that they have a duty to report unsafe practices that could lead to a child being harmed or put at risk of harm. Failure to report such practices may lead to disciplinary action being taken against them if as a result of the failure to report, a child is harmed or put at risk of harm;

Employees are often the first to realise that there may be something seriously wrong within the School. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the School. They may also fear harassment or victimisation. In the circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

1.2 The Governing Body is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the school to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis but it is important that all disclosures must be made in the public interest.

1.3 This policy document makes it clear that an employee can do so without fear of victimisation, subsequent discrimination or disadvantage. This

confidential reporting policy is intended to encourage and enable employees to raise serious concerns **within** the School rather than overlooking a problem or “blowing the whistle” outside.

- 1.4 Statutory protection for employees who whistleblow is provided by the **Public Interest Disclosure Act 1998 (“PIDA”)**. The PIDA protects employees against victimisation if they make a protected disclosure within the meaning of the PIDA and speak out about concerns about conduct or practice within the school which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice.
- 1.5 This policy applies to all school staff including full and part time, casual, temporary, agency staff, individuals undertaking work experience in the school, volunteers and all contractors working for the school on school premises , for example drivers and builders .
- 1.6 It is also in line with the Enterprise Regulatory Reform Act (2013)
- 1.7 These procedures are in addition to the School’s Complaints Procedures.
- 1.8 This policy has been discussed with the relevant Trade Unions and professional organisations.

## **2. Aims and Scope of Policy**

- 2.1 This policy aims to:
  - give confidence to members of staff about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with school standards and policies so that they are encouraged to act on those concerns
  - provide members of staff with avenues to raise concerns
  - ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken
  - offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.
- 2.2 There are existing procedures in place to enable members of staff to lodge a grievance relating to their own employment. This policy does not enable



them to raise a concern about a breach of their own contract of employment. The Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures.

2.3 This policy covers whistleblowing relating to alleged:

- sexual, physical or emotional abuse of members of staff or pupils
- health and safety issues including risks to the public as well as risks to pupils and members of staff
- action that has caused or is likely to cause physical danger to any person or risk serious damage to school property
- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation
- potential maladministration, misconduct or malpractice
- action that has caused or is likely to cause danger to the environment
- abuse of authority
- unauthorised use of public or other funds
- fraud or corruption
- breaches of financial regulations or policies
- mistreatment of any person
- unfair discrimination or favouritism
- racist incidents or acts, or racial harassment and
- any attempt to prevent disclosure of any of the issues listed.
- Inappropriate use of social media and other technologies

2.4 The PIDA sets out the full statutory rights and obligations of members of staff wishing to whistle blow.

### **3. Safeguard Against Reprisal, Harassment and Victimisation**

3.1 The governing body will not tolerate harassment or victimisation of members of staff when matters are raised in accordance with the PIDA provisions. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with the whistleblowing policy will be dealt with under the Governing Body's staff disciplinary procedures.

The Governing Body:

- 3.1.2 Is committed to good practice and high standards and wants to be supportive of employees.
- 3.1.3 Recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.1.4 Recognises that support will need to be provided to the employee, at the time the allegation is raised , during the investigation itself and following the outcome of the investigation. The nature and type of support offered will need to be discussed and agreed with the individual employee.
- 3.1.5 Will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern.
- 3.1.6 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

## **4. Confidentiality**

- 4.1 The Governing Body recognises that members of staff may want to raise concerns in confidence and will do its utmost to protect the identity of members of staff who raise a concern and do not want their name disclosed.
- 4.2 However investigation into the concern could reveal the source of the information; and statements may be required from the member of staff as part of the evidence, which would be seen by all parties involved. If the investigation leads to prosecution, the whistle blower is likely to be called in to give evidence in court.

## **5. Anonymous Allegations**

- 5.1 Staff should put their name to allegations whenever possible - anonymous concerns are much less powerful. Nonetheless anonymous allegations may be considered under this whistleblowing procedure especially concerns raised relating to the welfare of children. In relation to determining whether

an anonymous allegation will be taken forward the governing body will take the following factors into account:

- the seriousness of the issue raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources, and obtaining information provided.

## **6. Untrue and Malicious/Vexatious Allegations**

- 6.1 If a member of staff makes an allegation in good faith but it is not confirmed by further inquiry the matter will be closed and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the governing body will consider taking disciplinary action against the member of staff. In the most serious of cases. This may include dismissal.

## **7. Allegations Concerning Child Protection Issues**

- 7.1 If an employee raises a concern relating to a child protection issue, the Head Teacher (or Chair of Governors if the concern is about the Head Teacher) or the School's Designated Safeguarding Officer must deal with the matter in accordance with the School's Safeguarding Procedure.
- 7.2 If after raising concerns related to child protection issues a member of staff still has concerns, and the issue has not been referred to Social Services by the school, the member of staff can make a direct referral to the Social Services Safeguarding Manager- on 01495 766670.

## **8. Procedure for Making a Whistleblowing Allegation**

- 8.1 Concerns should be expressed to the Head Teacher. If the concerns involve the Head Teacher then the Chair of Governors should be the first point of contact. .
- 8.2 If the member of staff feel they cannot express their concerns within the school, it is open to them to raise their concerns with someone outside the school setting from the list of organisations in the section of this policy 'Taking the Matter Further'. However it would usually be expected that the Strategic Director Education would be the person to whom they express their concerns outside of the school. Any concern about a Head Teacher

must be reported by the Chair of Governors to the Strategic Director Education

- 8.3 Where the concern relates to a child protection matter the School's Safeguarding Procedure must be followed. If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.
- 8.4 If the concern relates to the Chair of Governors then the Head Teacher must report the concern to the Strategic Director Education.
- 8.5 The member of staff should put their concern in writing for the avoidance of doubt. They should set out the background and history of the concern; giving names, dates and places where possible, and explaining the reason for their concerns. If they feel unable to put the matter in writing they can still raise their concern verbally and should telephone or arrange to meet the appropriate person. They can also ask their trade union or professional association to raise the matter on their behalf or to support them in raising the concern.

## **9. Response to Whistleblowing**

- 9.1 The matter raised may:
- need consultation with the local authority's designated social services manager for child protection/ safeguarding if there is a concern relating to child protection.
  - need to be passed to the Police if it relates to alleged criminal activity
  - need to be passed to the S 151 Officer or Head of Internal Audit if there are concerns about financial management or financial propriety in schools.
  - need inquiry internally in the school
- 9.2 At this stage concerns/allegations are neither accepted nor rejected.

## **10. Timescale for Response**

- 10.1 The member of staff will normally receive a written response within 5 school days (except in the case of anonymous allegations):
- acknowledging that the concern has been received

- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- advising whether any enquiries have been made
- advising whether further enquiries will take place
- informing them of support available whilst matters are looked into and following the outcome of the investigation
- maintaining confidentiality wherever possible, but also explaining that it may not be possible that they can remain anonymous.

## **11. The Inquiry Process**

- 11.1 The person receiving the allegation will be the Head Teacher unless the concern involves the Head Teacher in which case the Chair of Governors will be the first point of contact, Where there is a concern about a child protection matter the School's Designated Safeguarding officer may also be the first point of contact. There will be a duty on the first point of contact to deal promptly with the matter, to become the contact point for the employee raising the concern and write to the employee within 5 school days to advise them how their concern will be addressed. ( see 10.1 above) If required the first point of contact can obtain advice, on procedure from Human Resources or the Head of Safeguarding and Support.
- 11.2 If an investigating officer needs to talk to the member of staff, they are permitted to be accompanied by a trade union or professional association representative or a fellow member of staff not involved in the area of work to which the concern relates.
- 11.3 The first point of contact will seek to keep the employee informed of progress with their concern in a timely manner. However the timescales to be followed will vary depending on the nature of the issue raised and the procedure that is being followed to address the matter.

## **12. The Report**

- 12.1 A report will be produced following an investigation into the concern in accordance with the appropriate process The matter and action to be taken, if any, will be determined by the person (s) who are identified in the procedure as having the delegated authority to deal with the matter.
- 12.2 The School accepts that the employee needs to be assured that the matter has been properly addressed. Thus, the member of staff will be informed when an investigation .has been concluded.

- 12.3 Note:: The Head Teacher or Chair of Governors may, at any point, seek advice on the whistleblowing process from the Strategic Director Education or the Head of Safeguarding and Support.
- 12.4 The Head Teacher must report, in a general way, all whistleblowing cases on a termly basis to the Governing Body and also in the Head teacher's Annual Report .
- 12.5 All information relating to the disclosure of information will be securely held. Accurate information relating to any subsequent investigation will be retained securely and where allegations have been proven to be unfounded this will be clearly recorded.

### **13. TAKING THE MATTER FURTHER**

- 13.1 If no action is to be taken and/or the member of staff is not satisfied with the way the matter has been dealt with, they can make a complaint under the School's grievance or complaint procedure or raise their concerns with other organisations as listed below:
- the local authority
  - a diocesan authority (for Church schools)
  - a trade union or professional association
  - a relevant professional body or regulatory organisation
  - the Children's Commissioner for Wales
  - the Public Services Ombudsman for Wales
  - the Care and Social Services Inspectorate for Wales
  - a solicitor
  - the Police - for concerns of criminal behaviour
  - Public Concern at Work (an independent charity that provides free advice for persons who wish to express concern about fraud and other serious malpractice. Telephone 0207 404 6609 or [www.pcaw.co.uk](http://www.pcaw.co.uk)).

Policy Approved on \_\_\_\_\_

Chair of Governors \_\_\_\_\_

## APPENDIX A

### Letter confirming receipt of a protected disclosure (whistleblowing)-School based staff

Template letter to respond to an employee who has made a protected disclosure.

#### Letter wording

[ name]  
[ address]  
[ town]  
[ postcode]  
[Date]

[Employee's name]  
[Employee's address]  
[Employee's town]  
[Employee's postcode]

Dear [ name ]

I confirm that on [date] I received your [form/letter/email] dated [date] raising concerns about [state issues].

In accordance with the School's whistleblowing policy, the first step is for you to provide me with more details of your concerns. Please find enclosed a form to set out your concerns. You should use this form to provide dates, times, locations and the identities of those involved in the wrongdoing, and details of any witnesses who can corroborate the allegations. Once your concerns have been sufficiently clarified, I (if Head teacher is implicated in the wrongdoing, the Chair of Governors) will provide you with a written response as to how the matter will be investigated.

OR

In accordance with the School's whistleblowing policy, the first step is for you to provide me as Chair of Governors with more details of your concerns. Normally, the Head Teacher would investigate your concerns. However, as you have implicated him/her in the wrongdoing, I will be your initial point of contact and will provide you with a written response as to how the matter will be investigated. Please find enclosed a form to set out your concerns. You should use this form to provide dates, times, locations and the identities of those involved in the wrongdoing, and details of any witnesses who can corroborate the allegations. Once your concerns have been sufficiently clarified, I will provide you with a written response as to how the matter will be investigated.

Please be assured that the fact that you are the source of the disclosure will be kept confidential as far as possible. However, it is possible that individuals you work with may find out. If you

are subjected to any detriment, or are bullied or harassed, for making a disclosure, you should inform me immediately .and an investigation into the matter will follow to deal with perpetrators.

If you have any queries or concerns in the meantime, please do not hesitate to contact me on ( telephone number)

Yours sincerely

Head Teacher

Or

Chair of Governors ( if Head Teacher is implicated )



**WHISTLE BLOWING DISCLOSURE FORM –SCHOOL BASED STAFF**

**When to use this model whistleblowing form**

For the employee to make a formal disclosure.

**Form wording**

**Making a public interest disclosure (whistleblowing)**

This form is intended for use by any individual working in a school (including contractors, agency workers and volunteers) who wish to raise an issue about wrongdoing.

This form should be used to report wrongdoing within the School (for example, misconduct of a child protection nature, financial irregularities or health and safety concerns), rather than to raise a personal grievance (for example, if you would like to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached).

If you are unsure about whether your concerns are best dealt with under the School's whistleblowing policy or grievance procedure, please read the School's whistleblowing policy, which provides an example of the issues that should be reported using this form. If, having read the whistleblowing policy, you remain unsure about which procedure to use, please consult your Head Teacher for further advice. If you are implicating your Head teacher then you should contact your Chair of Governors .

Once you have submitted this form, the School's whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone you may have implicated below.

In certain circumstances, you can request that your concerns be kept anonymous. Where possible, the School will respect a request for anonymity, but cannot guarantee that it will be able to do so.

This form should be completed and delivered to ( name of Head Teacher and address of school or to the Chair of Governors if you are implicating the Head teacher ) in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

**Formal public interest disclosure (whistleblowing)**

**Employee's name:**

**Employee's job title:**

**Date:**

<b>Does your public interest disclosure relate to your Head Teacher?</b>	Yes/No
<b>Summary of disclosure:</b>	
Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.	
<b>Individuals involved:</b>	
Please provide the names and contact details of any people involved in your concerns, including witnesses.	
<b>Outcome requested:</b>	
Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.	
<b>Declaration:</b>	
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.	
<b>Form completed by:</b>  <b>Name( please print)</b>	
<b>Signature:</b>	
<b>For completion by the Head Teacher or Chair of Governors if Head Teacher is implicated )</b>	
Date form received by the Head Teacher  Or Chair of Governors if Head Teacher is implicated :	
Name of recipient and job role:	
Signature:	

**September 2015**

**APPENDIX 19 PARTNERSHIP BODIES**

This Appendix will list the partnership bodies to which the Executive decision making rules set out in Appendix 5 paragraphs 19 to 22 apply.

<b>Body</b>	<b>Executive Portfolio</b>
Strategic Housing Forum	Executive Member Adult Services & Housing
Education Achievement Service – Joint Executive Group	Executive Member Education
Education Achievement Service Company Board	Executive Member Resources Executive Member Corporate Governance & Performance (to deputise)
Public Service Board - Executive Group	Leader Deputy Leader (to deputise)
Schools Forum	Executive Member Education Chair, Education Overview & Scrutiny Committee
Children and Young People’s Improvement Board	Executive Member Education

APPENDIX 20 RECRUITMENT OF CHIEF EXECUTIVE & STRATEGIC DIRECTORS
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1. The Council Will
  - 1.1 Draw up a statement specifying:
    - (i) The duties of the officer concerned; and
    - (ii) Any qualifications or qualities to the appointed;
  - 1.2 Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention to persons who are qualified to apply for it;
  - 1.3 To publicly advertise any Strategic Director post with an annual remuneration of over £100,000 (unless the appointment was for a period of no longer than twelve months)
  - 1.4 Make arrangements for a copy of the statement mentioned above to be sent to any person on request.
2. Where a post has been advertised as provided in 1.2 above the Council must:
  - 2.1 Interview all qualified applicants for the post, or
  - 2.2 Select a shortlist of such qualified applicants and interview those included on the shortlist.
3. Where no qualified person has applied or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with 1.2 above.

*NOTE: This procedure is as required under the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended.*

**PROTOCOL TORFAEN COUNTY BOROUGH COUNCIL**

**1. INTRODUCTION**

- 1.1 The Local Government Act 2000 set up an Ethical Framework for Local Government introducing a Statutory Code of Conduct for Councillors and requiring the appointment of a Standards Committee to promote and maintain high standards of conduct. The Council and the Council’s Political Group Leaders are committed to promoting good standards of behaviour through this protocol.
  
- 1.2 The Councillors’ Code of Conduct applies whenever you act, claim or give the impression you are acting in your official capacity and sets out in general terms aspects of conduct which Councillors must observe in carrying out official duties and which have direct relevance to relations between Councillors and their fellow Councillors and between Councillors and Officers. The Code also applies to you at any time if you conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute or if you use or attempt to use your position to gain an advantage for yourself or any other person or if you misuse your authority’s resources.
  
- 1.3 This Protocol sets up a framework for good working relationships between Councillors and between Councillors and Officers as the best means of supporting the work of this Council.
  
- 1.4 The Protocol seeks to set out not only current practices and conventions but also aims to promote clarity and certainty on dealing with other issues.
  
- 1.5 The Protocol will also reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers so that together they enhance and maintain the integrity of the Council and its public reputation.

**2. COUNCILLOR/OFFICER RELATIONS**

- 2.1 Both Councillors and Officers serve the public but their roles and responsibilities differ. Councillors represent their constituents and the wider public. Officers are responsible to the Council and must give advice to Councillors and the Council and carry out the Council’s work under the direction and control of the Council, the Cabinet and its Committees and sub-Committees.
  
- 2.2 Councillors and Officers should treat each other with respect at all times.
  
- 2.3 Councillors can expect from Officers:-
  - Commitment to the Council as a whole and not only to one part
  - Respect and courtesy
  - The highest standards of integrity
  - Timely responses to enquiries and complaints

- Impartial, professional advice
- Regular up to date information that can be considered appropriate and relevant to their needs having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity of the political environment
- Appropriate confidentiality
- Support for the role of Councillors within the arrangements made by the Council
- That they will not use their relationship with Councillors to seek to advance their personal interests or to influence decisions improperly
- Compliance with this Protocol at all times

#### 2.4 Officers can expect from Councillors:-

- Respect and courtesy
- The highest standards of integrity
- An understanding of and support for respective roles, work loads and pressures
- Leadership
- Not to be subject to bullying or discrimination or to be put under undue pressure
- That they will not use their relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Compliance with the Councillors' Code of Conduct
- Compliance with this Protocol at all times

2.5 Both Councillors and Officers should take care not to give the impression that their distinct roles have blurred in any way. Councillors and Officers should therefore exercise caution in forming close, personal relationships with each other as the impression could be given that a particular Councillor or Officer may be able to secure advantageous treatment as a result of such a friendship.

2.6 Any act against an individual Officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst this Protocol cannot give guidance on every situation where such behaviour may occur, the Council is committed to promoting professional and courteous working relationships between individuals.

2.7 All dealings between Councillors and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position.

2.8 If there are any occasions where Councillors may have reason to complain about the conduct or performance of an Officer, all such complaints should be made personally, either to the Chief Executive, a member of the Green Team or Strategic Director as appropriate and in the case of the Chief Executive to the Monitoring Officer. It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Council, to other external bodies or members of the public or in the Press.

2.9 Similarly, if there is concern by an Officer in relation to a Councillor's conduct, all such concerns should be brought personally by the relevant Strategic Director to the attention of the Chief Executive or in his/her absence to a Member of the Green Team and the Monitoring Officer.

2.10 All Councillors have the same right and obligations in their relationship with officers and should be treated equally. However, Members of the Executive and Chairs of Committees have additional responsibilities and their relationship with officers may be different and more frequent and complex from those of members without those responsibilities and this is recognised in the expectations they are entitled to have of officers. Also, where a political group forms an administration either alone or in partnership with another group or groups, it is recognised that the relationship with officers, particularly those at a senior level, will differ from that with opposition groups.

### **3. RIGHTS AND DUTIES OF INDIVIDUAL COUNCILLORS**

3.1 All Councillors have the right:-

- To inspect documents in the possession or control of the Council as set out in paragraphs 3.5.6 to 3.5.14 of the Council's Constitution
- To attend Committee, Sub Committee, Joint Committee, policy seminars and training sessions and such meetings as are necessary for the proper performance of that Councillor's duties
- To see accounts and make copies before the Annual Audit to inspect specific books, contracts, bills etc.
- To receive approved allowances

3.2 There are also duties on individual Councillors to:-

- Abide by the Councillors Code of Conduct and this Protocol
- To disclose personal and prejudicial interests as set out in the Code of Conduct
- To register the receipt of any gifts and hospitality at levels determined by the Council
- To use all reasonable endeavours to attend meetings of the Council, its Committees, sub-Committees, other events and any outside bodies to which they have been appointed and to give apologies with reason where appropriate on those occasions where the Councillor is unable to attend
- To attend and participate in opportunities for training and development including policy development
- To take into account advice received from officers, especially advice from the Chief Executive, Chief Financial Officer, Monitoring Officer and Chief Legal Officer where they give it under their statutory duties.

### **4. CONFIDENTIALITY AND THE PRESS**

4.1 The rights for Councillors to inspect documents are set out in Part 3 of the Council's Constitution.

- 4.2 Any Council information provided to a Councillor in his/her capacity as a Councillor must only be used by the Councillor in connection with the proper performance of their duties. Confidential information should not be disclosed to the media, discussed or released to any other persons. Councillors should not disclose or use confidential information for the personal advantage of themselves or anyone known to them or to the disadvantage or the discredit of the Council or anyone else.
- 4.3 Officers and Councillors have a responsibility to protect the Council's reputation. Leaking of confidential information including exempt Agenda items and minutes to the media or public criticism of individual Officers by Councillors or of individual Councillors by Officers is unacceptable. There are clear requirements set out both in the Councillors' Code of Conduct and in the Officer Code of Conduct regarding confidentiality.
- 4.4 Duties of confidentiality (under common law) arise when one person (the 'confidant' ) is provided with information by another (the 'confider') either orally or in writing in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider. Examples of this duty are;-
- if the relationship is inherently confidential e.g. lawyer and client
  - If the relationship is personal e.g. between colleagues in circumstances that suggest an expectation of confidentiality
  - If there is risk through identification e.g. whistle blowers
- 4.5 The fact that information is not marked 'confidential' does not necessarily prevent it from being confidential as this may be inferred from the subject matter and the surrounding circumstances. Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain. Wherever possible, officers and councillors should clearly indicate in correspondence or verbally when they expect information to remain confidential to avoid confusion.
- 4.6 Whilst this Protocol is not aimed in any way at restricting a Councillor's freedom of speech or right to contact the media, Councillors must distinguish between acceptable levels of political debate and unacceptable or derogatory personal comments or remarks when they comment on particular issues. Comments to the Press should not challenge the integrity and good faith of other Councillors or be based on inaccurate information offered without due regard or attempt to establish the facts.

## **5 CORRESPONDENCE AND E MAILS**

- 5.1 All correspondence, including Emails between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor or other organisation, except to the Executive Member responsible for that area of work where appropriate. Where it is necessary to copy the correspondence to another Councillor this should be made clear to the original Councillor, before any correspondence is sent.



- 5.2 Correspondence including Emails between an individual Councillor and an Officer should not be copied by the Councillor to the media or other organisations. Officers other than the Communications Team should not contact the Press and comply with the requirements of the Officers' Code of Conduct.
- 5.3 Local government should promote openness and transparency so information should not be disseminated secretly. Emails to and from councillors should not be blind copied, without declaring to whom the Email has been copied.
- 5.4 Councillors who do not use the council's IT equipment must nevertheless comply with the Council's ICT security policy, and this Protocol.

## **6. INVOLVEMENT OF WARD COUNCILLORS**

- 6.1 Much of what the Council does requires effective communication between everyone who may be affected. Ward Councillors especially are concerned to know and be involved in matters that affect their Ward. Where Councillors raise specific concerns which may involve ward level issues other than their own, it is established that the Ward Councillor/s is/are to be notified within 10 working days unless there are exceptional circumstances.

## **7. ATTENDANCE BY MEMBERS AT MEETINGS ARRANGED BY OFFICERS**

- 7.1 Councillors are free to request a meeting with Officers to discuss aspects of the Council's business, bearing in mind the reasonable calls of their other duties.
- 7.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. The convention is that Councillors will not be present at these meetings but will be advised either informally or through reports to Cabinet and Committees of any relevant discussions and/or outcomes. There may be occasions where a Councillor may be invited to attend a meeting by the appropriate Officer or by a resolution of a Committee.
- 7.3 Councillors may request meetings with Officers and bring third parties to that meeting by agreement with officers.

## **8. BREACHES OF THE PROTOCOL**

- 8.1 Allegations by an Officer of a specific breach of this Protocol by a Councillor should be made to the Chief Executive. It is hoped that any potential problems may be resolved by early discussion between the Councillors involved and the Chief Executive. If this proves impossible the Chief Executive may, in consultation with the Chair of the Ethics and Standards Committee refer the matter to the Ethics and Standards Committee and invite them to reach a view as to whether the Protocol has been breached. The view of the Ethics and Standards Committee will be reported at a Council meeting. The Ethics and Standards Committee will follow the Stage Three of the Procedure attached.

- 8.2 The Chief Executive will decide whether disciplinary procedures are appropriate in the case of alleged breach of this Protocol by Officers.
- 8.3 Allegations by a Councillor of a specific breach of this protocol by another Councillor will be dealt with in accordance with the Procedure attached.

## **9. TRAINING AND BRIEFING**

- 9.1 Joint training and briefings for the operation of this Protocol for Councillors and Officers will be arranged as required and overseen by the Ethics and Standards Committee.

## **10. ADVICE**

- 10.1 The Council's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

## **11. REVIEW**

- 11.1 The operation of this Protocol will be regularly monitored and reviewed by the Ethics and Standards Committee with particular reference to findings on breaches, and recommendations made to Council for amendment where necessary.

**27 October 2009**

Revised 17 December 2010 Ethics and Standards Sub Committee

# **PROCEDURE FOR DEALING WITH ALLEGATIONS THAT A COUNCILLOR HAS BREACHED THE LOCAL PROTOCOL FOR TORFAEN COUNTY BOROUGH COUNCIL**

## **1. INTRODUCTION**

- 1.1 The Local Protocol for Torfaen County Borough Council aims to promote good co-operation between Councillors and Officers and exemplary standards of behaviour by Councillors thus allowing the Council to carry out its duties efficiently and professionally.
- 1.2 Legislation sets out a statutory regime whereby complaints for breaches of the Councillors' Code of Conduct are referred to the Public Services Ombudsman for Wales (the Ombudsman).
- 1.3 The Ombudsman has the discretion to decide whether allegations of breaches of the Councillors' Code of Conduct will be investigated. Therefore if there are reasonable grounds which indicate a possible breach of the Code, the matter should be referred to the Ombudsman. This Protocol is designed to deal effectively with those complaints which are not suitable for reference to the Ombudsman or which would benefit from a local determination.
- 1.4 It is important that any allegations made under this protocol are dealt with quickly and effectively.

- 1.5 The purpose of this procedure is to introduce a simple and clear method of dealing with such allegations.

## **2. COMPLAINTS INVOLVING OFFICERS**

- 2.1 The Chief Executive will deal with all complaints by officers against Councillors and complaints by Councillors against officers under this Protocol as set out in paragraphs 8.1 and 8.2 of the Protocol. The Chief Executive retains the discretion to refer the matter to the Ombudsman or with the consent of the Chair, to the Ethics and Standards Committee under Stage Three of the Procedure below.
- 2.2 If any complaint by an officer against a Councillor is referred to the Ethics & Standards Committee (the Committee), the procedure is set out in Stage Three below will be followed.

## **3. COMPLAINTS AGAINST COUNCILLORS BY OTHER COUNCILLORS**

- 3.1 Complaints against Councillors by another Councillor/s will be dealt with under the following three stage procedure (detailed overleaf).

## **4. THE PROCEDURE**

### **4.1. Stage One of the Procedure: Making the complaint**

- (i) Any Councillor who wishes to submit an allegation should send the complaint to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within this Protocol or whether the complainant should consider referral to the Ombudsman as an allegation of breach of the Councillors' Code of Conduct. The Monitoring Officer may choose not to deal with the allegation at this stage in order to be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the complainant
- (ii) If a local resolution is sought under this Protocol then all parties concerned would need to agree not to refer the matter to the Public Services Ombudsman for Wales. If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Ethics & Standards Committee so that the Committee may determine that complaint.
- (iii) If following the first stage the Councillor wishes to proceed with the allegation under this procedure, the matter may be referred either to an informal resolution under Stage Two or to a hearing by the Committee under Stage Three.

### **4.2 Stage Two of the Procedure: Informal resolution**

At Stage Two, the complaint (if both parties agree) will be referred to the current Members Champion Training and Development (or in his/her absence or if he/she is otherwise unable to act) the Presiding Member to contact the Member against whom the complaint is made and, if appropriate, the Leader of the relevant political group, to try and resolve the matter informally.

- (i) The Members Champion Training and Development may decline to undertake Stage Two and with the consent of the Chair of the Committee refer it immediately to Stage Three.
- (ii) If necessary, the Members Champion Training and Development can call on the Monitoring Officer, the Deputy Monitoring Officer or Legal Officer for advice and assistance. On occasions, it may be appropriate for the Monitoring Officer not to be involved in order to be able to advise on the matter at a later stage.

#### 4.3 Stage Three of the Procedure: Hearing before the Ethics and Standards Committee

- (i) If either party remained dissatisfied with Stage 2, then with the consent of the Chair of the Committee, the third stage of the hearing is before the Ethics & Standards Committee. The Councillor making the complaint will be asked to submit the substance of the complaint in writing, and the Councillor who is the subject of that complaint will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Committee.
- (ii) Both the Councillor making the complaint and the Councillor complained against have the right to appear before the Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the cost of representations.
- (iii) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
- (iv) The Committee can come to one of three conclusions, namely:-
  - (a) That there is no basis to the complaint.
  - (b) That there is a basis to the complaint but that no further action is required.
  - (c) That there is a basis to the Complaint and that the Councillor should be censured.

The conclusion by the Committee will be reported to Council. In addition, the Committee can make recommendations to the Council regarding changes to any procedures or taking any further action.

#### 4.4 Council may resolve to:-

- (a) Accept the decision of the Committee or
- (b) Take no further action.

### 5. OTHER MATTERS

- 5.1 (i) Publicity will not be given to the names of the Councillors involved unless it is decided to uphold the complaint and that the Councillor should be censured. The hearing before the Committee will be exempt.

- (ii) Stages Two and Three do not have to be followed sequentially. Although it is possible for a Councillor who remains dissatisfied after the intervention of the Members Champion Training and Development to ask for the matter to be referred to a hearing before the Committee, it is also possible for a matter to proceed directly to the Committee without being first submitted to the Members Champion Training and Development, provided the Chair of the Ethics and Standards Committee agrees.
- (iii) The aim of this Procedure is to try and resolve complaints regarding Councillors quickly and effectively. Nothing in this procedure prevents an officer or Councillor from submitting a complaint to the Ombudsman that a Councillor has breached the Councillors' Code of Conduct at any time before Stages Two (in the case of a Councillor) or Three (in the case of either an officer or a Councillor) of the Procedure is engaged.
- (iv) This Protocol is not designed for use by members of the Public. If there is a complaint by a member of the public against officer conduct or Councillor conduct, then that should follow normal processes, either through a complaint to the Chief Executive or relevant Strategic Director in respect of an officer or to the Monitoring Officer and/or the Ombudsman in respect of a Councillor.

**Protocol describing the principal functions of the Monitoring Officer and the manner in which the authority expects him/her to discharge those functions**

**1 Functions**

The principal functions of the Monitoring Officer shall be:

- 1.1 To report to the Council and to the Executive in any case where he/she is of the opinion that any proposal, decision or proposal of the authority in respect of any “reportable incident” (being any matter which, in his/her opinion, has given rise to or is likely to or would give rise to any illegality, or breach of statutory code or which has given rise to any maladministration under Sections 5 and 5A of the Local Government and Housing Act 1989);
- 1.2 To investigate any matter which he/she has reason to believe may constitute, or where he/she has received an allegation that a matter may constitute, a reportable incident or a failure to observe the authority’s Code of Conduct for Members;
- 1.3 To act as the principal adviser to the authority’s Standards Committee;
- 1.4 To maintain the register of members’ interests;
- 1.5 Where so appointed by the Council, to act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
- 1.6 Responsibility as set out in Council policies or regulations for Complaints, the Public Services Ombudsman for Wales Whistle-Blowing, Data Protection and Freedom of Information functions of the authority;
- 1.7 To consult regularly with the Chief Executive, the Chief Finance Officer, Head of Human Resources and the Chief Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- 1.8 To respond to the Public Services Ombudsman for Wales in respect of any complaint of a breach of the authority’s Code which is referred to him/her for local investigation and/or determination;
- 1.9 A power to investigate any application for a dispensation and to report and recommend to the Standards Committee;
- 1.10 To secure that members and officers of the authority are fully aware of their obligations in relation to probity;

- 1.11 To report to the Executive and to the Council on the resources which he/she requires for the discharge of his functions;
- 1.12 To report regularly to the Standards Committee on the performance of his/her functions and to make any recommendations which would better enable those functions to be performed;
- 1.13 To undertake all statutory Monitoring Officer functions (and in respect of Community and Town Councils within the area of the authority and to provide support and advice to such Community and Town Councils\_in maintaining probity), including:
  - 1.13.1 advice on the requirement to adopt a Local Code within 6 months of the publication of the relevant Model Code;
  - 1.13.2 advice on the requirement upon members to sign an undertaking to observe their authority's Local Code within two months of the authority adopting its Local Code and within one month of election to the Council;
  - 1.13.3 advice on the requirement for members to notify the Proper Officer of that Council of any personal interests where such interests will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that the Proper Officer of Community and Town Council are kept informed of any such declarations;
  - 1.13.4 advice on the need to apply to the Standards Committee for any dispensations and of the arrangements agreed by the Standards Committee for receiving and determining any such applications, and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted;
  - 1.13.5 advice on any provisions under which individual complaints of misconduct by members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints; and
  - 1.13.6 advice and action under the terms of any Local Resolution Protocol and Procedure for complaints against members of the authority under that Protocol and/or the obligation of any member to report a potential breach of the Code of Conduct.
  - 1.13.7 advice to individual members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a

dispensation, and on any consequent restrictions on the member's participation in consideration of the matter.

## **2 Resources**

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- 2.1 The right of access to all documents and information held by or on behalf of the authority, including documents and information held by any officer or member of the authority. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party or group represented on the Council;
- 2.2 The right of access to any meetings of officers or members (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party or group represented on the Council;
- 2.3 The right to require any officer or member of the authority, or any contractor of the authority, to provide an explanation of any matter under investigation;
- 2.4 A right to report to the Council, the Standards Committee, and to the Executive, including a right to present a written report and to attend at meetings and to advise verbally;
- 2.5 The right to require the assistance of any officer of the authority in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer in relation to the investigation;
- 2.6 The right of access to the Head of the Paid Service and to the Chief Finance Officer and the Corporate Leadership Team ;
- 2.7 The consent of the authority to disclose information and documents to the Public Services Ombudsman for Wales, even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the authority;
- 2.8 The right, after consultation with the Head of the Paid Service and the Chief Finance Officer, to notify the Police, the authority's auditors and other regulatory agencies of the his /her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- 2.9 The right to obtain at the authority's expense legal advice, either internally or from an independent external solicitor or barrister, on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so.



### **3 Discharge of Functions**

- 3.1 It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the authority must routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes;
- 3.2 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality, etc, or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, officers and members of the authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;
- 3.3 Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- 3.4 In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- 3.5 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her written advice to the report of any other officer of the authority;
- 3.6 Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.
- 3.7 Where the Monitoring Officer becomes aware of facts which, if substantiated, would indicate a failure by one or more members of the authority to observe the Code of Conduct for Members, the Monitoring Officer may:
  - 3.7.1 advise any member or complainant to report the facts to the Public Services Ombudsman for Wales ( PSOW) ; or

- 3.7.2 conduct, or arrange for the conduct of, a preliminary investigation (see below); or
  - 3.7.3 Report the matter to the PSOW without any investigation
- 3.8 Where, upon preliminary investigation, the Monitoring Officer is of the opinion that there is substantive evidence to suggest that a member of the authority has failed to observe the Code of Conduct, he/she shall consider whether the matter is capable of local resolution and, if so, take such action as is necessary to seek to resolve the matter in accordance with the Council's local resolution procedure.
- 3.9 Where the Monitoring Officer is of the opinion that such a matter is not capable of local resolution, is so serious that local resolution is not appropriate or where such efforts have failed, the Monitoring Officer may report the matter to the Public services Ombudsman for Wales. Before so reporting, the Monitoring Officer shall where practicable consult the Chief Executive (or in his/her absence the Chief Finance Officer).

#### **4 Conflicts**

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the authority, he/she shall consult the Chief Executive who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Chief Executive, or request an independent person or a neighbouring authority to make their Monitoring Officer available to the authority to investigate the matter and report to the Chief Executive and/or the authority as appropriate.

**Policy adopted for Hybrid (Multi-Location) Meetings which is relevant to the conduct of all hybrid meetings of the Council and its various committees and sub-committees.**

### **Torfaen County Borough Council Hybrid (Multi-Location) Meeting Policy**

This policy shall be adopted for hybrid meetings and is relevant to the conduct of all hybrid meetings of the Council and its various committees and sub-committees.

#### **Introduction**

The Local Government and Elections (Wales) Act 2021 requires the Council to hold meetings without all, or any, of the members being physically present in a room. It allows for remote meetings through electronic and digital means using Teams, live webcasting and live interactive streaming.

In line with the regulations passed under the Local Government and Elections (Wales) Act 2021 and Torfaen County Borough Council's Hybrid Meeting Protocol, this Policy is designed to provide a guide to virtual formal committee meetings involving members, officers and the public.

#### **Provision of Meetings and Multi-location Meeting Platform**

In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard, and where practicable, see and be seen by other councillors and members of the public attending remotely or in person.

All formal meetings will offer the digital hybrid facility. The 'place' at which the meeting will be held will be the Council Chamber, Civic Centre, where the digital hybrid facilities have been installed.

All members of the committee, including the Chair, have a personal choice to attend hybrid meetings physically (in person in the Council Chamber) or remotely (via Microsoft Teams).

The following meetings will be run through Teams, live webcasting and live interactive streaming:

Council  
Cabinet  
Scrutiny Committees,  
Planning Committee  
Statutory and General Licensing

All other formal meetings will also offer the hybrid facility, they will not be live streamed, however they will be recorded for subsequent transmission via the Council's YouTube page and will be available to view online as soon as possible after the meeting has concluded.

Other meetings such as pre-agenda meetings, panel meetings, appeals etc, will be conducted by whatever suitable means possible. Democratic Services will agree the provision of these meetings with members and any other officers involved.

Where meetings are live streamed, Members of the press and public are able to view the meeting via the link on the Public-1 website or physically by attending the public gallery in the Council Chamber, Civic Centre. For all other meetings that are open to members of the press and public, a link to view the meeting via Microsoft Teams may be provided by Democratic Services or the public gallery is available on a first come first served basis.

### **Publication of agendas and minutes and consideration of exempt items**

Meeting agendas and papers will continue to be published on-line (via Modern.Gov) at least 3 clear working days prior to the meeting taking place. Where the meeting is being broadcast live, a link to the live stream will be included. Upon request, paper copies will be made available to members of the public in attendance at meetings at the Council Chamber.

Where applicable, a decision sheet will be published for each meeting within 7 working days of the meeting taking place. The decision sheet will include the names of who attended the meeting, declarations of interest and decisions made.

Minutes will be uploaded once the meeting has taken place.

Prior to consideration of exempt items, the Chair will formally close the meeting to members of the press and public. A member of Democratic Services will check that members of the press and public attending remotely have 'left' the meeting. Any members of the press and public sitting in the public gallery will also be asked to leave. A member of Democratic Services will confirm that the live streaming facility has been stopped. Exempt items are published privately on Modern.Gov and are only accessible with a username and password of appropriate Members and Officers. Exemptions are clearly outlined as a heading on all exempt reports. Where paper copies are required, all reports are printed on pink paper.

During exempt items, remote participants must ensure that their venue is secure and that no member of the public can see or hear the meeting, and no recording, other than the Council's, is taking place.

Where there is any reference to background papers, a link to access the papers is provided.

### **Meeting Attendance**

A member of Democratic Services will monitor 'participants' attending remotely and a record of attendance will be taken during the meeting. An attendance report is available via Microsoft Teams for remote attendees. Democratic Services will keep a record of participants attending physically.

If there are any technical difficulties experienced during the meeting, the Chair may call a short adjournment until the issues have been dealt with. In the event of failure, the meeting should be suspended unless the Chair agrees that the meeting remains quorate and the business remaining is sufficiently urgent to warrant the continuation of the meeting.

Interests will be declared at the start of each meeting. If members have an interest to declare during the meeting, they must do so by raising their hand or using the raised hand icon and waiting for the Chair to call on them.

Any members participating remotely who declare a prejudicial interest will leave the meeting until the Chair or a member of Democratic Services calls them back into the meeting.

### **Participation and Access to the Meeting**

The Members Code of Conduct still applies to hybrid meetings, and the same procedures undertaken in a physical meeting still apply.

Members of the press and public who are viewing the meeting are able to join the meeting on teams or sit in the public gallery prior to formal commencement of the meeting. Council members should be mindful that any conversations can be heard and viewed in the Chamber or via Teams, it is therefore important that council members conduct themselves in a professional manner from the point of joining the meeting.

Participants must try to limit disturbances wherever possible. Mobile phones and other electronic devices must be on silent during the meeting.

Participants must remain in view of the camera at all times and a professional appearance must be upheld at all times.

A member of Democratic Services will be on-hand to provide technical support. Any technical difficulties must be reported to the Democratic Services Officer as soon as possible.

The Chair will remind councillors that Members in the Chamber are on camera and may be visible on screen. The Chair will also remind members and officers to speak clearly into their microphones and to mute their microphones when not speaking.

When invited to speak, the remote attendee will unmute their microphone and make their contribution. Once finished they will mute their microphone. Members attending in the Council Chamber will use their microphone when invited to speak and must remember to turn their microphone off immediately when they have finished speaking. It is important that members do not speak over each other so that everyone present can hear proceedings.

Prior to agreeing any recommendations, if Members participating remotely wish to speak, they must clearly use the raised hand icon to notify the Chair.

Use of the chat function is discouraged to simplify the process for the Chair. Members should also remember that any press and public in attendance will be able to view anything written in the 'chat bar'.

## **Public attendance at meetings**

For Full Council meetings, the Council will continue to take questions from the public as set out in the Constitution. A copy of the question will be circulated electronically and published on the Council's website. The member of the public asking the question will have the option to participate via Teams, or to attend physically to ask their question in person.

Where a member of the public has made a submission to speak at a Planning Committee, Democratic Services Officer will invite them to join the meeting remotely or in person at the Council Chamber and make their deputation at the relevant committee item.

Invitees at Overview & Scrutiny Committee's are able to attend physically in the Council Chamber or remotely via Microsoft Teams.

Where meetings are live streamed, Members of the press and public are able to view the meeting via the link on the Public-I website or physically by attending the public gallery in the Council Chamber, Civic Centre. For all other meetings that are open to members of the press and public, a link to view the meeting via Microsoft Teams may be provided by Democratic Services or the public gallery is available on a first come first served basis. Democratic Services will be on hand prior to the start of the meeting to provide technical assistance and support to remote and physical participants. Officers will continue to be available to provide support and to ensure that everyone has the skills and knowledge to confidently participate in remote meetings.

Where the Chair is not physically attending the meeting, the Democratic Services Officer will be asked to identify members in the Council Chamber wishing to speak. Members in the Council Chamber must raise their hand if they wish to speak. Members attending remotely must use the raised hand icon if they wish to speak.

For meetings of Full Council, Democratic Services will prepare a detailed briefing note for the Presiding Member to be able to manage the business of the meeting electronically.

## **Voting**

As a general rule, the Chair will ask voting members if they are in favour of the recommendations, if they are against the recommendations, or if they would like to abstain from voting. Where appropriate, the voting procedure will be a roll-call vote, with the Chair or a member of Democratic Services asking each voting member individually for their vote. Whilst the recording of the meeting will retain each member's vote, this will not be recorded in the minutes unless a formal recorded vote is required.

There will be a voting feature included in the modern.gov app which is being rolled out to members and this will be accessible via the members tablets. As members receive training and gain experience in using the modern.gov app voting will be conducted via the app.

## **Conclusion**

All participants in hybrid meetings will follow the policy set out above.

Hybrid meetings of Torfaen County Borough Council and its various committees will ensure a flexible platform for democratic processes which will allow remote and/or in-person participants to share ideas, engage and contribute to debate and decision making. Hybrid meetings will also provide the opportunity for increased resident engagement, and greater transparency of Council processes.

## Protocol adopted by Torfaen County Borough Council for Public Petitions.

Torfaen County Borough Council

Protocol for Public Petitions

### 1 Introduction

Torfaen Council recognises and values the contributions of local people. Public participation is essential to ensure that the needs and aspirations of local people are at the heart of decision making.

Torfaen County Borough Council wants to hear from people who live, work and use the services of the Council about the things that matter to them.

Petitions and E-Petitions are one way for people to let us know their concerns and are part of the Council's ongoing commitment to listening to and acting on the views of the public.

Petitions can be presented to a meeting of the full Council. The dates of these meetings are shown on our website

(<https://moderngov.torfaen.gov.uk/ieListMeetings.aspx?CommitteeId=137>)

Paper Petitions can be sent to us at the following address:

Head of Democratic Services  
Torfaen County Borough Council  
Civic Centre  
Glantorfaen Road  
Pontypool  
Torfaen  
NP4 6YB  
Email: [DemocraticServices@Torfaen.gov.uk](mailto:DemocraticServices@Torfaen.gov.uk)

A petition template is shown at appendix 1 of this protocol and this will help you to see what information we need in order to consider your petition under the terms of this protocol.

From July 2022 onwards e-petitions can be created, signed and submitted online by following this link <https://moderngov.torfaen.gov.uk/mgEPetitionListDisplay.aspx?bcr=1>

If you wish to present your petition to Full Council please contact your local councillor who will sponsor your petition and also present it on your behalf if you do not wish to present your petition personally. You can contact Democratic Services via their email address [DemocraticServices@torfaen.gov.uk](mailto:DemocraticServices@torfaen.gov.uk) or phone (01495 762200 and ask to speak to a member of the Democratic Services Team.) for guidance on the process.



Petitions submitted by the petitioner to full council will not be discussed in detail at that point, unless there is an agenda item specifically relating to that issue. Petitions received at full Council will be passed to the relevant executive member/officer for proper consideration before a response is prepared and reported back to a subsequent Council meeting.

## 2 What should a petition include?

Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition - it should state what action the petitioners wish the council to take (or stop taking)
- the name and address and individual signature of any person supporting the petition

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain what we will do in response to the petition. If the petition does not identify a petition organiser, we will contact the first signature on the petition to agree who should act as the petition organiser.

The council will usually accept the petition at its next meeting, although on some occasions if this is not possible, the petition will be accepted at the following meeting.

## 3 Are there any petitions which the Council will not accept?

- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months.
- Employee matters will not be dealt with through the petitions process as they will be addressed via existing internal frameworks.
- In the period immediately before an election or referendum we may need to deal with your petition differently - if this is the case, we will explain the reasons and discuss the revised timescale which will apply.
- If a petition does not follow the guidelines, the council may decide not to do anything further with it. In this case, we will write to you to explain the reasons.
- Petitions will not be accepted if they are considered to be vexatious, abusive, defamatory, discloses confidential or personal information or where its publication may constitute a criminal offence.

We will explain our reasons in writing if your petition has not been accepted.

## 4 How will the Council respond to petitions?

If your petition is about something over which the council has no direct control, we will consider making representations on behalf of the community to the relevant body. Where

possible we will work with these partners to respond to your petition. If we are not able to do this for any reason, then we will explain this to you.

If your petition is about something that a different council is responsible for, we will consider what the best method is for responding to it. This might consist of simply forwarding the petition to the other council but could involve other steps. In any event, we will always notify you of the action we have taken.

So that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, together with the acknowledgment and notification of the response (except in cases where this would be inappropriate).

## 5 E-petitions

The Council welcomes e-petitions being created and submitted through its Website

E-petitions must follow the same guidelines as for paper petitions and in addition:

- Petition organisers and subscribers must provide a valid email address as well as their name and address; and
- The period for which the petition shall be open to subscription must be determined at the outset.

The petition organiser will need to provide their name, postal address and email address, and will need to decide how long the petition is to be open for signatories.

When you create and submit an e-petition, it may take 10 working days before it is published online. The petition will be acknowledged within 10 working days and this will include a link to the petition on the Council's website.

When the e-petition reaches its end date, it will be closed to further signatures and it will automatically be submitted to Democratic Services where it will be processed in the same way as a paper based petition.

If it is considered that your petition cannot be published for any reason, the Council will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

E-petitions that have been created through websites other than the Council's can be submitted to the Council but will still need to meet the criteria as set

If you would like to present an e-petition to a meeting of the Full Council, please contact the Democratic Services Team for any further advice or support via their email address [DemocraticServices@torfaen.gov.uk](mailto:DemocraticServices@torfaen.gov.uk)

## 6 What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, please contact the Monitoring Officer (address below) who will review your complaint and will advise you of the action which is intended. Please provide a short explanation of the reasons in your communication with us.

Monitoring Officer  
Torfaen County Borough Council  
Civic Centre  
Glantorfaen Road  
Pontypool  
Torfaen  
NP4 6YB

Petition Template

Please use this suggested template, additional pages should also include the petition subject at the top of the page.

Please also refer to the petitions scheme available at [www.torfaen.gov.uk](http://www.torfaen.gov.uk) for further information about how we deal with petitions at the Council.

Contact Details of the Lead Petitioner (the person the Council will contact regarding responses to the petition)

Full name:			
Address for Correspondence:			
Telephone no:			
Email address:			
Live/work/service user (Please indicate all that apply):			
Signature			
<b>Petition Subject</b>			
<b>We the undersigned petition the council to:</b>			
<b>Summary of action already taken (if applicable)</b>			
<b>Name</b>	<b>Address</b>	<b>Signature</b>	<b>Email address</b>


## **Protocol adopted by Torfaen County Borough Council for Member Champions.**

### **Protocol – Member Champions**

#### **1. Introduction**

- 1.1 Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. Member Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of council business although they may not be the responsibility of any individual or committee. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent.

#### **2. Appointment of Member Champions**

- 2.1 The Leader is responsible for appointing member champions. Any member of the Council may be member champion, including the Leader.
- 2.2 Member champions will generally be appointed following the whole local government elections that take place every five years and will normally be expected to serve for the period of his/her term of office to ensure some stability in the role. However, an appointment may be made during the five year period to any new position that is established or to a position where there is a vacancy. The appointments made by the Leader must be communicated in writing to the Chief Executive and noted by Full Council.
- 2.3 Any appointment should have due regard to the suitability for the role and relevant national and local guidance.
- 2.4 A member champion may be removed from office at any time by the Leader by written notice to the Chief Executive.
- 2.5 Any member champion may resign from office by giving written notice to the Leader and the Chief Executive.

#### **3. Role of Member Champions**

- 3.1 All member champions will have a job description setting out their respective roles. These will be developed in consultation with the Leader and the champion concerned. Examples of possible roles for champions that may be appropriate to include in a job description are set out in Appendix 1 to this protocol.

#### **4. The Parameters of the Member Champion Role**

- 4.1 All member champions must act reasonably in their role and recognise and work effectively within the political management and working arrangements adopted by the Council.

4.2 A champion cannot make decisions (unless the champion is a Cabinet Member with delegated authority) and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice. They may, however, confirm a position as stated in a published policy.

## **5. Cabinet Members – Working Relationship**

5.1 The first point of liaison on all relevant issues for the Member Champion will be through the Cabinet Member/Leader.

5.2 Cabinet Members will normally:

- (a) acknowledge the right of champions to be briefed on matters relating to their area of interest;
- (b) take account of any views (if offered) by champions prior to any decision taken (by a Cabinet member with delegated authority) on matters within their area of interest;
- (c) in liaison with the Leader consider nominating the relevant champion to represent the Council at a relevant conference/seminar on the subject matter of the champions interest.

## **6. Accountability**

6.1 At the beginning of each municipal year, each member champion may agree with the relevant Cabinet member and officers a programme of activity, taking into account the Council's County Plan Objectives.

6.2 The Member Champion will liaise with their Cabinet Member to keep the Council updated on any issues arising.

## **7. Training**

7.1 As with all elected members, member champions will have the opportunity to attend training courses available to them via the Council's E-Learning platform.

## **8. Attendance at Seminars and Conferences**

8.1 The attendance by member champions at conferences/seminars relevant to their roles will only be approved following consultation with the Leader in consultation with the Democratic Services Manager. When approved, expenses may be claimed.

## **9. Allowances**

9.1 None of the member champions are entitled to receive a Special Responsibility Allowance (SRA) for carrying out their role.

## **10. Interests**

10.1 Member Champions are reminded to ensure any interests they may have are declared at all appropriate points.

## **11. Dispute Mechanism**

- 11.1 In the event that a dispute arises in relation to the operation of this protocol such dispute must be referred to the Chief Executive whose decision on the dispute shall be final. The parties to any dispute are expected to be provided to the Chief Executive (or any person nominated by him to determine the dispute) such information as he may reasonably require to make a decision on the dispute.



## Appendix 1

### 1. Accountabilities

- To Full Council

### 2. Role Purpose and Activities Within the Council

- To promote the interest being championed within the Council's corporate and service priorities
- To promote the needs of the client group represented in the interest to the decision makers within the council
- To work with the decision makers in the Council to establish strategies/policies/work plans connected with the interest
- To maintain an awareness of all matters connected with the interest
- To contribute to good practice and the continuous improvement of services and functions related to the interest
- To engage with members in matters related to the interest such as attending Overview and Scrutiny/Cabinet /Full Council meetings etc, specifically attending relevant scrutiny committees to advise members on the area of the Council's business they are championing
- To raise the profile of the interest in the community
- To engage with citizens and community groups in matters related to the interest
- To lead and support local initiatives related to the interest

### 3. Values

**To be committed to the values of the Council and the following values in public office:**

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural difference
- Sustainability
- Inclusive leadership

## LIST OF MEMBER CHAMPIONS

Member Champions fall into two groups, the first group are portfolio holders (Cabinet Members) whose responsibilities as champion align specifically with their existing portfolio.

- Age Friendly Champion (previously Older Persons Champion) – **Executive Member Adult Services & Housing**
- Equalities & Diversity Champion – **Executive Member Corporate Governance and Performance**
- Anti-Poverty Champion – **Leader of the Council**
- Young Person's Champion- **Executive Member for Children, Families and Education**

The second group are the non-portfolio member champions

- Members Training & Development Champion – **Chair of Democratic Services**
- Armed Forces Champion
- Carers Champion
- Sustainability/Climate Change Champion
- World Heritage Champion
- Motor Neuron Disease (MND)
- Dementia Champion
- Gypsy Traveller Community Champion
- Mental Health Champion